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**Author(s):                    Catherine M. Coles, George M. Kelling, Mark H. Moore**

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**PROSECUTION IN THE COMMUNITY:  
A STUDY OF EMERGENT STRATEGIES**  
  
**A CROSS SITE ANALYSIS**

by

Catherine M. Coles  
George L. Kelling

with the assistance of  
Mark H. Moore

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Program in Criminal Justice Policy and Management  
of the Malcolm Wiener Center for Social Policy  
John F. Kennedy School of Government  
Harvard University  
79 John F. Kennedy Street  
Cambridge, Massachusetts 02138

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## I. INTRODUCTION

This study was conceived to investigate the practices, programs, and developing approaches of several prosecutors recognized by their peers, other researchers, and government officials, as being contributors to new trends in prosecution; to examine the process of change by which the prosecutors created and implemented new activities and programs; and to assess potential opportunities and liabilities involved in these changes.

Public prosecutors, and the offices they lead, constitute an important part of society's efforts to control crime, enhance security, and assure justice. In the past, the contribution of prosecutors focused primarily on ensuring that criminal cases were effectively and justly prosecuted—that each case resulted in a tough but fair decision, and that like cases were treated alike. By the mid-1990s, two noticeable trends appeared to be gaining ground in the activities and approaches of prosecutors in large cities. First, prosecutors themselves were attempting to develop greater capacities for addressing specific crime problems having a grave impact on public safety and the quality of life—problems associated with crack cocaine, meth-amphetamine, organized crime, and gang-related violence. As part of this process, they found that increased collaboration with police and other criminal justice agencies in a broad problem-oriented approach enhanced their efforts. Second, prosecutors met up with the newly developing movement identified widely today as “community justice,” which placed pressure on criminal justice agencies to question their “professional” mode of operation, and increase their responsiveness and accountability to citizens.

The formal use of problem solving by prosecutors to address crime problems really began in the 1980s, especially in large cities, and grew during the next decade: it was spurred on by the proliferation of crack cocaine and related crime in many cities, and the recognition that traditional forms of prosecution not only were doing little to reduce crime, but could barely keep up with rapidly expanding numbers of prosecutions. As Boland and Healey (1993) showed, problem solving could be applied to increase the efficiency and effectiveness of case processing; but it could also be used to address the incidence of felony crime and quality of life offenses. In addition to involving changes in the activities of prosecutors themselves, the trend was marked by 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). At the same time, for a number of reasons, the power of prosecutors within criminal justice processes had reached an unprecedented zenith, and many identified the local prosecutor as the most powerful leader in criminal justice at the local level (Remington 1993; Forst 1993a; McDonald 1979b).

Corresponding to nationwide developments and experimentation with community policing, the elements that make up a community justice orientation also began to emerge (even individually) in the domains of other criminal justice agencies by the early 1990s.<sup>1</sup> Todd Clear and David Karp (1998) identify some of these elements: community justice operates at the neighborhood level; it involves problem-solving processes in which citizens play an integral role; organizational approaches tend toward decentralization of authority and accountability; and extreme reliance on professionalism by criminal justice agencies is replaced by a commitment to citizen-identified priorities. Around the country, community-based initiatives began as a small number of community courts were formed (Anderson 1996); victim-offender mediation programs started;

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<sup>1</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.

probation officers began returning to the streets to work; and private businesses joined with local government and police departments to address safety, security and quality of life concerns in downtown areas of cities. 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.

By 1995, the convergence of these two trends—the adoption of a problem-solving approach, and a commitment to involving the community more directly in prosecution priorities and processes—was obvious in the activities of a number of prosecutors around the country. 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 (Indianapolis Case Study). Beginning in 1990, Albert Reiderer, Jackson County (Kansas City, MO) Prosecutor, developed a comprehensive program to prevent, reduce, and prosecute drug-related crime and treat offenders that was funded through levy of a county-wide sales tax (Kansas City Case Study). Citizens in the local community would join in the crime prevention and treatment efforts that were made possible with the funds collected. 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>2</sup> In 1991, 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, including those in our study. By 1989, Ronald Earle, Travis County (Austin, TX) District Attorney for nearly twenty years, had written and secured passage of state legislation providing for creation of Community Justice Councils at the county level to oversee planning for public safety. He then set up a structure of county 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 (Austin Case Study). Today Earle is a recognized leader in the development of restorative and community justice programs.

While it was uncertain just how widespread such changes were, their very existence, and admittedly limited anecdotal evidence, suggested that “something was going on” in prosecution. As Newman Flanagan, former district attorney in Boston (Suffolk County), Massachusetts, and now President of the American Prosecutors Research Institute affiliated with the National District Attorneys Association, asserts:

I just want you to know that the role of the prosecutor has changed, from a part-time prosecutor in the courtroom to a full-time community elected official that has to get involved in it. Now, Joe Hynes has a tremendous program in Brooklyn. He says to me, “I spend more time in the community now than I do in the DA's Office.” Let me say this: it has to be. It has to be...you must get to the point where you are networking with communities, networking with all of the

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<sup>2</sup> By 1996, Mr. Sonner no longer headed the State's Attorney's Office. Participating in the Working Group Meetings for this project, 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.

community, whether it be the activists in the community, the police, the church, et cetera, these are all important things that we have to be involved in.... I think it's most important that we continue to expand the role (WG 1, April 19, 1996).<sup>3</sup>

In the sections of this report that follow, we present: *first*, the context for understanding current change in prosecution by providing a brief background review of the literature reflecting research on prosecution, and prosecutorial operations, since the American Bar Foundation Survey carried out in the 1950s; *second*, a discussion of the methodology underlying our research and data collection; *third*, brief synopses of the four cases that contain the data collected in our research; *fourth*, models of what we call the "traditional" and "community prosecution" strategies of prosecution; *fifth*, a brief look at what factors provided an impetus for prosecutors to begin moving away from the traditional strategy and exploring creative alternatives; *sixth*, an analysis of the prosecution strategies that we observed in our research; *seventh*, a perspective on convergence among sites over the course of the study, and newly collected data updating our cases; and *eighth*, our conclusions, including an assessment of risks and liabilities encountered by today's prosecutors, and a statement of key findings from the study.

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<sup>3</sup> These remarks were offered at a Working Group Meeting convened at the John Kennedy School of Government, Harvard University, April 19, 1996, as part of this project; a second meeting was held in May 1997. In the remainder of this report we cite remarks offered at these two meetings as "WG 1" or "WG 2," plus the date. For confidentiality reasons, discussed below in the section on Methodology, transcripts of these meetings are not available for distribution at the present time.

## II. BACKGROUND: RESEARCH ON PROSECUTION AND PROSECUTION PRACTICES

The conceptualization and formalization of problem solving and adoption of a community orientation that proceeded first in policing are now moving into prosecution. Because we believe there are parallels in the experiences of prosecutors and police in this process (in some sense both agencies responded to demand from the community, and the changing crime problem), that the developments in each field have common roots, and because we are interested here in the intersection and interaction of policing and prosecution strategies, we turn first to a brief examination of how problem solving and a community orientation developed and were recognized in both fields.<sup>4</sup>

We can better understand and appreciate the roots of problem solving in particular by returning to the American Bar Foundation's (ABF) Survey of Criminal Justice. The idea for what became the ABF Survey was proposed originally in 1953 by Supreme Court Justice Robert H. Jackson, who considered American law enforcement ineffective, and in a state of breakdown (Jackson 1953:743-46). In response to a 1955 proposal drafted by Professor Arthur Sherry of the University of California Law School, the *Plan for a Survey* (Sherry 1955), the Ford Foundation committed a total of \$700,000 to study criminal justice agencies (Walker 1993b:6). Field research began on 6 February 1956. In 1958, a seven volume *Pilot Project Report* was produced (although never published). Between 1965 and 1969, five books, all edited by the late Frank Remington of the University of Wisconsin Law School, were published (LaFave 1965, on arrest; Newman 1966 on conviction; Tiffany, McIntyre and Rotenberg 1967 on search and seizure; Dawson 1969 on sentencing; Miller 1969 on prosecution). The sum total of these five volumes has been described as overthrowing "the existing criminal justice paradigm and replac[ing] it with another" (Walker 1993a:6; see also 1993b:6).

For both policing and prosecution, the ABF Survey uncovered an unexpected degree of problem solving as part of routine activities—although in different realms. With regard to policing, the ABF Survey also stimulated research about the basic functioning of police that would fundamentally change the entire field. In the "official" and popular view, police were case processors—the "front end" of a criminal justice system; yet research demonstrated that police dealt with a myriad of complex problems, only some of which were amenable to solution by arrest and processing. The Survey's emphasis on police use of low-level, low-visibility discretion fascinated scholars, who turned then to examining police functioning. This body of research, conducted throughout the 1960s and 1970s, concentrated on low level decision making, especially by patrol officers in police departments. Not surprisingly, study after study confirmed the findings of the ABF Survey: police work is complicated; a small proportion of police time is spent on criminal matters; and, police use discretion throughout their work (Wycoff 1982). Two classic studies of police were published during the 1960s: Egon Bittner's "The Police on Skid Row: A Study of Peacekeeping" (1967), and James Q. Wilson's *Varieties of Police Behavior* (1968). Both demonstrated the existence of high levels of police discretion. Yet officially, the primary business of police was still defined as arresting criminals and referring them for case processing.

Increasingly a lack of congruence emerged between this "official" view of police and findings from 1970s research that proceeded to undermine it. Of particular relevance were studies

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<sup>4</sup> We do not claim to present an exhaustive treatment of the literature on developments in prosecution or policing here, but to offer a sketch that we believe serves as a useful background to understanding the contrasts posed by current policing and prosecution strategies.

conducted by the Police Foundation into the effectiveness of police tactics—in particular the *The Kansas City Preventive Patrol Experiment* (Kelling et al. 1974), and the *Newark Foot Patrol Experiment*, (Kelling et al. 1981)—and by the National Institute of Justice, especially its response time studies (Kansas City (MO) Police Department 1977). Then, in his classic piece “Improving Policing: A Problem-Oriented Approach” (1979), Herman Goldstein integrated findings from the studies with the ABF Survey results, and foreshadowed the move toward community policing (see also Kelling 1992). He proposed a needed shift in thinking about the basic unit of police work away from *incidents*—a crime, a disorderly incident, a fight—to *problems*. Incidents often were symptomatic of problems: incidents had histories, and would have futures. And for crime control purposes, they could more profitably be thought of within a context. One incident of a youth drinking in a park might not be very serious, yet dozens of youths congregating to drink regularly, with attendant noise and intimidation of elderly residents or younger children, could be catastrophic for a neighborhood. A critical mass of similar incidents and related issues would constitute a serious problem for police and the neighborhood. Such ostensibly simple insights were to become core concepts in a new approach to thinking about policing. The job of police was not merely apprehending offenders and making arrests – although processing cases remains a core competence of police; instead, the task of police was to sift through incidents so as to understand the nature of community problems, and to find a means to solve those problems. Today no one contemplates seriously that policing could return to earlier assumptions about the nature of police work: a paradigm shift, with its origins in the ABF Survey, has occurred throughout the United States.

Findings of the ABF Survey were essentially similar for prosecution, and other justice agencies. In prosecution, the finding that prosecutors employed different strategies to achieve their law enforcement goals was not new: the crime surveys of the 1920s and 1930s had 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).<sup>5</sup> The focus in these early surveys, however, centered 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 systems to deal with increased caseloads (Remington 1993:85). For prosecution and the courts, as for policing, the ABF Survey moved *away* from a normative orientation where outcomes were evaluated in terms of whether full enforcement and conviction had been achieved under substantive criminal law, and *toward* a focus on actions and decisions taken by front-line actors—line prosecutors, trial court judges, defense attorneys, and corrections agencies (Miller 1969; Newman 1966; LaFave 1965; Sherry 1955).

While the overall analysis of the ABF Survey data concentrated on issues having to do with case processing, it provided rich insight into prosecutorial discretion, particularly in charging and guilty plea decisions, which were found to be extremely complex. Not only did prosecutors deal with a wide array of social problems (Remington and Logan 1991:161ff), in the charging and guilty plea processes they faced an inherent tension arising out of the twin goals of seeking to

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<sup>5</sup> See National Commission on Law Observance and Enforcement (Wickersham Commission), vol. 4, Report on Prosecution at 11 (commenting on the power of the prosecutor in disposing of cases outside of trial); The Missouri Association for Criminal Justice, *Missouri Crime Survey* at 125 (noting the important power of prosecutors to decide against prosecution, or to terminate cases after prosecution begins); Roscoe Pound and Felix Frankfurter, *Criminal Justice in Cleveland, Report of the Cleveland Foundation Survey of the Administration of Criminal Justice in Cleveland, Ohio* at 136-44 (documenting unchecked discretion by prosecutors to decide against prosecution after arrest, to dispose of cases at the stage of informal screening conferences, and to terminate cases even after deciding to prosecute); Illinois Association for Criminal Justice, *The Illinois Crime Survey* at 310, 318-19 (expressing concern over a process by which plea bargaining engaged in by prosecutors resulted in convictions that did not reflect the original charge).

apply the criminal law in an objective fashion and to the fullest extent possible, while also attempting to achieve the best or “fairest” result in an individual case (Remington 1993:95; see also Newman 1966: Part III and pp. 176-130). ABF Survey data revealed that in making decisions, prosecutors often eschewed “formal processes of the criminal justice system” and chose to handle problems by informal means, using “low-visibility practices, hidden almost entirely from public view” (Remington 1993:88). Comparisons of decision-making processes across sites also established the inter-relatedness of discretion and choice exercised at various stages, and by different criminal justice actors. For example, Remington noted that the significance of charging and guilty plea decisions by prosecutors was linked to the presence or absence of choice at earlier stages by the police, and at later stages by a trial judge or correctional agency, with greater power generally accruing to the prosecutor where discretion was limited elsewhere (Remington 1993:94-95).

For prosecution today, the significance in the ABF Survey data and findings is that they portray the complexity of the work of prosecutors, including some of the “hidden” aspects that were routine, but often ignored. For example, involvement in cases representing minor offenses, as well as felonies, might be significant for what prosecutors could ultimately achieve; full prosecution of cases might not always be the most effective means of dealing with particular issues, since better social results might be achieved through deviation; case attrition, rather than reflecting ineffective prosecution, might result from prosecutors making intelligent use of other skills;<sup>6</sup> prosecutors might be in a position to discover or sense, in the flow of cases and in political pressures emanating from the community, both the possibility and urgency of addressing different sets of problems. In essence, prosecutors were found not only to exercise discretion—they also engaged in problem solving. ABF Survey data illustrated that prosecutors dealt with problems ranging from individual incidents (obtaining restitution for a merchant who had been given a “bad check” and merely wanted his/her money) to more complex problems (such as ongoing real estate fraud) that required more elaborate diagnosis and problem-solving activity akin to those methods described by Goldstein (1988) in policing (Remington 1993:74, 86-87). In an article assessing what had been learned from the ABF Survey, Frank Remington later suggested a complex picture of the role of prosecutor: as a problem-solver and decision-maker, facing complex societal problems, and regularly choosing among alternatives that include nonprosecutorial options as well as formal prosecution (Remington 1993:86; see also 1990:10).

Following publication of the ABF Survey results and the “discovery of discretion,” considerable attention was directed at determining how the power and discretion of specific actors—police, prosecutors, the trial courts—could or should be circumscribed, in the interests of achieving greater efficiency, and fairness (Walker 1993a:16-17; Davis 1969; LaFave 1993:211; Miller 1969:166, 294-295; Rubenstein, Clarke and White 1980; Abadinsky 1984, 1980). Paradoxically, attempts to reduce the exercise of discretion of other actors (such as with sentencing guidelines and minimum mandatory sentencing statutes) merely shifted power to the prosecutor, who exercised it less visibly in charging, called by some “the single most important decision made in an individual case” (Remington 1993:98, 96-100; see also American Bar Association 1970:93, 1980),<sup>7</sup> and guilty plea processes (Remington 1993:110).

<sup>6</sup> See Vera Institute of Justice 1981; see also McIntyre and Lippman 1971.

<sup>7</sup> Various factors have contributed to this increase, among which are: limiting discretion at other stages, such as through sentencing restrictions, thereby displacing the exercise of discretion and moving it “upstream” or “downstream” to the prosecutor; the proliferation of new criminal statutes under which prosecutors may charge; and the growth of the victims’ rights movement, placing increased pressure on prosecutors to charge. See Remington 1993:98, 96-100; LaFave 1970:532-48; Moore et al. 1984:133; McDonald 1979b:28ff; Misner 1996:741ff).

Much of the empirical research into prosecution itself focused on case processing aspects such as screening (Jacoby 1976), the decision to charge (Jacoby 1977), plea bargaining (McDonald 1985; Feeley 1979), and sentencing, and on means of controlling and limiting the use of discretion (Davis 1969). For example, in *Policy and Prosecution* (Jacoby, Mellon, and Smith 1982; see also Jacoby, Mellon, Ratledge and Turner 1982), a report based upon one of the largest research efforts yet into prosecutorial functioning, the emphasis is largely on case processing, starting with intake review and the decision to charge, through probable cause hearings, to post-conviction processes. Some scholars have focused on these activities or processes within the context of prosecutors' offices (Carter 1974) and courts as organizations (Eisenstein and Jacob 1977), court "work groups," (Heumann 1977), the relationships of courts to local communities (Eisenstein, Flemming and Nardulli 1988), and even subcultures (Mather 1979b). Further afield, others have analyzed the development during the 1970s and 1980s of alternative dispute resolution programs, mediation boards, and informal legal processes operating within a "popular justice" framework (see, e.g., Merry and Milner 1993; Harrington 1985), which varied in form and "closeness" to the judicial system and courthouse, and with which some prosecutors cooperated to a greater or lesser degree.<sup>8</sup> More recently Misner (1996) argued that prosecutorial discretion should be more directly tied to the availability of prison resource. Nevertheless, the mainstream orientation has remained largely centered around prosecutorial activities related to case processing, even when the focus is on how the community context affects these processes.

This approach to prosecution research was consistent with the 1967 President's Commission on Law Enforcement and Administration of Justice. In the report, *The Challenge of Crime in a Free Society*, prosecutorial functioning is folded into the section on courts, and every recommendation regarding prosecution focuses on case processing. Those who later analyzed and commented upon the ABF reports were fully aware of prosecutors having to confront and solve problems, yet their writings placed little emphasis on methods other than case processing, or on broader foci for problem solving until late in the 1980s. The traditional role of prosecutor as case processor, and related criteria for judging prosecutorial effectiveness, advanced: prosecution should proceed in individual cases to the full extent possible under the law; prosecutors should give the greatest emphasis to cases involving serious crimes; successful prosecution would be achieved through maximizing convictions to the greatest degree possible given the strength of the evidence in cases; and, for the most part, good prosecution equated with high rates of prosecution and conviction (but see Mellon, Jacoby, and Brewer 1981:65). Prescriptive materials for prosecutors were directed at achieving greater professionalization in case processing: improving the efficiency and effectiveness of case processing, and providing better case management systems to ensure more uniform adherence to policies set by the prosecutor for his staff in charging and plea decisions (see Luskin 1981; Jacoby 1977, 1987, 1994; Weimer 1980; Maleng 1987).

Community justice as a movement has many of its origins in community policing. Much of the change in orientation has occurred since the 1960s and 1970s, when policing came under extraordinary pressure and scrutiny from the courts, when many of the 1960s riots were blamed

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<sup>8</sup> Writing on community justice boards, Raymond Shonholtz finds that:  
 formal justice has systematically sought to limit the capacity of informal community-justice processes and to restrict and screen their caseloads. The most effective mechanism for circumscribing the work of community justice has been the incorporation of the community system into the agency and court systems and the latter's subsequent distribution of approved cases to informal processes. Thus...the community process is linked to the legal institutions as an after-the-fact referral service for cases it really does not want to pursue but seeks to control (1993:234).

on police actions, and when it became increasingly clear that larger numbers of police failed to produce anticipated crime reductions—in fact, crime began an inexorable rise. Finally, 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. By the mid-1980s police began putting together the pieces of a new strategy: their function would be preventing crime, and problem solving—not just arresting wrong-doers after the commission of a crime (Goldstein 1979). And 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” (see, e.g., Kelling and Moore 1988; Moore 1998).

As police began moving “out of the box,” the paths of prosecutors and police diverged substantially: while policing was a relatively public and accessible institution, the day to day work of prosecutors was less visible (Forst 1993a:294). To be sure, critics raised questions about plea bargaining (was it a satisfactory alternative to litigation for achieving justice in large numbers of cases? See Alaska Judicial Council 1991; Alschuler 1968, 1979, 1981, 1983; Heumann 1977; Church and Heumann 1992; McDonald 1985; McDonald et al. 1979; Utz 1978); yet no one challenged seriously that case processing was, or should be, the core business of prosecutors. By the mid to late 1980s the situation in prosecution also began to change, when a few practitioners began to develop a more comprehensive approach to address particularly egregious crime problems—such as drug-related crime associated with crack cocaine. Some had already discovered that they could make headway against racketeering and organized crime by adopting a strategic planning approach, and using varied remedies (Goldstock 1992). Responding to the surge in drug arrests and accompanying heavier caseloads, prosecutors such as Norm Maleng in Seattle, Washington, Michael Schruck in Portland, Oregon, Robert Macy in Oklahoma County, Oklahoma, and Janet Reno in Miami, Florida, began to formulate innovative 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). What motivated at least some of these prosecutors was the growing recognition that prosecuting cases alone was not enough: 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 (see below, *Impetus to Change*). Other prosecutors, Ronald Earle in Austin, Texas, among them, had been working with victims’ groups in their local communities for years. Given the central position these prosecutors occupied in criminal justice processes, as well as their command of both political capital and considerable resources in local communities, it is understandable that their constituents would, and did, seek to have greater input into case processing itself (McCoy 1993), and place increasing demands upon prosecutors to address pressing problems of serious crime and quality of life, and to look for solutions other than sending more offenders to prison or jail.

Attention to problem solving by prosecutors in the literature is relatively recent. Ronald Goldstock’s “The Prosecutor as Problem-Solver” (1992), prepared originally for a series of Executive Sessions on Prosecution held at the John F. Kennedy School of Government, Harvard University, from 1986-1990, focused on the prosecutor’s primary goal of leading and coordinating anticrime efforts, with emphasis in another area—organized crime and racketeering (see also Blakey, Goldstock, and Rogovin 1978). Goldstock enumerated a number of

nontraditional remedies available to prosecutors, including the use of civil remedies such as forfeiture and injunctions, and stresses the need for strategic planning to address particular crime problems. Perhaps most significant, however, is his conclusion that prosecutors are 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. In *Prosecutorial Response to Heavy Drug Caseloads: Comprehensive Problem-Reduction Strategies*, Barbara Boland and Kerry Healey define comprehensive problem-reduction strategies as involving proactive, multifaceted attacks on drug abuse within a community that involve drug education, deterrence and treatment as well as prosecution of offenders, and that by necessity include a problem-solving process (Boland and Healey 1993:2; see also APRI 1993). Boland's research on prosecution in Manhattan (New York City), and Portland, Oregon, further explores forms of prosecutorial problem solving developed through attempts by prosecutors to address particular crime configurations in collaboration with community residents (Boland 1998a).

The Program in Criminal Justice at the Kennedy School of Government, Harvard University, attempted to play a role in this process as well, by holding a series of Executive Sessions for State and Local Prosecutors from 1986-1990 (hereinafter, Prosecutors' Executive Session). Prosecutors who attended from around the country identified five prosecutorial strategies in existence, each representing a particular view of the mission, responsibilities, and authority of the prosecutor: the pure jurist, the sanction setter, the problem solver, the strategic investor, and the institution builder (Tumin 1990).<sup>9</sup> Two of these in particular recognized the complexity of prosecutorial functioning: the problem solver, and the institution builder. As Zachary Tumin defined them, problem solvers moved beyond the limits of the criminal law as their frame of reference, and directed their efforts at making use of all available authority and resources in the enforcement and regulatory communities to control crime. Problem solving was seen operating at two levels, only one (the second) of which was discussed in the Prosecutors' Executive Session report. The first was in response to incidents, akin to the example given above of a merchant who has been given a bad check, wants her/his money, and has little interest in further action. At the second level, more 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, and creating specific programs as needed, as well as using traditional enforcement mechanisms. Problem solvers could become involved in helping to reconstitute institutions such as the family. Yet unlike institution builders, problem solvers applied a "politically- and ethnically-neutral approach," with no overarching policy or authority to guide conflict resolution and decision making on behalf of individuals or the community as a whole (Tumin 1990:7-10).

As institution builders within the community, prosecutors sought to help secure the vitality of basic neighborhood institutions—families, schools, civic and religious institutions—against criminal disruption and disorder, with the ultimate goal that the institutions would attain self-sufficiency and become 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). Institution builders certainly processed cases, and assessed case value through considering case strength, heinousness of the crime, and depravity of the defendant; yet they also took 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 clearly problem solvers, and,

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<sup>9</sup> In some respects, an Executive Session is akin to a focus group: leading practitioners are brought together with a few academicians to give an overview of a particular field or problem.

as the chief law enforcement officers in the community, they could actively bring together and direct all available criminal justice resources in a coherent, uniform effort (Tumin 1990:11-15).

Interviews we conducted with a number of those who attended the Prosecutors' Executive Session—such as Albert Reiderer in Kansas City—suggest that in coming together, participants were stimulated to think about new, nontraditional solutions to the problems they were facing in their jurisdictions. Yet the time apparently was not ripe for a widespread movement by prosecutors across the country toward developing a broader strategy for reducing and preventing crime (as well as processing cases). A few prosecutors were beginning to make their mark: in Manhattan, District Attorney Robert Morgenthau started a new Community Affairs unit in 1985 that would eventually link up with police and citizens to address crime problems in neighborhoods, but above all bring “information about crime problems from citizens into the DA's office so the office can do its part” (Boland 1998b). By the early 1990s, prosecutors Jeff Modisett in Indianapolis, Charles Hynes in Brooklyn, Andrew Sonner in Montgomery County (Maryland), and Albert Reiderer, were all moving into the community with new programs, attempting to work more directly with citizens, and beginning to hear what these citizens in neighborhoods thought about crime and safety.

Taking the long view, former prosecutor and now law professor Ronald Goldstock, who attended meetings we held at the Kennedy School of Government during the study, sums up how the objectives and operational methods of prosecutors' offices have been changing:

...[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. They have done it through increased technology, through training, through grants from NIJ. They have thought about victim assistance so they can be sure that witnesses will be prepared to come back several times.... They'll think in terms of sanctions...that are more cost effective, ones maybe that are more effective in deterring, ones that may be more appropriate in doing justice. And so on.

[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 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 go in and try to stop people from committing crimes in the first place.... They might divide their office in ways which complement police initiatives.... That's the kind of thing that communities have looked up to and prosecutors, those innovative, non-traditional ones have exploited.

But then, I think there is another whole entire 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 at all.... But other approaches may, including...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. One question is, do they have the power...? I think, in many cases, they do. In some cases, they can assume the power. In other cases, they can make arrangements to obtain the power, through cross designation, or through legislation (WG 1, April 19, 1996).

### III. METHODOLOGY

#### A. CONCEPTUAL FRAMEWORK

We began with a perception, shared by at least some practitioners and researchers, that prosecutors in a number of locations around the country were departing from a “traditional” strategy that was aimed primarily at efficient and effective processing of felony cases, and developing a new strategy of prosecution. According to many, the new strategy involved a distinctly different mission (implying different outcomes sought), expanded core capacities, and more diverse operational tactics. Above all, it meant forging a new relationship to the local community in the nature of a “partnership,” and developing a more active leadership role and capacity for solving broad-based problems related to public safety and quality of life.<sup>10</sup> Whether such characteristics were developed enough to constitute a new prosecutorial strategy, “community prosecution,” as some researchers and practitioners referred to it (Boland 1998a; Jacoby 1995; American Prosecutors Research Institute 1995a, 1995c; and Appendices A, B, C, D), whether multiple strategies might be developing, what shape these strategies took, how and why they were evolving, and how they operated alongside community-oriented policing—we did not know.

Our research would be exploratory, then, aimed at addressing the following questions, and developing hypotheses pertaining to them:

- (1) What changes are occurring in prosecutorial strategies today, particularly in interaction with community policing?
- (2) In what form does community prosecution as an operational strategy exist? How is it implemented, either independently by prosecutors, or in response to community policing?
- (3) Are present and developing prosecutorial strategies congruent with community policing as it is implemented today?
- (4) How can we measure the effectiveness of community prosecution in dealing with specific problems?

##### 1. Variables

Our dependent variables are the nature, and the degree, of change in the organizational strategies of prosecutors. By a “strategy” we refer to an overall mode of operating that includes a definition of the prosecutor’s mission or function; sets of tactics for carrying out that function; organizational structures and administrative processes that facilitate the use of specific tactics; and outcomes. Other aspects of the strategy include the source of authority, and the context for prosecution (that is, the relationship of the prosecutor to the environment—local government, other justice agencies, and private and public community institutions and groups). As Mark Moore explains, “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.” Frequently, leaders of organizations use the concept of organizational strategy as “a vision of what the leader of the organization would like the organization to achieve or become”(1998:331).<sup>11</sup>

<sup>10</sup> These two elements are central to descriptions of community-oriented policing today. See for example the articles in Geoffrey Alpert and Alex Piquero 1998, especially Goldstein, Eck and Spelman, and Moore.

<sup>11</sup> This idea of strategy and strategic elements is derived from Miles and Snow (1978), Moore (1995), and Andrews (1980). Kelling and Moore (1988) first used the model to analyze changes occurring in policing.

We assume that any change in organizational strategies is a function of these elements, which constitute, then, our independent variables. We identify them as: mission, source of authority, organizational structure and administration, tactics, outcomes, and context. The *mission* includes a definition of the business or function of prosecution, including the goals and values that guide the organization. The *source of authority* provides the prosecutor with legal and moral authority, including public support, and the resources and funds necessary to carry out his/her objectives. The *organizational structure and administrative processes* involves the formal structure of the organization (the chain of command, number of layers in the organization, type of structure—functional or geographic, special units), and administrative and personnel issues (such as leadership of the organization, hiring, training, and promotion policies and procedures, performance evaluation, and the culture of the organization). *Tactics* are those core capacities, those 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 *context* for a prosecutor's organization consists of the political and task environment within which the prosecutor, and her office, operate as well as the demand for what the prosecutor produces. We focus on 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). Finally, *outcomes* 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.

## 2. *Gauging the Nature and Degree of Change in Prosecution Strategies*

We assess the nature and degree of change in prosecution strategies by comparing the current strategies of prosecutors in our sample against what we call the “traditional” prosecution strategy, and attempting to determine how far individual elements have moved from the form these variables take in the traditional model. Our first task was to construct a model of the traditional strategy of prosecution that we could use as a baseline, against which to compare current strategies. To enable us to describe the elements of the traditional strategy, we looked to the existing literature on prosecution that documented the activities of American prosecutors during much of this century, and reflected the major issues of concern with respect to policy (such as their use of discretion). We confirmed that our model was consistent with that held by other researchers and practitioners by eliciting the views of participants in two group discussions on developments in prosecution that we held during the course of the study (see below, Working Group Meetings). Our points of comparison were “snapshots” of current strategies of prosecution from the four sites included in the study, constructed through a multiple case study research strategy.

The process of comparison is necessarily a subjective exercise. From previous observations of ongoing changes in policing, and from what prosecutors in our sample and others told us, we expected to find indications that as prosecutors' offices departed from the traditional model they were developing new working partnerships with community members, other criminal justice and governmental agencies, and the private sector, and a problem-solving capacity—not only in case processing, but for addressing broader problems of crime and public safety in the community, including crime prevention. We thought we would also find other aspects of change in the data we collected.

In a broader sense, however, we were not certain whether these changes might take the form of a single (linear), or multiple courses away from the traditional strategy, or just what end point prosecutors might be moving *toward* in terms of a new overall strategy. Furthermore, as we compared current strategies against the model of the traditional prosecution strategy by looking at

each independent variable, we understood that not only would each variable affect a prosecutor's strategy, but that there would likely be an interactive effect among variables. This interactive effect might also tell us something important about the nature and degree of change. For example, if a prosecutor wishes to re-structure the office by decentralizing and creating trial teams and a problem-solving capacity around geographical areas (part of the organization variable), while the courts and court dockets operate through random assignment of cases and are unlikely to change (the context variable), the prosecutor is likely to be stymied (see Indianapolis Case Study). We explore this interaction more fully as we analyze data from the cases, and present some of our conclusions as findings.

## B. RESEARCH METHODOLOGY

### 1. *Exploratory Case Studies*

The primary focus of our research strategy was to compile four case studies that were both exploratory and descriptive. We selected this strategy for several reasons: first, because case studies are appropriate for exploratory research that asks *what* phenomena are occurring, and *how* and *why*—in this instance the phenomena being changes in prosecution strategies (Yin 1994). Second, through the cases, using ethnographic methods, we are able to present a view of change from the perspectives of key actors who have been central to initiating and managing it (Spradley 1974; Van Maanen 1988; see also Murphy 1980). Third, case studies offer rich accounts and detailed images to document particular aspects of change, so that we could see what a “collaborative problem-solving initiative involving police and prosecutors” or a “neighborhood prosecutor” looked like on the ground.

We conceive of case studies in the manner described by Yin (1994), as empirical inquiries that investigate “a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident,” and that rely on multiple sources of data—in this case documentation, interviews (both open-ended and focused), direct observations, and to a minor degree participant observation. The intent underlying the use of multiple case studies was to examine prosecution strategies across sites, using the comparative method. We chose sites in accord with principles of theoretical replication, to produce insight into similarities and contrasts, with research directed at explaining uniformity or differentiation (Yin 1994; see also Glaser and Strauss 1967). In each case we would focus on a common set of elements (our independent variables) as a means of examining the strategy of a prosecutor, in an effort to try and “establish valid associations of potential causes with the given phenomenon” (Skocpol 1979:36).

### 2. *Selection of Sites for Comparison, Analysis and Generating Hypotheses*

Specifically, our research involved, first, examining a small number (four) of prosecutors' offices in depth, and constructing a case study of the strategy of each prosecutor. Because the proposed research was exploratory, and aimed at hypothesis development, we sought to identify a number of sites in which available evidence suggested that prosecutors were already developing differing missions, and initiating changes in their organizations and tactics to implement these new missions. Based upon what we knew to be some of the recent developments occurring in prosecution, we looked for prosecutors who gave some evidence of the following (not necessarily all) elements: they appeared to be reformulating their mission to include community-oriented problem solving, were taking on a leadership role in gathering and directing local resources toward community empowerment and self-sufficiency, were developing a partnership with law enforcement agencies, public and private organizations, and the community to improve public safety and the quality of life, were adopting a variety of tactics in addition to formal prosecution,

and were taking a proactive stance toward crime that emphasized prevention and treatment as well as law enforcement.<sup>12</sup> But we also looked for a range of variation—offices that exemplified different approaches to, or weighting of, these elements. And we sought sites in which the local police department had at least some record of involvement in community policing.

To identify potential sites, we drew upon our own knowledge of prosecutors from previous work with police and prosecutors, and informally canvassed our colleagues in universities, other researchers in policing and prosecution, staff at the National Institute of Justice, officers of the National District Attorneys Association, and a number of prosecutors and police officials, for suggestions. All the sites selected were repeatedly brought to our attention through these efforts. When we had selected a short list of possible sites, we contacted the district attorney or county prosecutor in each site to ask if s/he would be willing to participate—not only to undergo the demands involved in the conduct of research and data gathering, but also to participate in two meetings at the Kennedy School of Government in Cambridge during the course of the study. One or two were unwilling or unable to take on these tasks because they were running for office and could not devote sufficient time to the study.

The four prosecutors that we finally selected were: Travis County (Austin, TX) District Attorney Ronald Earle; Suffolk County (Boston, MA) District Attorney Ralph Martin; Jackson County (Kansas City, MO) Prosecutor Claire McCaskill; and Marion County (Indianapolis, IN) Prosecutor Scott Newman. Each had some special attribute that we thought might be relevant to charting changes in prosecution strategies. District Attorney Earle had been in office nearly twenty years, and was well-known for having moved his office, and his community, into a program he called “community justice,” in which citizens and criminal justice officials joined together to address public safety and anti-crime planning. District Attorney Martin had founded several Safe Neighborhood Initiatives, with a mandate for his attorneys to work in neighborhoods with citizens and police, and on inter-agency school-based panels to identify youth at risk and devise individualized courses for providing services or treatment as needed. Prosecutor McCaskill led COMBAT, a comprehensive anti-drug program composed of law enforcement, prevention, and treatment efforts, funded by a countywide sales tax. County Prosecutor Newman headed a unit of prosecutors who worked in police district stations, collaborating in problem-solving efforts with police and citizens in local neighborhoods.

We do not claim that the sites in the study are typical of all prosecutors’ offices across the country insofar as characteristics of prosecutors and their offices are portrayed in the information that is available; in fact, we suspect they are not. Most of the available survey data comparing prosecutors’ offices today utilize quantitative measures such as size of jurisdictions and offices, length of time prosecutors have served, and numbers of cases disposed of. We note here some of the differences that are evident in a comparison of the four study sites to others in the country. Using the *Prosecutors in State Courts, 1996* (Bureau of Justice Statistics), survey as a guide for comparison, we find that the four sites we selected are all large offices located in metropolitan urban centers of several hundred thousand residents. Although none was among the thirty-four largest offices in the country serving districts of one million or more residents, and all four study sites lay within the range identified in the 1996 survey as a medium jurisdiction (“with a full-time chief prosecutor in a jurisdiction between 250,000 to 999,999 persons”), they nevertheless fell in the top one-fourth of offices based upon the residents served, with each including over 100,000 persons. Furthermore, they were significantly larger than the median staff size of 9, and median population served of 32,866. Whereas the median length of service for chief prosecutors

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<sup>12</sup> We used as a guide the characteristics of institution builders cited by Tumin (1990:11-15), and of community prosecution as defined by Stevens (1994).

nationwide, and for those in medium-sized offices, was 6.0 years, and half of all prosecutors had served 4.7 years or more, three out of our four prosecutors in our study were relatively new to office: from two years (Scott Newman in Indianapolis elected in 1994), to four years (Claire McCaskill in Kansas City elected in 1992, and Ralph Martin appointed in Boston in 1992, and elected in 1994). District Attorney Ronald Earle (Austin) was clearly an "outlier," in having been elected twenty years ago, in 1976.

While we do not dismiss the significance of these comparisons, we question whether quantitative descriptive measures—many related to population served and size of the prosecutor's office—will prove to be the most significant features relevant to the development and/or adoption of new prosecutorial strategies. Certainly large offices will be more bureaucratic, have greater 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 will be influenced by the higher crime rates that characterize cities, especially large ones (Jacoby 1980: ch.2).<sup>13</sup> Nevertheless, other characteristics not so easily quantified or widely studied may also be important measures for assessing the capacity of prosecutors or prosecutors' offices, for the purposes of this study. For example, Roy Flemming (1990) discusses political styles that individual prosecutors choose, based upon their satisfaction with the status of the office within the courthouse community, and their approach to conflict as a means of changing that status, and suggests that these styles lead prosecutors to adopt particular organizational strategies aimed at change or conformity with current practices. Alternatively, in many smaller jurisdictions, prosecutors report that they 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 (Coles, personal communications). The existence of such relationships in sufficient number and strength could conceivably make unnecessary the formal collaborative partnerships that we see prosecutors attempting to develop in larger metropolitan settings. Therefore, the number, strength, and strategic linkages formed through such relationships—and these operate in some larger jurisdictions as well—could prove to be a more relevant measure than absolute size of the prosecutor's office, or the community served.<sup>14</sup> Yet we have few data at this time that provide measures of the existence of such capacity in prosecutors' offices across the country.

To address these issues, we attempted to gather evidence from the literature, published research findings, and the most recent surveys of prosecutors available on characteristics of prosecutors' offices and strategies in other locations in order to determine what elements might be important for us to consider. Our discussion of independent variables affords an opportunity to explore some of these distinguishing features. We also convened two meetings of experienced practitioners and researchers to assist us in assessing the extent to which the findings pertaining to the four study sites were typical or atypical of prosecution practices and prosecutors' offices more widely. Comments from participants in our working groups drew attention to the fact that the size of jurisdictions and prosecutors' offices in our study made them atypical of most offices around the country. But other remarks offered us insights into similarities and differences among offices that might be equally significant—such as the influence of the local political environment, the willingness of the prosecutor to use the media aggressively to further a chosen strategy, and the local presence or absence of community-oriented policing.

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<sup>13</sup> For example, in the National Institute of Justice Survey of Prosecutors 1995, 58% of prosecutors in jurisdictions of over 250,000 claimed that gang-related crimes added to their high workloads, compared with 33 percent in smaller jurisdictions.

<sup>14</sup> In fact District Attorney Ronald Earle, of Austin, TX, has suggested just such a measure (Austin Case Study).

### 3. *Convening Meetings to Discuss Changes in Prosecution*

Our two convened Working Group meetings (held in April 1996 and May 1997) produced wide-ranging discussions of what was happening in the broad context of prosecution across the country. At each one we invited the prosecutors from the four sites to talk about what was taking place in their offices with other prosecutors from around the country, a city attorney, representatives of police departments, and a group of researchers, scholars, and National Institute of Justice staff. Initial drafts of the four cases were distributed to participants for review prior to the second meeting, and were discussed at that meeting. Our purpose in these meetings was not only to obtain feedback on the cases, but to be informed by the insights of participants as to whether the prosecutorial strategies observed in the cases represented a fundamental change in prosecution, whether they constituted a new strategy of "community prosecution" or a set of categories representing various strategies, and what might account for the changes we were observing. Along with the four cases, transcripts from these meetings provided an additional data source for use in generating hypotheses concerning prosecutorial strategies. An analytical summary report based upon the first working group discussions, written by Mark Moore, is drawn upon in the discussion that follows.<sup>15</sup>

### C. DATA COLLECTION AND PREPARATION OF THE CASES

Data collection commenced with initial site visits made late in 1995 and early in 1996. Over the course of sixteen months, Coles and Kelling made several site visits to collect interview and observational data from prosecutors, police, and other individuals in Austin, Boston, Indianapolis, and Kansas City.<sup>16</sup> At each site, Coles and Kelling conducted open-ended individual and group interviews, held focus groups with both police and prosecutors, accompanied police and prosecutors as they carried out routine activities, and observed numerous meetings with prosecutors and police both inside their offices and around the city, involving private citizens, criminal justice personnel from other agencies, and city and county officials. Although time limitations precluded the use of participant observation extensively in data collection, both Coles and Kelling did meet repeatedly, both informally and formally, with many informants, from line officers and prosecutors, to supervisory management staff, eliciting perceptions of their work, the operations of their office, and the local community (Strauss and Corbin 1990; Spradley 1974). In between site visits, data collection continued via informal conversations and formal interviews conducted by telephone, monitoring of media coverage, and collection of written documentation.

Approximately 75-100 informants were interviewed at each site, either individually or in group sessions. Within the District Attorney or County Prosecutor's Office, the following individuals were interviewed each at least once, and many repeatedly: the district attorney or county prosecutor, members of the executive staff in that office, heads of trial teams and special units, line prosecutors in every unit and on most trial teams, individual attorneys with special

<sup>15</sup> Moore's document contains quoted passages from the discussions that are attributed to individual participants: because of confidentiality concerns neither it nor the transcripts are currently available for distribution. Permission has been sought and obtained for all quotations from participants in the Working Groups that are included here.

<sup>16</sup> Specifically, Coles made four visits (each approximately four-five days in length) to each site to conduct fieldwork; a fifth trip was made following completion of a preliminary draft of each case to solicit feedback on and discuss the document with each District Attorney and selected other informants. Kelling made two site visits of approximately two to three days each to Austin and Kansas City, one to Indianapolis, and visited Boston repeatedly.

responsibility for writing legislation, strategic planning, or serving as a liaison with police and collaboratives (such as Child or Family Advocacy Centers), victim-witness advocates, investigators, and other non-lawyer staff in the prosecutor's office. Outside the prosecutor's office, an attempt was made to interview previous district attorneys/county prosecutors, and representatives of other prosecution and justice agencies, government offices, and private groups with whom the office interacted regularly. They included the Corporation Counsel and City Attorney, and members of their staff; the US Attorney's Office; the mayor and selected heads of city agencies or departments; representatives of the Public Defender's Office or the defense bar (where there was no Public Defender); County Prosecutors and other county officials (as distinct from the District Attorney's Office in Austin, Texas); judges in municipal, state and juvenile courts; members of citizen groups who worked with the prosecutor's office either informally or in formal initiatives; social service agency heads and employees; and prosecutors' campaign staff.

Data were collected on the history of the prosecutor's office and the current prosecutor/district attorney's prior experience; the structure and relevant functions of other justice agencies, such as the courts; the structure and operations of the prosecutor's office; perceptions of staff at various levels within the office; organizational linkages and interactions between the prosecutor's office and other agencies and groups in the community; relationships between the prosecutor herself and other political and justice agency leaders; the prosecutor's explicit mission; and political campaigns underway. Written documentation was sought when available (such as training documents, case processing policy statements, and performance assessment materials).

In the police departments, interviews were conducted with chiefs and deputy chiefs, functional and district commanders, sergeants, line police officers and investigators, special unit officers, and civilian employees (usually in planning departments). Due to scheduling conflicts, only two of the four chiefs were interviewed directly, however, Kelling has had repeated contacts with one of the other two over the past five years. Individual and group interviews were conducted in all sites. Moreover, Kelling interviewed district attorneys in all four sites, had formal and informal contacts with assistant district attorneys in three sites, and formal and informal contacts with non-lawyer personnel in two sites. Data were collected on the history of the relationship between the prosecutor's office and the police department, the current status of the relationship, programmatic developments in both offices, joint efforts between offices, and police perceptions of the value of any changes occurring in prosecution.

Because of confidentiality concerns arising out of interviews conducted with numerous individuals at each site that contain highly sensitive information, we consider our case studies to constitute our formal database. To address issues of reliability that this procedure might raise, we took several steps (Yin 1994): first, we used, and followed, a single protocol to guide us in collecting data at each site, and a uniform set of categories for organizing and presenting data in the four cases. Second, we sought permission to include numerous quotations from individual informants in each case. Third, we asked key informants at each site to read and provide feedback on the initial draft of the case. Where our interpretations of events or information differed from those of our informants, we pointed this out and explained our reasoning in the final draft of the case (Schatzman and Strauss 1973).

In compiling each case, we presented data concerning how the prosecutor defined his or her mission; the path s/he had taken to reach the position of District Attorney or County Prosecutor; the culture of the organization; its history; those changes that had occurred over time in its structure, administration, and tactics or operations; what outcomes the organization sought; what the base of authority was for the Prosecutor; and the context of the organization—relationships

with local government, justice agencies, private groups, and especially with police. These same categories provide the basis of organization for this Cross Site Analysis.

#### IV. CASE SYNOPSES

##### A. AUSTIN (TRAVIS COUNTY), TEXAS

District Attorney Ronald Earle was first elected in 1976, after working previously in judicial reform, as a Municipal Court Judge, and in the state legislature. Over two decades, Earle transformed the Travis County District Attorney's Office from a small office of about ten attorneys to one that in 1996 employed 157 staff, including 57 assistant district attorneys, with a Felony Trial Division, a Family Justice Division (coordinating the investigation and prosecution of child and family-related cases, and child protection actions), and a highly developed Special Prosecutions Unit (that investigated and prosecuted public integrity and fraud cases). During his entire time in office, Earle has seen himself—and acted—as a leader whose mission was to involve the community in criminal justice processes. From early on, Earle led much of criminal justice planning and established many integrated initiatives among public and private agencies in Travis County and the City of Austin. For example, he wrote state legislation for and then helped to create a Community Justice Council and Community Justice Task Force, bodies that bring together elected officials, appointed professionals, and private citizens to oversee all criminal justice operations in the county. Along with his current First Assistant, Rosemary Lehmborg, who headed the Family Justice Division for many years, Earle was largely responsible for founding the Children's Advocacy Center in Austin. Here, as in other initiatives, the District Attorney's Office brought people in the community together, obtained support from the necessary agencies, helped to find sufficient resources to get the project off the ground, and then when it became self-sustaining, passed it over to community control.

In 1996 Earle set up the first of several Neighborhood Conference Committees (NCCs), in which adult volunteers, cleared by Austin authorities, and trained, serve on panels that hear cases diverted from Juvenile Court. After intensive hearings that involve the juvenile offenders and members of their family, the panels offer individualized contracts to offenders that include restitution, community service, counseling and/or treatment, and mentoring by adults in the community. Participating adults in the NCCs say they welcome the opportunity to take responsibility for directly addressing crime and working with juvenile offenders in their own neighborhoods. Anecdotal accounts of individual offenders' experiences suggest that one outcome of the NCC process is the creation of strong relationships between the offenders and adults in the local community that survive the period of their contracts (see also O'Reilly 1998).

During the study, Earle ran for re-election against his first contender in twenty years. He used the campaign as an opportunity to inform the public not only about his record, but about the rationale that informed it. For example, he put forward a mission that included a commitment to fashioning criminal justice processes, including prosecution, in accord with principles of restorative justice. Within the District Attorney's Office, even the prosecution of cases was seen as an opportunity to help victims heal. Victim-witness advocates and assistant district attorneys work closely with victims throughout trials, and a number of programs such as victim-offender mediation and restitution sessions are available. Earle also pursues programs and processes that he believes will cause offenders to change their behavior, to take responsibility for their actions, and to make restitution. Diversion and treatment programs supported by the DA's Office offer counseling, treatment and rehabilitative services, mediation, and community service alternatives for both adults and juveniles. In 1997, a new Community Justice Center opened in Austin to house offenders from the local community and offer programs that would help them to work toward becoming part of the community upon release. Vigorous prosecution and punishment of offenders is secondary to, but accompanies, each of these goals.

Although Earle and his top staff in the District Attorney's Office have been involved for years in leading most of these efforts in the community, by 1998 they were engaging the entire office in sometimes heated discussions about changes that might be made to decentralize prosecution efforts and build accountability to local neighborhoods. Earle had hired a police officer experienced in community policing as program manager for a new "community prosecution" effort, and was working with a new police chief in an attempt to build police/prosecutor collaboration by geographical area. He also moved into the area of quality of life offenses, publicly supporting an ordinance prohibiting camping in public spaces, designating assistants in the Office to handle nuisance abatement suits, targeting gangs and porn shops—all of which provoked considerable controversy and public debate.

#### B. BOSTON (SUFFOLK COUNTY), MASSACHUSETTS

Ralph Martin was appointed District Attorney of Suffolk County by Governor William Weld to fill the remainder of departing District Attorney Newman Flanagan's term in 1992.<sup>17</sup> Martin had been an assistant district attorney in Middlesex County under then-District Attorney Scott Harshbarger (currently Attorney General of Massachusetts), and as an Assistant US Attorney in Boston had led the investigation of the Boston Police in the Carol DiMaiti Stuart case. In that case, a man murdered his pregnant wife, wounded himself, and blamed the crimes on "a black man:" the aggressive police response that followed targeted African-American men, worsening already tense relations between police and the local African-American community. When he became District Attorney, one of Martin's first tasks would be to gain the trust and cooperation of the Boston Police Department (BPD)—a department that was already facing a loss of confidence in its integrity, as well as its effectiveness in addressing crime problems.

Early in the 1990s, both agencies—the police and the prosecutor's office—faced a City dominated by escalating levels of street violence. In December of 1990 the *Boston Herald* published a daily "body count;" an elderly African-American minister was killed by police in a botched drug bust; and gang members disrupted an enemy's funeral, shooting up the church in which it was held. Juvenile violence was a serious concern: one officer serving with BPD's Violence Task Force lamented, "I'm a tough cop and I believe in arrest, but we just have to go beyond arresting these kids. It just isn't working. Things are getting worse and worse." Martin's goals as District Attorney were to leverage new resources, creating a critical mass of agencies and resources working together to address these and other problems of crime and public safety, and to make his office more accessible and responsive to the needs of the community.

His efforts were implemented through a number of approaches. First, his prosecutors moved out into Boston's neighborhoods: Martin launched several Safe Neighborhood Initiatives, in which assistant district attorneys work out of neighborhood offices in partnership with citizens, incorporating citizen-identified priorities into the prosecution agenda and joining teams comprised of citizens and criminal justice officials whose job is to develop and implement strategies for improving public safety and reducing crime in particular geographical areas. In Community Based Juvenile Justice Program roundtables, prosecutors in the Juvenile Unit meet regularly with middle and high school officials, police, probation officers, youth workers, and service providers to identify youth at risk, or who pose a risk to their schools or residential communities. Participants on the roundtables work together to craft individualized responses that range from counseling, to linking students up with services, placing them in alternative school

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<sup>17</sup> Flanagan left to head the National District Attorneys Association and the American Prosecutors Research Institute.

settings, obtaining entrance for students to special programs during the school year or summer, contacting and assisting family members, special efforts to supervise and communicate with students by probation officers and teachers, and prosecuting where necessary.

Collaborating with other agencies and the private sector, Martin worked hard to build a relationship with new Police Commissioner Paul Evans so that police and prosecutors would develop stronger ties at virtually all levels of their organizations. Through the PIPS (Prosecutors in Police Stations) program, assistant district attorneys worked out of offices located in police district stations, cooperating in investigations and assisting police at virtually all hours of the day and night, meeting with victims and local community members, and acting as a liaison for the police to the District Attorney's Office for nearly every case arising within the area. In a broader based initiative, his attorneys participated in the Boston Gun Project effort (along with BPD, ATF, the US Attorney, the Department of Probation, City of Boston Youth Outreach Workers, the Department of Parole, school police, and others) that, by all accounts, was a crucial factor in the near elimination of gun-related juvenile homicides from 1995 to 1998. In a housing project devastated by gang and drug-related crime and physical decay—Franklin Hill—Martin's office administered a project in which his staff collaborated closely with the Boston Housing Authority, tenant groups, community organizations, law enforcement agencies, city agencies, and civic groups to reduce gang and drug activity and clean the housing development up.

Within the District Attorney's Office itself, Martin and his senior staff have attempted to minimize the segmentation of the office into two-tracks, "community prosecution" versus "case processing," and to develop an ethos that community prosecution efforts, too, are significant. In 1997, when the position of Chief of District Courts was vacated, Martin appointed his Director of Community Prosecution to fill both positions simultaneously. The new Chief brought ideas from her experiences with community prosecution efforts into many of the district courts, instituting a new case management system that gave assistant district attorneys an actual caseload, assigning cases to them earlier on, giving them a better support system for preparing cases, and helping them to think about the "bigger picture"—to notice clusters of crimes are occurring at certain locations, to work with citizens to obtain community impact statements for use in court, to think about what can be done for a defendant to prevent further offending in the community. In addition, training for all new district court attorneys includes an orientation to community prosecution initiatives, and seminars and workshops provide experience in problem solving and information concerning community-oriented initiatives to others throughout the Office. Recruitment for community prosecution SNI and PIPS positions are competitive, and incentives are offered in the form of extra pay, laptop computers, opportunities to second chair high profile cases, and special consideration given in next assignments. A small but growing number of SNI prosecutors, having spent one or two years in district court positions working closely with citizens and police to address crime and safety problems in specific neighborhoods, are taking these same skills and applying them as they move up into higher positions on superior court prosecution teams.

News reports in Boston now speak of "Our anticrime 'miracle'" (Evans and Fox): no juvenile was killed in Boston with a firearm from July 1995 until December 1997, when one youth died. The homicide rate for those under age 24 dropped between 1995 and 1996 by 71%; by the end of 1997 the overall number of homicide victims fell to 43, of whom 15 were age 24 and under. These rates of decline were far above the national average. And if reports from citizens represent another measure of success for the actions of the District Attorney, and the Boston Police, they are replete: citizens working with the Safe Neighborhood Initiatives and community prosecution efforts report that in Chelsea, migrant workers are opening savings accounts in local banks rather than coming in to cash welfare checks, and increasing numbers of residents are choosing to stay

in Chelsea rather than move out; in Roxbury, with SNI support, residents themselves mobilized to convince the city licensing board to roll back hours for a store that sold food and liquor all night long, drawing noisy crowds of hundreds that disrupted traffic and the peace late into the night, and threatened to bring violence back into the Grove Hall area. In East Boston, crime has dropped enough that the Safe Neighborhood Initiative has turned much of its attention to quality of life offenses—always a concern, but now occupying central stage.

### C. INDIANAPOLIS (MARION COUNTY), INDIANA

Unlike East and West coast cities, Indianapolis has not experienced a dramatic drop in violent crime. Crack cocaine hit Indianapolis in 1992, and the effects are still visibly devastating in parts of the City. Marion County Prosecuting Attorney Scott Newman's second year in office (1996) was characterized by the highest ever number of homicides in the county (139), and an overall decline in other major crimes of 7.5 percent. His two years as County Prosecutor produced record numbers of jury trials (382 in 1995; 339 in 1996), a 65 percent conviction rate in these trials in 1995 and 69% in 1996. While a *National Law Journal* article called Newman the "kamikaze prosecutor," reporting that Indianapolis defense attorneys said "he would rather lose a case than accept a plea bargain" (Blum 1996), Newman also was expanding a community prosecution program created by his predecessor (renamed the Street Level Advocacy Program).

Newman, a Republican, was elected to office in 1994, having worked previously as a deputy prosecuting attorney under former Marion County Prosecutor Steve Goldsmith (in office from 1979-1990), and as an Assistant US Attorney in Indianapolis. He defeated incumbent County Prosecutor Jeff Modisett, a Democrat who had served a single term (1991-94): the campaign was so close that Newman didn't even prepare an acceptance speech and had to "wing it" on election night. Nevertheless, once in office the thirty-four year old new prosecutor moved forward with an agenda that included sharp curtailment of charge-bargaining, tough new mandatory minimum plea standards for crack cocaine dealers, and legislative initiatives for toughening juvenile sentencing guidelines, streamlining death penalty appeals, increasing penalties for drug dealers who used or possessed firearms in the course of narcotics trafficking, ending the ban on victim impact evidence in death penalty cases, and stiffening sentences for hit and run drivers. But Newman's short record also included expanding initiatives to safeguard the rights of victims and witnesses in gang-related crimes, making violent crime against women a high priority through creating, supporting and training staff for sexual assault response "Centers of Hope" in local hospitals, and expanding the "street-level advocacy" program to send four deputy prosecutors out to work in Indianapolis police district stations and local neighborhoods, where they gained respect and trust from line officers, and strong support from citizens. Nevertheless, Newman presided over an Office in which many staff were unconvinced of the value of the community prosecution program, and focused their attention primarily on prosecuting violent offenders.

The fragmented and contentious relations characterizing much of the criminal justice world in Indianapolis also did not make Newman's job easier. In spite of the fact that both he and Mayor (and former County Prosecutor) Steve Goldsmith were Republicans, collaboration between Newman's street-level advocates and the City Attorney's Office was not easy and amicable. Although Newman sought to make changes in juvenile prosecutions by assigning his prosecutors to work with specific neighborhoods, the Juvenile Court itself was on a different track, and could not easily adjust. Meanwhile, significant police controversies resulted in charges being brought by the prosecutor's office against six officers. Street level advocates and deputy prosecutors who were working at building closer ties with police found relationships strained with the indictments brought against officers. Some of Newman's own tough, "no plea" policies produced serious

problems for the Public Defender Office whose resources were depleted in trying to cover resulting trials.

Nevertheless, by 1997, street-level advocates, working with police and citizens, had begun to make headway in addressing discrete problems in several Indianapolis neighborhoods. The Indianapolis model of community-based prosecution was drawing as much attention from prosecutors around the country as were Newman's "no plea" policies. Newman himself was growing into the role of leader in local criminal justice innovation and initiatives: by 1998 the Marion County Prosecutor was coordinator of the Community Justice Pilot Project, drawing in other justice agencies and the Hudson Institute to create a community court; he helped set up pre-adjudication diversion programs for juvenile offenders that involved victim-offender conferences and restitution; and he took the lead in bringing the Public Defender's Office, presiding judge, the Mayor, Chief of Police, Sheriff, and head of Probation together in an informal "criminal justice coordinating council." Running for election in 1998, Newman continues to emphasize the "core competency" of prosecutors in law enforcement—that is, "raising the stakes of punishment" for repeat, violent offenders." But believing that he has successfully accomplished this goal, he feels justified in turning to other goals—especially to making the system work better for people. Newman says he can do this while still supporting certain basic principles: for example, sending the message that fathers must be responsible for paying child support—but offering those who are delinquent the opportunity to find jobs rather than go to jail; and providing stronger explicit validation and overt support for the work of street level advocates within the Prosecutor's Office.

#### D. KANSAS CITY (JACKSON COUNTY), MISSOURI

Claire McCaskill was elected Jackson County Prosecuting Attorney in 1992, inheriting a broad-based program for addressing crime and other problems related to the sale and use of drugs that had been created by her predecessor, Albert Riederer, and that was funded by a county-wide sales tax that raised over \$14 million dollars a year. McCaskill brought legislative experience at both the state and county level to her office, detailed knowledge of the revenues and programs associated with the drug tax, considerable acumen in dealing with the media and the public, a willingness to compromise and work at establishing strong relationships with other criminal justice agencies and elected officials, and a well-thought out agenda for what she would attempt as prosecutor.

When McCaskill took office, the Anti-Drug Sales Tax program was barely underway. Renaming it "COMBAT" (Community-Backed Anti-Drug Tax), she immediately set about developing the program further, expanding the scope of its activities both inside the prosecutor's office and out in the community. As county prosecutor, McCaskill herself controlled many of the funds raised by the tax, including the portions that underwrote policing operations and prevention programs, and she rapidly achieved a nationwide reputation for operating a "mini-LEAA office," a center for innovative and creative efforts to prevent, treat, and reduce drug use and drug-related crime.<sup>18</sup> The COMBAT program today is unique in the breadth of its approach and in the degree of authority and power accorded the county prosecutor to lead and coordinate all anti-drug efforts in the community, involving numerous other criminal justice and social service agencies and institutions as well as private citizens. From a powerful position, McCaskill has reached out to work with rather than against the police in particular, gaining their respect and admiration—backing them publicly, admitting when her office makes a mistake and drops the ball in a case,

<sup>18</sup> COMBAT is currently the subject of a formal evaluation sponsored by the National Institute of Justice and the Ewing Marion Kauffman Foundation, and conducted by the Abt Association. See also Mills 1996.

and taking a “tough on crime” stance through specific policies (for example, an ancillary charge for armed criminal action, carrying a three year mandatory prison term, will not be dropped without prior permission from her or one of her top staff).

Inside the Jackson County Prosecutor’s Office, COMBAT funds allowed McCaskill to create a separate drug prosecution section, and hire a staff of non-lawyer professionals with considerable experience in public health, management, community and media relations, and marketing. She appointed several of these key staff members to the Executive Staff in the Office, along with the director of Victim and Witness Services and the Chief of the Family Support Division, bringing new perspectives to the overall functioning of the office. Two staff members work with the media: a journalist monitors office activities in order to provide ongoing information, and background, to the press; and a marketing professional who generates “earned media” coverage for the office—an article on landlord-tenant training, for example, or the opening of a new day report center affiliated with the Drug Court—and works with radio and television stations, editorial boards, and other sources of access to the public, placing information about many of the non-prosecution activities of the Office.

Using the resources at her disposal, McCaskill has steadily increased the range of services her office provides to the community. Her DART (Drug Abatement Response Team) Team has developed training sessions to educate landlords and property-owners about how to identify and prevent meth-amphetamine production, screen tenants, and reduce opportunities for drug activity on their properties; closed down numerous drug houses and labs; and developed a “seal of approval” to award houses and motels in whose owners and managers have been trained in drug prevention and who put their training to work through making improvements. In 1998, HUD named the Paseo Corridor Crime and Drug-free Community Partnership—convened and administered by McCaskill’s staff, in particular Chief of Planning Kristen Rosselli, and involving city agencies, police, the municipal courts, and citizen groups (sixty partners in all) working together to reduce specific crime and disorder problems in a series of neighborhoods located along an urban corridor in Kansas City—a Best Practices Award winner and national model. McCaskill has also developed new measures in the office and community to address domestic violence, sexual abuse, driving under the influence and for targeting repeat violent offenders.

#### E. LOOKING ACROSS THE SITES

Table 1 provides a brief comparative look at basic site characteristics.

Table 1: Site Characteristics (based upon 1996-97 available data)

	AUSTIN, TX (TRAVIS COUNTY)	BOSTON, MA (SUFFOLK COUNTY)	INDIANAPOLIS, IN (MARION COUNTY)	KANSAS CITY, MO (JACKSON COUNTY)
<b>1996 Population City/County</b>	537,484/ 683,967	552,519/ 645,068	817,525 (County)	448,474/ 646,341
<b>Form of Local Government</b>	City: council-manager; County Commissioners Court headed by an elected Judge.	Strong mayor/Weak City Council	Strong mayor/City Council; Unigov in 1970, merging city/county.	City: council-manager; County Legislature and Executive
<b>Political Affiliation of Prosecutor</b>	Democrat	Republican	Republican	Democrat
<b>In office since</b>	1977	1992	1995	1993
<b>Jurisdiction of Prosecutor's Office</b>	Prosecutes felonies; only statutory misdemeanors of a constitutional nature (official misconduct); juveniles; and handles appeals. Most misdemeanors and ordinance violations prosecuted by County and City Attorneys.	Prosecutes felonies and misdemeanors; juveniles; handles appeals. DA does some criminal trespass cases in housing developments, but Corporation Counsel does civil enforcement and nuisance abatement.	Prosecutes felonies, misdemeanors, traffic offenses, juveniles, and family support cases. Handles post-conviction relief for appeals of A,B,C, felonies filed with a trial judge. Nuisance abatement and ordinance/zoning violations prosecuted by City Attorney.	Prosecutes felonies (has jurisdiction over misdemeanors but generally does not prosecute) and non- AFDC child support cases. No jurisdiction over juvenile prosecutions. Handles post- conviction remedies, but no appeals. City handles misdemeanors and prosecutes ordinance violations.
<b>Number of Attorneys/Total Staff in Prosecutor's Office</b>	57/157	125/265	106/258	78/180

	<b>AUSTIN, TX (TRAVIS COUNTY)</b>	<b>BOSTON, MA (SUFFOLK COUNTY)</b>	<b>INDIANAPOLIS, IN (MARION COUNTY)</b>	<b>KANSAS CITY, MO (JACKSON COUNTY)</b>
<b>Characteristics of Prosecutor's Office Leading to Selection of Site</b>	Prosecutor's involvement in community/restorative justice initiatives; extensive work with victims and grass roots community groups; creation of local structures for working with citizens and other criminal justice agencies.	Safe Neighborhood Initiatives; Community Based Juvenile Justice Program; involvement of prosecutors in local anti-gang/gun efforts; extensive problem-solving activities within prosecutor's office.	Street Level Advocacy Program, with prosecutors working in police stations and in neighborhoods.	COMBAT (Community-Backed Anti-Drug Tax) Program supporting extensive prevention, treatment, and law enforcement efforts.
<b>Community Policing Status</b>	Shift to community policing. Lieutenants placed in charge of six sectors with total responsibility. Evolution from citywide community policing unit to unit in each sector (Crime NET). Strong resistance from union to both patrol and detective decentralization. (Union includes everyone in the department except chief.) Attempts to decentralize detectives defeated twice during Watson's administration.	Strong shift to community policing. Devolution of authority to ten district commanders. Planning conducted at district level with support from central planning unit. Close collaboration between citizens and police. Citizens involved in district planning. Police innovating with gun violence reduction efforts involving other major criminal justice agencies. Strong partnerships among criminal justice agencies.	After period of administrative turmoil, shift occurring to community policing with strong emphasis on devolution of authority to four districts. Research by Mastrofski et al. (June 1998) found "as cooperation between police and citizens in solving problems increased, the residents felt more secure in their neighborhoods" indicating citizen recognition of strategy shift in IPD.	Shift to community policing basically began in 1991 with the implementation of bicycle patrol. Limited number of officers focused on problem solving citywide. Refocused to broaden base with greatest progress in Central Patrol District (CPD) so that all sector officers are involved, especially in problem solving. CPD is model district for shift throughout the department.
<b>Crime Rates 1996: * Crime Index Total City/County</b>	42,278/ 48,566	44,711/ 52,690	60,407 (county)	52,300/ 57,126

\*Source: Crime in the United States: Uniform Crime Rates. Department of Justice, Federal Bureau of Investigation, Washington, D.C. 1997.

## V. THE NATURE AND DEGREE OF CHANGE IN PROSECUTION STRATEGIES

We present here two models of the organizational strategy of prosecution: first, the traditional strategy, as scholars and practitioners have defined it during much of this century; second, a “composite” model of prosecution constructed from observations and documentation of current strategies of prosecutors in our study.

### A. THE TRADITIONAL STRATEGY OF PROSECUTION

During much of the current century, the contribution of prosecutors to society’s efforts to control crime, enhance security, and assure justice was made primarily through the public prosecutor’s strategy as an efficient and effective felony case processor (Forst 1993a).

#### 1. *Mission*

In this conception, the goal of the prosecutor’s office is to ensure the efficient and effective prosecution, or disposition, of cases presented to them for prosecution—this is the mission or function of the prosecutor.<sup>19</sup> Effective prosecution of criminal cases means ensuring that cases are justly prosecuted—that each case results in a tough but fair decision, and that like cases are treated alike. Prosecutors are concerned about getting the most out of the evidence presented to them, and 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). Thus, the operational goal becomes maximizing the felony conviction rate.

#### 2. *Source of Authority*

In the traditional model, the support and legitimacy of the prosecutor’s office is rooted in society’s desires to hold offenders accountable for their offenses: it is the prosecutor who is authorized to enforce the law, and to do so 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 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.

#### 3. *Organization*

In terms of structure, prosecutors’ offices have generally been geographically centralized, and organized functionally (with special teams or units, such as for felony prosecutions, misdemeanors, juveniles, domestic violence, or sex crimes). Although they are centralized in terms of operations, they are relatively “flat” organizations, at least when compared with police. 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.<sup>20</sup>

Administratively, it is primarily lawyers who staff prosecutors’ offices, with few non-lawyers in key management or administrative positions. 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

<sup>19</sup> We use the present tense in describing the traditional strategy, since many offices continue to operate within this model.

<sup>20</sup> In the remainder of this document, we use the terms district attorney and county prosecutor interchangeably, as we do assistant district attorneys/assistant or deputy prosecutors.

they handle more complex cases involving violent felonies, especially homicide. Relations among assistants are largely collegial and consultative, often informal, with greater formality present in supervisory relationships. Traditionally, the line of accountability has been inward to the organization; however, more recently, assistant district attorneys have felt considerable accountability 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, "Prosecutors in State Courts 1990; Forst 1993a:297).

Salaries for assistant district attorneys are generally quite low compared to the private sector. Consequently prosecutors' offices have fairly young staff and relatively high turnover. Assistant district attorneys generally do not have civil service protection, nor are they unionized, so the district attorney, especially one newly elected, enjoys considerable discretion over whom s/he can appoint or keep in the organization.

#### 4. *Tactics*

The most important means, or tactic, used by a prosecutor's office to reach the operational goal of maximizing the felony conviction rate is effective case preparation, to support success at trial and hard-nosed plea bargaining. Prosecutors may adopt different screening policies, such as those identified by Joan 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. As Jacoby notes, the policy followed often corresponds 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 felony convictions—with violent crimes and repeat offenders accorded highest priority—through effective case preparation.

The crucial skill of each prosecutor is to get the maximum charge that the evidence can reasonably sustain, particularly for violent crimes and offenders. Effectiveness for individual prosecutors 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.

#### 5. *Context*

Within their environment, prosecutors' offices are organizations with relatively strong boundaries, that operate in relative isolation. Brian Forst has noted the extent to which the operations of the prosecutor are largely hidden from the lay public. Furthermore, since the prosecutor in America is part of the executive branch of government, his or 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" (1993a:294). Prosecution tends "to remain outside of 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" (Joan Jacoby, WG 2, May 2, 1997).

The source of district attorneys' workload (demand for service) is primarily police—most cases come to the prosecutor from the police. In this respect prosecutors' offices are relatively passive

in 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). And 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. Court structures and functioning shape the organizational structure and operations of the Prosecutor's Office—for example, trial teams might be linked to specific courts, in order to handle cases assigned to those courts.

The prestige of the district attorney's office in the local community would be as high as the ability of prosecutors to capture public attention. One district attorney (not in this sample) described a dispute with a head of a department of public welfare to Kelling. When the head of the welfare department refused to cooperate, the meeting 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 couldn't resolve the issue. This prestige differential also exists in the relationship between assistant district attorneys and police, and can be the source of considerable conflict.

#### 6. *Outcomes*

The primary organizational outcome measures sought as part of the traditional strategy have been the number of trials (particularly involving Part I crimes), number of convictions, and length of sentences.

### B. THE EMERGING STRATEGY OF PROSECUTION – THE COMMUNITY PROSECUTION MODEL

The four prosecutors included in our study all believed that to a greater or lesser degree, they were doing something different than what we have presented as the traditional prosecution model. They also agreed upon a number of elements of change that they were attempting to implement. A compilation of the data from our cases, with attention given to common elements that emerge, provides us with the sense that a new strategy of prosecution is taking shape. We present a composite model of this strategy here. But we stress that the strategy represented by this model, based as it is upon several "snapshots" of prosecutors' offices that are by no means standing still, is a "work in progress," with its final form yet undetermined. Nevertheless, its approximate shape can be described as follows.

#### 1. *Mission*

Although all four prosecutors in our study retained effective felony case processing as a core capacity, they were not only "doing justice," but had adopted several new goals as part of their 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 our 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.

#### 2. *Source of Authority*

Clearly in this 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 traditional model was based on a plurality in a jurisdiction, however, in the community prosecution strategy an additional

source of authority is to be found in the relationships of prosecutors to neighborhoods and communities. This increased authority derives 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*. The prosecutor’s authority is further enhanced by the partnerships that develop with neighborhood and community leaders. Moreover, assistant district attorneys also 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, often about what they cannot do about problems and/or cases, the credibility of assistant district attorneys 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 assistant district attorneys, especially as they devise new ways to solve problems (such as through the use of nuisance abatement procedures).

Further authority accrues through the prosecutor’s 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 ability to solve problems, but enhance the authority and prestige of the prosecutor as well.

### 3. *Changes in the Organization*

Above all it is the working partnership with citizens that is producing the greatest impact in developing the new strategy of prosecution, for once prosecutors begin to let citizen priorities in the door, these priorities push for changes in old tactics and demand new ones, they suggest new outcome goals, and even provide an impetus for change in the organization of the prosecutor’s office. Organizationally, 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. Virtually all prosecutors in our study assign some deputy prosecutors to work with police in district or precinct stations, or in neighborhood offices. Some are experimenting with the idea of creating bureaus, or teams that carry out vertical prosecution and handle all cases from a specific neighborhood or geographical area (Austin Case Study; Indianapolis Case Study).

Administratively, prosecutors are looking for new attorney employees with experience and/or interest in working closely with citizens—not just good trial lawyers. Skill in working with citizens is paying off in terms of advancement within the Prosecutor’s Office. In addition, the prosecutors are hiring greater numbers of non-lawyers, especially those trained in public health, media and public relations, social services, and even former police officers, and elevating some to executive staff positions (all cases).

### 4. *Tactics*

Prosecutors in the sample set new priorities in prosecuting cases that reflect determinations by citizens as to which offenses are most serious, and which are of greatest significance to the local community. In practice this usually means that while violent crime does not become unimportant, quality of life offenses such as prostitution or public drinking are frequently elevated in importance. 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; and establishing and working in day report centers for offenders diverted from prosecution for drug-related crimes.

All these activities reflect citizen priorities, input, and cooperation. Above all, the “tool kit” of prosecutors is becoming more diverse, and contains a greater number of tactics.

#### 5. *Context*

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 and other justice agencies as well as public/governmental and private agencies are increasingly permeated as these agencies become partners of the Prosecutor’s Office: police, probation and corrections departments; the courts; welfare departments; social service agencies; Corporation Counsel, city attorneys, and the US 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 that prosecutors have started to develop to victims is broadened to the community, which also can be victimized by chronic problems.

#### 6. *Outcomes*

Outcomes change and broaden: they include improved quality of neighborhood life, crime prevention, management of problems, lowered levels of fear, and citizen empowerment, confidence, and satisfaction. Former outcomes—guilty verdicts in trials for example—are seen as a means to obtain improved neighborhood safety and crime prevention, rather than as ends in themselves.

#### 7. *Why “Community Prosecution” as the New Model?*

Working in partnership with the community is, at once, an important end in itself as an element in the mission of community prosecution, a key tactic, and a factor that shapes the development of new tactics, organizational modes, and outcome goals. The establishment of partnerships with citizens, justice agencies, government agencies and public and private organizations changes the fundamental nature of the prosecutor’s relationships in the environment. They are also 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, in a sense, always solved problems: however, problem solving could be, and was, done without going directly to the community. Instead, the addition of ongoing direct collaboration and partnership with the community changes the problem-solving process by grounding it in the community, according citizens the power to determine which problems are highest priority, and adding new arenas within which prosecutors can apply their problem-solving skills, capacities, and resources. This is a fundamentally different approach than the problem solving that prosecutors began carrying out during the mid-1980s when, searching for a more effective means of solving crime problems such as crack cocaine, they turned to forming law enforcement collaborations and devising sophisticated law enforcement solutions. Jackson County Prosecutor Claire McCaskill explains the difference:

I think we should be really careful at wanting to overanalyze with intelligence what the problems are. I think looking at police data and seeing hot spots, shots fired...if we got to the point that we were doing...that analysis and then we were going to these neighborhoods and saying, ‘you know, we’ve looked at this stuff and this is your problem...we know what your problem is and we’re here to help

you,' that's not what this is all about. What this is about is making these neighborhoods feel like there's efficacy...that when they call and say, 'I've got ten guys out in front of my apartment complex every night, they're doing drugs,' that somehow, everybody can get together and stop that (WG 2, May 2, 1997).

To the extent that the police work directly with the community, and try to put a priority on community issues, they too will channel these issues to prosecutors. Seattle City Attorney Mark Sidran describes a process in which "community prosecution or prosecutor problem solving is at least as likely to be driven by the police and police problem-solving initiatives as it is by anything prosecutors begin to initiate..." Sidran points to the Indianapolis police officer who has found, in working with street level advocates, that prosecutors now understand how important trespass violations are to regaining control of a neighborhood: "That is a police officer who's driving the prosecutor into some kind of order maintenance...just as other police or neighborhoods will drive a prosecutor into nuisance abatement strategies.... So in that sense, clients at the police problem-solving end will end up driving prosecutor problem solving" (WG 2, May 2, 1996).

Perhaps the strongest argument in favor of the primacy of community, however, is that the mission of this new strategy involves a commitment to strengthening basic social institutions and the capacity of the community to ensure and maintain its own safety, facilitating a reassertion of social norms. District Attorney Ronald Earle calls this "reweaving the fabric of community":

I think what we're doing is trying to identify all the thousands, if not millions, of complex interactions that add up to social control. The very reason I got started doing what I do, which now we call community prosecution, is that I wanted to involve the public. And that I felt that the most important way to solve, to prevent crime, was to reweave the fabric of community. Whether you do that by zoning codes...there are thousands of ways.... But the true instruments of social control are the organic institutions of community. And the extent to which prosecution, policing, judging, whatever, can facilitate the replication of those functions is the extent to which they will be successful (WG1 April 19, 1996).

In the debate over the primacy of "problem solving" or "community orientation" in the new prosecution strategy, therefore, we opt for "community."

### C. OUR KEY FINDING

Our central finding is that the prosecutors we studied are *moving rapidly toward* a new strategy of prosecution—community prosecution. On the ground, no single office we studied has come near to achieving a complete transformation to what we present as the new prosecution strategy. Nor is there certainty that the new strategy will be institutionalized in any site, although a number of indications appear to point in this direction: we discuss them below. Nevertheless, we are able to confirm the assertions of prosecutors in our study: the data show changes (that is, departures from the traditional model) that we would describe as ranging from limited to moderate in the individual strategies of the prosecutors in our sites.

Given the small number of sites studied, the disparity in types of change among offices, and the high degree and rate of convergence among them during the course of the study, we believe that any attempt to rank sites along a continuum would be neither meaningful nor particularly useful at this stage. Instead, we look at the disparity and overlap between past and current strategies, and attempt to discern which types of observed changes appear to offer the most far-reaching

potential and effects for the development of the organization, and its relationship to other criminal justice agencies, to government, and to the public.

In the following sections we discuss the “shape of prosecution” as it existed in the (1996-97) strategies of our four prosecutors, as expressed in their statements, activities, and offices. We look at the elements of their strategies within the framework of the independent variables that are operating. We summarize specific findings pertaining to the independent variables, including interactive relationships and effects among them, in the final section on Conclusions. First, however, we look at what caused prosecutors to begin moving away from a strategy of prosecution that was centered around felony case processing.

## VI. THE IMPETUS FOR CHANGE

The shift in prosecutorial paradigms did not begin with the prosecutors in our study, or even in the mid-1990s. During the mid to late 1980s, and early 1990s, something was “going on” that caused prosecutors at the time to conclude that they were missing an opportunity: in spite of prosecutorial innovation and problem solving that was producing increasingly sophisticated and efficient case processing and prosecutions, crime remained high, quality of life in cities was threatened, and jails and prisons were filling to over-capacity. Citizens, especially those in minority communities, were becoming increasingly vocal in demanding more than a strict law-enforcement approach to crime problems. Prosecutors who were in office then, and now, describe several factors that motivated them to develop a new approach to their role.

### A. INEFFECTIVENESS OF THE JUSTICE SYSTEM

#### 1. *Perceived Ineffectiveness of the Justice System to Respond Effectively to Worsening Crime and Quality of Life Conditions*

Prosecutors who preceded those in the study in office point to the dramatic increase in drug-related crime, especially crack cocaine, as an important impetus for changing their approach to what a prosecutor’s mission, or function, should be. For example, in Kansas City, Jackson County Prosecutor Albert Reiderer, in office from 1980 to 1992, recalls a surge in drug-related crime (especially crack cocaine) during the 1980s, where one of every two arrests involved a drug user, and 80 percent of all crimes involved illegal drugs (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).

In Indianapolis, where violent crime rates remain high, current Prosecutor Scott Newman prides himself on being “tough on crime.” Once in office, however, he realized that reactive case processing would be inadequate as the sole means for addressing the conditions that had grown up in the local community. In part, Newman saw this resulting from a deterioration in the entire system:

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 to that 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).

Newman's approach, shared by several current and previous prosecutors we interviewed, was to begin thinking about broader answers:

I wanted a system more geographically based, in which prosecutors thought more like people who had to live in those areas...who would go home at night...hoping and praying...that no one would get hurt in Haughville.... I wanted a system that was more accessible...more accountable...and that engaged in strategic thinking.... I was working during the campaign in a managed health care company, and I started to read a lot of the corporate literature, about how companies that merely paid claims rather than managing health care experience and measuring outcomes were failing. And that fed into the kind of thinking I was doing (WG 1, April 19, 1996).

## 2. *Demands from Citizens*

In the accounts we gathered from prosecutors concerning how and why they began moving away from the traditional 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,

When the impact of drug-related crime became more pronounced in Kansas City...[Jackson County Prosecutor] 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, such as the Church Community Organization, 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. Riederer was sympathetic to the message. He committed the prosecutor's office to work with the Ad Hoc Group Against Crime, made up of 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 (Kansas City Case Study).

Prosecutor Riederer would continue 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.

District Attorney Ronald Earle's tenure in office has been no less affected by the considerable contact he has maintained with community members—in particular with increasingly vocal victims and victims' rights associations. 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 own 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 and the Child Protection Team, to handle intake, and investigate, cases of child abuse and neglect (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, 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 Schruck’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.

#### B. CHANGES IN APPROACHES OF OTHER CRIMINAL JUSTICE AGENCIES AND THE JUSTICE SYSTEM

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>21</sup>

For Prosecutor Scott Newman, the presence of community policing in Indianapolis was crucial to the development of his own thinking:

I felt instinctively that, as community policing was being implemented in Indianapolis...what would happen to me, if I didn’t change the way I did business, was that the community would, indeed, draw closer to the police department. And the community and the police department, together, would come to despise my office. That they would be pitted as a team against the brick wall that I represented. And they would, to the extent that they had failures, tend to blame them on me, as the most visible proponent of the criminal justice system. I was concerned about that(WG I, April 19, 1996).

<sup>21</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.

By the mid-1990s, it was not only police who provided an impetus for community-oriented initiatives in prosecution, but community courts such as the Midtown Community Court in Manhattan (Sviridoff et al. 1997) and diversion drug courts nationwide, probation initiatives such as Operation Nightlight in Boston (Clear and Corbett 1998) and community sanctioning and corrections movements including those in Vermont (Bazemore 1998)—all of which were all becoming increasingly well known.

### C. BUILDING ON INNOVATION IN PREVIOUS ADMINISTRATIONS

In many senses the prosecutors in our sample are heirs to previous administrations that began laying the groundwork for the changes we now see. Three of our four prosecutors built directly upon concepts and programs from earlier prosecutors in their local areas; the fourth, Ronald Earle, has been in office long enough to move from one innovation to the next, drawing upon models around the country both inside and outside of prosecution. Motivated in part by the new constellation of crime problems that eluded solution through traditional case processing—especially drug-related crimes—the earlier prosecutors had begun developing a range of new tactics (Boland and Healey 1993). They also began to move in two important directions: toward establishing opportunities for more direct, ongoing contacts with local citizens in neighborhoods; and toward developing problem-solving initiatives that were not tied to case processing.

Attending the Executive Sessions for State and Local Prosecutors at the Kennedy School of Government from 1985-1990, Kansas City Prosecutor Albert Reiderer began to feel that his office should be doing something more than responding to crimes committed, and processing cases—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 sales tax that would raise approximately \$14 million: the money would be used to establish prosecution, policing, juvenile and Circuit Court, corrections, crime prevention, and rehabilitation programs. The entire effort would target drug-related crime and behavior—but in a broader sense, as the community itself had sought. Community members themselves would have to assume active roles—health and social service providers would be needed to provide treatment options, citizens would join in neighborhood oriented problem solving and crime prevention initiatives, others would later serve on the COMBAT Commission. When she took office in 1993, Prosecutor Claire McCaskill would greatly expand upon and develop the early program put in place by Reiderer (Kansas City Case Study).

In Indianapolis, Marion County Prosecutor Steve Goldsmith, who served from 1979-1990, also attended the Executive Session for State and Local Prosecutors at the John F. Kennedy School of Government. In a paper prepared for the sessions, he wrote of the need for prosecutors to develop a new mission that would allow them to contribute to the community, and suggested taking actions for “empowering institutions such as the schools, enhancing the chances of the urban family, assisting the endangered neighborhood, or empowering individuals such as battered women” (Goldsmith 1990). His successor in office from 1991 through 1994, Democrat Jeff Modisett, was a former Assistant US Attorney in Los Angeles from 1982-88, and then Executive Assistant for Public Safety for Governor Evan Bayh of Indiana. As County Prosecutor, Modisett was as concerned with preventing crime as prosecuting cases. He emphasized intervention strategies, especially with juveniles, and with little extra funding beyond that obtained from small grants, diversion fees from traffic offenses, and asset forfeiture, he tried to open up access to prosecution processes for members of the community through a “community prosecution” program that placed

prosecutors in police district stations (the genesis of today's Street Level Advocacy Program). Modisett also began Charles Hynes' Legal Lives program, sending prosecutors to teach in primary schools, and started Project Courage, an anti-gang school-based program that brought community leaders, police, juvenile court judges, and anti-gang workers together. With crack cocaine hitting Indianapolis later than other locations, at about this time, federal funds supported the creation of an expedited pilot drug court to handle the surge in felony drug cases. All of these developments provided a foundation for Prosecutor Scott Newman when he took office in 1995.

Ralph Martin, too, arrived in the District Attorney's Office in Boston in 1992 with a base on which to build—but many of the previous innovations had taken place next door, in the Middlesex County District Attorney's Office where Martin had gone to work as an assistant district attorney in 1983, under District Attorney Scott Harshbarger. Harshbarger started Project Alliance, along with several school superintendents, to improve coordination between law enforcement and schools in addressing alcohol and drug abuse problems. First Assistant Tom Reilly, who succeeded Harshbarger as District Attorney, headed the program. Project Alliance ultimately became the foundation for the county's Community-Based Justice Program, a series of roundtables in schools drawing schools, police, probation officials, prosecutors, and others together to identify students at risk, or who pose a risk to their school or residential community, and to provide assistance to the student, impose individualized sanctions, and assist the school in re-establishing a stable, safe environment (Jacoby 1995). Harshbarger went on to become Attorney General of Massachusetts, and later started the first Safe Neighborhood Initiative in Boston (see below). Once in office as District Attorney of Suffolk County, Martin himself would set up Community-Based Juvenile Justice roundtables and Safe Neighborhood Initiatives throughout the county.

Ronald Earle, in office for over twenty years, was less a beneficiary of his predecessors, but nothing short of a genuine innovator himself. Earle is the first to admit that he learned from what was occurring around him, even though much of it lay outside the realm of prosecution: he traveled throughout the country to learn about victims' programs, Children's Advocacy Centers, and eventually restorative justice. In the state of Texas, the Travis County District Attorney's Office itself gained a reputation for developing new programs—for starting the first Victim's Assistance Program in a prosecutor's office, creating the first Children's Advocacy Center, and forming the first local collaboration of detectives, social workers and prosecutors in a Child Protection Team.

Prosecutors in the study, then, capitalized on the developments of their predecessors, regardless of differences in political party affiliation or leanings. Innovations related to improving the effectiveness of prosecution in the area of drugs (for example, expedited drug courts), to working more closely with police and community residents, with victims, or on activities not directly associated with prosecuting cases—all provided a base from which to push ahead. Once in office, however, they soon turned as well to other prosecutors, sharing ideas, visiting each other's offices to observe and learn, adopting and adapting concepts and practices for their own use.

#### D. PERSONAL MOTIVATIONS AND CONVICTIONS

Apart from all the factors mentioned above, prosecutors bring a number of personal considerations and concerns to their decision to move toward a new strategy of prosecution. Concern for injustice is one. Stephanie Tubbs Jones, prosecutor in Cuyahoga County (Cleveland), an African-American female and the first and only African-American prosecutor in the state of Ohio, raises the issue of race: "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 in jail, but why are they in

jail” (WG 1, April 19, 1996). For District Attorney Ralph Martin, as an African American and a prosecutor his responsibility is “to exert leadership.... I believe...there is this 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 then, I thought if I could convey being tough and thoughtful...over time...the public would buy into it” (WG 1, April 19, 1996).

For 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).

Underlying the many reasons that prosecutors in our study gave for the innovative paths they took once in office is one best expressed by Prosecutor Scott Newman:

I had a desire to harness, as a prosecutor, my own sense of strength, of my authority, and my own sense of efficacy, to make people actually feel safer. I thought that the things we were using strictly in the courtroom were a shrunken version of all that we could bring to bear in the community.... I had a sense that we ought to be using more of our talents and our authority (WG 1, April 19, 1996).

## VII. THE CHANGING SHAPE OF PROSECUTION

### A. THE MISSION OF THE PROSECUTOR

If there was one overriding priority in the mission of all prosecutors in the study, it was to make communities safer—to restore, preserve, and maintain public safety—for citizens. Under this umbrella, several other common elements emerged in the explicit statements of prosecutors. Each is embodied organizationally and in the tactics of prosecutors' offices.

First, all maintain a commitment to felony case processing as a core capacity of the Prosecutor's Office, placing it within the context of a "tough on crime" approach to prosecuting violent, repeat offenders. Prosecutors rationalize this stance in several ways: first, felony prosecutions are the job of prosecutors alone—no one else in criminal justice can perform this function, and doing it well generates a certain respect from the police and citizens alike. Second, it is the "right thing to do." All prosecutors speak explicitly about treating violent, repeat offenders one way—through priority prosecutions, getting long sentences, and essentially trying to remove these criminals from the local community—and nonviolent offenders another, especially those with substance abuse problems, or shorter records. These latter offenders are more likely candidates for diversion, treatment, intermediate sanctions, and alternative sentencing programs. Citizens understand and support this logic, as is clear from campaign results such as those in Austin in 1996. And third, prosecutors understand that maintaining a record of being tough on crime by aggressively prosecuting felonies gives them the freedom to do other things—to introduce diversion drug courts, deferred prosecution, and alternative sanctions; to assign some assistants to work closely with police and neighborhoods, and spend less time on litigation.

A second major element is according higher priority than previously to quality of life issues and low-level crimes that are especially troublesome to citizens. At this point we are uncertain about the degree to which this commitment developed in prosecutors' offices independent of their direct contact with citizens and police: nevertheless, there is no doubt that through both of these channels, prosecutors met (and continue to meet) up with the idea that disorder and quality of life offenses are as important to citizens in neighborhoods as violent crime. According to Seattle City Attorney Mark Sidran, attending to disorder offenses and misdemeanors is "the single most neglected tool in the criminal justice system's tool box." Commenting at the 1996 Working Group Meeting, Sidran went on to explain that misdemeanors matter in four ways: first, some are serious (like domestic violence, or drunk driving), and by dealing with them early on, you can prevent escalations of violence; second, career criminals also commit misdemeanors, and often can be apprehended, prosecuted, and taken off the streets on misdemeanor charges; third, they are crucial in order maintenance efforts; fourth, they help to socialize children by teaching about following rules, and self-control (WG 1, April 19, 1996).

Examples of this new priority 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 Licensing Board hearing to ask for a rolling back of closing hours for a troublesome late-night liquor 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 some businesses voluntarily closed, the last one was ordered to do so. Even where the District Attorney's or County Prosecutor's Office lacks jurisdiction over the prosecution of misdemeanors and ordinance violations, or else cedes that power to county or city prosecutors, disorder and quality of life concerns nevertheless remain an important focus of problem-solving efforts in which prosecutors participate.

Third, all prosecutors in the study accept responsibility for reducing and even preventing crime, not only through prosecuting and helping to imprison repeat violent offenders, and the supposed deterrence effect accompanying prosecution, but through the development and implementation of problem-solving tactics. In Kansas City, where the Prosecutor's Office lacks jurisdiction over the prosecution of juveniles, data collected by COMBAT administrators also showed clearly a number of early warning signs in the lives of juvenile offenders that could serve as points for intervention. McCaskill committed her office to working with the Family Court, the Mayor's Office, and the School District to initiate a Truancy Project in order to identify students at risk, and to begin an intervention process—providing services to students, and their families, with prosecution of parents failing to meet their responsibilities only a last resort. In other problem-solving efforts, staff in McCaskill's office have mounted the COMBAT Law Enforcement Collaboration. Since early 1997, monthly meetings have been convened among federal, state, and local law enforcement agencies, along with probation and parole, the City Attorney and city prosecutors, and the presiding city court judge, to address problems occurring in particular neighborhoods or citywide, and devise agreed-upon solutions for working on them (see Tactics, below).

Crime prevention in particular is a relatively new area for prosecutors—Joan Jacoby argues that it is, in fact, “the” new function in prosecution today (WG 2, May 2, 1997). District Attorney Ralph Martin acknowledges that moving into it has not been easy. Assessing the many problem-solving initiatives his office leads or participates in—such as the Safe Neighborhood Initiatives, the Community Based Juvenile Justice Program, the Franklin Hill anti-gang effort—Martin says,

...we don't yet know whether or not we're having an effect on recidivism. We don't yet know if we're having an effect on preventing some of these kids from becoming more serious adult offenders.... We know of any number of anecdotal incidents where we feel we've diverted a kid and saved him from getting involved in the court system. But we're having a hard time quantifying our success.... I guess one of the things that I've distinguished in my mind (and I think it is subject to fairly rampant debate) is you need different components and sometimes overlapping components...to reduce crime, which I call order restoration business, compared to preventing crime.... And I actually think that in the grand scheme of things, the DA's Office is better able to engage in partnerships to reduce crime and restore order. And that it's harder for a DA's Office to have a direct impact on preventing crime. And so much of what I've done with these relationships [such as with police, the Probation Department, the Attorney General's Office and U.S. Attorney's Office, school officials], is to try to focus on reducing crime and restoring order.... (WG 2, May 2, 1997).

In the broadest sense, crime prevention and reduction, particularly when addressed through health-based treatment programs, require a kind of knowledge that prosecutors may not already possess. Prosecutor McCaskill remarks that this new non-traditional role has been, in this regard, a challenge:

I have certainly embraced the new role, but part of it was hard. The painful part was being bold and going out and trying to make things happen because it was such a big effort...and it was a little overwhelming. I mean, how does a prosecutor know whether or not treatment providers should be using the ASI or be developing another uniform assessment tool? How do I know whether or not we should be doing risk-based prevention versus a shotgun approach? So, I had to learn about all those things, and I went to seminars where I was definitely the only

law enforcement person there amongst a lot of public health professionals (WG 1, April 19, 1996).

Fourth, prosecutors are committed to developing partnerships with the community that will strengthen its capacity to ensure and maintain safety and quality of life in neighborhoods. This is not simply a tactic of the new prosecution strategy: instead, all four study prosecutors talk about empowering citizens, and thereby building a new problem-solving capacity into neighborhoods. Again, Ralph Martin describes how the SNIs have worked as partnerships:

And 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. That's the resources of the prosecutor, the resources of the police department, the resources of municipal services by the City and others (WG 2, May 2, 1997).

Finally, all prosecutors express a desire to institutionalize these changes, both in the prosecutor's office, and in the community as well—so that police, and citizens, will expect and continue to demand what they see as greater prosecutorial responsiveness to their concerns and their priorities. This last element of the mission comes closest to a commitment to “restructure the relationship between citizens and government,” and to redefining the client. District Attorney Mike Schruck, 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, in that connectedness.... [When] I try and describe good governance or prosecution, I often tell people the criminal justice system and government is too damned 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).

## B. THE PROSECUTOR'S SOURCE OF AUTHORITY

### 1. *Bases of Authority*

The authority of today's prosecutor emanates from a number of different sources. First, the prosecutor is recognized by many as the most powerful figure in criminal justice in the local community, primarily because s/he is elected: the police chief is not an elected official; while a county sheriff is also elected, the role is a significantly less powerful one than that of the prosecutor or even a police chief—commanding many fewer resources; judges may be elected, but their roles are defined by court and bar standards as apolitical and not appropriately subject to influence from citizens. This position of power as an elected criminal justice official affords the prosecutor a unique ability to set the terms of the debate for crime and crime control locally. S/he can focus public attention on an issue, and set the parameters for addressing a problem.

Sometimes the power of the elected official is further enhanced through legislative provisions: for example, in one of our sites, District Attorney Ronald Earle, having written state legislation

creating it, now chairs the Travis County (TX) Community Justice Council, a body comprised of elected officials (including the county attorney, the sheriff, representatives of the County Commissioners' Court and Austin City Council, local delegates to the State Legislature, the presiding District Judge, a County Court judge, and trustee of the Austin Independent School District) that oversees coordinated planning processes for addressing public safety. Technical assistance and expertise are provided to the Council by the Community Justice Task Force, made up of fifteen appointed officials (including the Chief of Police in Austin, and Chief Juvenile Probation Officer) and representatives of non-governmental criminal justice stakeholders (such as a criminal defense attorney, substance abuse treatment professional, victims' rights advocate, and representatives of community service organizations). The public joins the planning process through the Neighborhood Protection Action Committee, made up of lay citizens and activists. The most significant accomplishment to date by these groups is the creation of a Community Justice Center that opened in Austin in 1997, a "state jail" intended to house local offenders and provide programs by which they can be assisted in the process of reintegration into the community upon release.

In Kansas City, the elected prosecutor heads the countywide anti-drug tax program, COMBAT, and controls the disbursement of several million dollars for policing, prosecution (criminal and deferred), and matching grant funds. (Until early 1996, the prosecutor also headed the Fiscal Commission that controlled the remainder of funds raised by the county sales tax, which supported treatment programs; the Commission now controls funding for prevention programs as well.) In building up the program started by her predecessor in office, Prosecutor Claire McCaskill has emerged as a powerful regional leader, but has also developed a national following, with a reputation for running a creative "mini-LEAA Office." Locally, she has leveraged COMBAT funds to gain police cooperation with her office in mounting problem-solving efforts, working with citizens to address crime problems in particular neighborhoods in Kansas City. McCaskill herself notes the power this gives her:

It gives me a lot of power most prosecutors don't have because I've got money and can force collaboration where others can't. When I call all the prevention providers and say, "I want you to come to a meeting," guess what? They all come. When I call all the treatment providers and say, "we are all going to get in a room and we're going to try and work out this issue of accountability and how many people are we switching from treatment facility to treatment facility," they all come, because I've got the money. So, it is an incredible luxury because it does force collaboration very much like the federal government (WG 1, April 19, 1996).

The elected prosecutor's base of authority in the local community—arising from political party sponsorship, and direct support from citizens and interest groups—and the prestige of office, together enable her also to marshal resources, from both the public and private sectors, and muster support for specific policies and programs. When these programs are targeted at particular neighborhoods and groups in the community, as are the Safe Neighborhood Initiatives in the Boston area, the Paseo Corridor Partnership in Kansas City, and the activities of Street-Level Advocates in Indianapolis, prosecutors begin to draw support directly from these local areas, from community leaders and ordinary citizens in them.

In addition, many prosecutors, such as Ronald Earle and Claire McCaskill, have served in state or local legislatures, as local judges (Earle), in U.S. Attorney Offices (Scott Newman and Ralph Martin), previously as an assistant district attorney or deputy prosecutor (all four in the study), in law firms, or in other positions giving them experience, the opportunity to obtain varied skills, and

contacts in criminal justice, law and politics in the local community and beyond. They are part of a network of recognized professionals, and frequently have established informal relationships with other key political leaders.

Finally, prosecutors sit at the apex of criminal justice processes: the power to charge is still widely regarded as the most significant grant of authority held by a criminal justice figure, and one that has only increased relative to that of other actors as the discretion of police and judges in particular has been reduced (Forst 1993a; Flemming 1990; see above, Background).<sup>22</sup> In addition to the prosecutor's discretionary power, s/he sits at an intermediate point between police and courts, and citizens and the courts, with access to all. Here we address not only the role of the elected prosecutor, but that of deputies or assistants: once the prosecutor understands conditions on the street as police and citizens see them, s/he becomes an important intermediary for communicating this information to the court, and in language and legal terms that the police cannot. A neighborhood prosecutor can also help the community find its voice in the courtroom, introducing neighborhood impact statements, explaining efforts that police and citizens have taken together, and carrying the message about the importance of citizen fears and concerns about low-level crime. S/he can also carry the court's message to the police in a concrete manner (for example, by working with the police to improve their ability to conduct activities lawfully on the streets). A prosecutor who is respected by the court (as was the head of the Street Level Advocacy Unit in Indianapolis), and police and citizens alike (as are many SNI prosecutors in Boston), is highly influential and in a position of considerable power.

In every site in this study, we observed prosecutors who commanded the respect of courts, police, and citizens alike, and as a result were powerful and effective in their new roles. And where assistants or deputies can perform this role in the courtroom, the elected prosecutor can perform it on the wider stage where s/he interacts with the heads of other criminal justice and governmental agencies, and in the community.

## 2. Campaigns for (Re)Election

The strong electoral bases of the prosecutors in the study were apparent when two of the four ran for re-election in 1996: District Attorney Ronald Earle, and County Prosecutor Claire McCaskill. 1996 was McCaskill's first re-election campaign as County Prosecutor. She had been in office four years—a dramatic period during which time the countywide COMBAT organization was strengthened and developed considerably. McCaskill campaigned minimally, and like her opponent—Republican John Osgood, a former U.S. Attorney in Oklahoma and Kansas City—spent little money. Osgood disagreed with little in McCaskill's running of the Prosecutor's Office. Running on her record, and promising to continue prosecuting gun offenses and repeat violent offenders aggressively while stepping up intervention by her office on behalf of abused and neglected children, McCaskill won by 171,711 votes to 71,598. No informants interviewed for the study expressed surprise: in their words, McCaskill “never stopped running for election.” Her conscious and continual use of the media to inform voters about the Office's COMBAT programs and her policies kept the public well-acquainted with her achievements during her first term of office (Kansas City Case Study).

Democrat Ronald Earle's campaign for re-election was, on the other hand, a referendum on twenty years in office, on a record of service that in his words, moved through three phases: a “focus on victims, [to] an effort to organize the government and various agencies of the local government, and the third, in which I now find myself engaged, is to give the functions back to the community”

<sup>22</sup> In Boston, the police charge, leaving prosecutors with the decision of whether to dismiss or proceed with a case.

(WG 2, May 2, 1997). The stakes were high: the press reported it as the “race for the most powerful local prosecutor’s job in Texas.” Republican Shane Phelps was Earle’s first contender since taking office: money poured in from Republicans irate over Earle’s attempt to prosecute U.S. Senator Kay Bailey Hutchison in 1994; and Governor George Bush supported Phelps, as did the Austin Police Association, while Lieutenant Governor Bob Bullock and many local officials favored Earle. Phelps himself provided a direct counterpoint to Earle’s entire approach, going to the voters with a tough “back to basics” message that cast Earle as a social worker. Earle took the campaign as an opportunity to inform, and educate, the public about his attempt to build “community justice in Austin.” The media portrayed clear differences between the two, noting Earle’s competence, his long record of involvement in community justice initiatives, and his creation of numerous non-traditional programs for offenders and interest in alternative sentencing, and his general lack of direct involvement in trying cases. After a bruising year, Earle won the election, defeating Phelps with 55 percent of the vote. Earle interpreted this as a mandate to continue his work within the community at large, as well as validation of his mission as prosecutor—leaving him free to attempt to develop and push it further within the District Attorney’s Office itself (Austin Case Study).

### C. THE SHAPE OF THE ORGANIZATION

#### 1. *Organizational Structure*

##### a. Common Structural Elements and Special Features

Current prosecutors’ offices are larger than ever before, containing more differentiated structures, and more varied roles and functions. District Attorney Ronald Earle describes taking charge of an office in Austin in 1977 in which there were ten prosecutors; by the time of the study, his office had grown to 57 lawyers and a total staff of 157. Prosecutors who held office prior to the four included in our study, such as Stephen Goldsmith in Indianapolis (County Prosecutor from 1979-90), and Newman Flanagan in Boston (an assistant district attorney from 1961-78, and District Attorney from 1979-92), recall that during the 1970s and into the 1980s, prosecutors only worked part time. As the history portrays in the case study of each office, the dramatic increase in size included both lawyer and non-lawyer staff. In 1996-97, Austin (with 57 lawyers/157 total staff) and Kansas City (with 78/180) were the smaller of our sites, while Boston (125/265) and Indianapolis (106/258) were considerably larger.

In all four sites, structural changes were ongoing during the course of data collection. Nevertheless, the following characteristics describe most of the offices:<sup>23</sup>

- i. Directly under the District Attorney or County Prosecutor, a “first assistant” or “deputy prosecutor” oversees the general day-to-day functioning of the office. Although the role sometimes allows for, or includes, involvement in activities outside the office at relatively high levels in the community—such as meeting with police officials, or top-level business/governmental/ citizen activist groups—for the most part the first assistant remains in the office, constantly available for resolving crises or problems that might arise.
- ii. The executive staff is made up of heads of major divisions or sections (sometimes unit heads), the director of Victim Witness Advocates, and the external affairs coordinator and/or media specialist. Each District Attorney or Prosecutor also has a core group of two or three key advisors from among the larger executive staff with whom s/he consults at will.

<sup>23</sup> Charts showing office structure, 1996-97, are appended to all cases.

- iii. Major divisions or sections usually include a grand jury division; felony trial division (made up of trial teams); misdemeanor trial division (where misdemeanors are prosecuted by the office); a juvenile division (except for Kansas City, which lacks jurisdiction over juvenile prosecutions); special prosecutions (frequently for organized crime, corruption and public integrity cases, or narcotics); appellate division; operations (including MIS)/administration division; and child support division. Some offices also have separate investigations, bad check, and victim/witness divisions. Screening may take place in the grand jury division, or within specific divisions or units.
- iv. All offices have at least some special units, including (usually not all): gang, expedited drug prosecutions, drug court, homicide, child abuse, sex crimes, domestic violence, arson, forfeiture, victim advocates, nuisance abatement, community prosecution.
- v. Programs, task forces, and teams supervised or convened by the District Attorney or Prosecutor, and that involve representatives from outside the Office, also operate in numerous divisions. Examples include: Austin's *Appropriate Punishment Team* (with representatives of Pre-Trial Services, Community Corrections and Supervision, the Sheriff's Office, Austin Police Department, and the District Clerk joining assistant district attorneys), housed in the Grand Jury Intake Division, to formulate appropriate sentence recommendations for jailed defendants who have committed nonviolent crimes; Boston's *Franklin Hill Anti-Gang Project*, a community prosecution and crime prevention collaborative involving tenant groups, community organizations, and a variety of city, civic, and law enforcement agencies, targeting a specific housing development; Indianapolis's *Safe Parks Initiative*, joining the Prosecutor's Office and law enforcement agencies to expedite prosecution of offenders and devise means of keeping repeat offenders out of public parks; and Kansas City's *Judge Mason Day Report Center*, established by the Prosecutor's Office and administered by Anti-Drug Tax Administration staff, a general assessment and intake center for the Drug Court that offers additional assistance to offenders with exceptional needs.
- vi. All offices assign at least one, if not several, assistant prosecutors or district attorneys to work directly in police headquarters or district stations. In Austin and Kansas City, a liaison prosecutor worked at police headquarters; in Boston and Indianapolis, assistants were assigned to district or precinct stations.

There are several noticeable differentiating structural features among the sites: first, in the Suffolk County District Attorney's Office in Boston, District Courts (the lowest level trial courts, which were originally police courts) are dispersed in neighborhoods throughout the county. Offices for assistant DAs assigned to the District Courts are located either in the neighborhood courthouses, or in nearby quarters. The Superior Courts, although also geographically based, are nevertheless located in a single downtown courthouse, with the various Superior Court teams in a nearby office building.

Second, the Jackson County Prosecutor's Office (Kansas City), because of the COMBAT funds available to it, has distinct drug (funded by COMBAT) and non-drug trial units, and a separate drug tax (COMBAT) administration section. Prosecutor McCaskill considers the five major divisions of the Office to be: criminal drug prosecution, criminal non-drug prosecution, drug tax administration, family support, and the Independence Unit (a separate office that operates in Independence, in Eastern Jackson County).

Third, the Travis County District Attorney's Office (Austin), instead of maintaining a separate juvenile prosecution division, has created a Family Justice Division to handle all matters involving children and families—child abuse, death, civil and criminal neglect, and juvenile prosecutions.

b. Structures in Change

As we look across all cases, there are several aspects of structure that appear to be in flux: these changes represent new priorities of prosecutors; they also reflect new funding availability, and opportunities and pressures emanating from both inside and outside the Office.

- i. First, as the overall size of offices has increased, a considerable amount of restructuring is going on: new special units are being added; others are disappearing; and new roles are being created in the organization.

The prosecutors whose offices we observed all made structural changes in their organizations after taking office. One of these changes involved the addition of new specialized units. Michael Tonry, a participant in our working group meetings, offered a comparison between “new units” in prosecutors’ offices as they appeared in the four case studies, and those he had described in 1986 when he attended the Executive Sessions for State and Local Prosecutors at the Kennedy School of Government. In 1986, Tonry identified as new: “drug units, a few victim/witness units, organized crime units and domestic violence units, a few. And there were environmental units in two jurisdictions and there were gang units in a fair number of jurisdictions...and there were vice units in every prosecutor’s office.” In 1997, he found the same drug units, fewer organized crime and gang units,<sup>24</sup> a small number of remaining environmental units, but vice units had disappeared. Now, the new “signs” on the doors included victim/witness and domestic violence units in all offices, and child abuse, “family units,” sex crimes—“behind closed doors” types of crimes—as well as public corruption, and neighborhood initiatives (WG 2, May 3, 1997).

Tonry’s observations are consistent with our own: across all sites, prosecutors appeared to be placing increased emphasis on offenses occurring within the context of family relationships, and those involving juveniles (see below, Tactics). The creation of new units appeared to be one facet of this emphasis. The primary example in structural terms is District Attorney Ronald Earle’s creation of a Family Justice Division. Earle and his staff admit that this structuring has created “constructive tensions” among staff:

especially where differing interests and priorities characterize the work of attorneys.... For example, the Family Justice Division includes attorneys who prosecute juveniles, as well as those responsible for civil actions including abuse and neglect. Juveniles whose behavior is sufficiently violent that their parents refuse to take them in and that they cannot be placed in foster care, may be prosecuted by the Juvenile Unit. Frequently they are released from the Gardner-Betts detention facility because space is needed for more serious cases—and end up in the hands of CPS and attorneys in the Civil Unit. Tensions exist; but the attorneys involved are talking to each other about the problems—just as do police and prosecutors, or service providers and prosecutors, who work on interagency teams (Austin Case Study).

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<sup>24</sup> A 1995 survey conducted by the National Gang Crime Research Center also found that specialized gang prosecution units in prosecutors’ offices were indeed rare. See National Gang Crime Research Center 1995.

Funding is often key to a prosecutor's ability to create new sections and units, and to start new programs. County funding through the Anti-Drug Sales Tax underwrites many units in the County Prosecutor's Office in Kansas City, including not only drug prosecutions, but the COMBAT Administration Division, which carries out problem-solving prevention and crime reduction programs. Prosecutor McCaskill also goes after grant funding aggressively (she controls COMBAT grant match funds) and credits this practice with being able to implement a program for enhanced prosecution of domestic violence (Kansas City Case Study).

With new units, new roles are also being created in prosecutors' offices. Many of the new positions are for non-lawyers: in many sites, the position of nuisance abatement lawyer and/or investigator has been established. District Attorney Earle has recently hired a former police officer with extensive experience in community and problem-oriented policing to serve as program director for the Office's new community prosecution program in Austin. Grant writing skills have become important for securing funding for new programs and positions, and sometimes non-lawyers are sought for their ability. One of the most important of these new roles is that of media specialist, which takes a variety of forms across the sites. Two positions in Kansas City include a "senior management advisor" (a journalist, on the executive staff) and Director of Planning and Development (a marketing specialist); in Boston a Director of External Affairs (a policy advisor with special responsibility for new developments in prosecution, who writes grant proposals and manages grants, and acts as legislative liaison with the State House, and is on the executive staff) and a Press Secretary; and in Indianapolis, a Public Affairs Director who acts as a liaison with the media and also plans and manages media events for the Office.

The shape of the executive staff has changed as well, as new units and roles have been created, often broadening to include a number of non-lawyer positions. Across sites, in Boston, Kansas City, and Austin, directors of Victim/Witness units have moved into executive staff positions: all spoke about the new professional status of advocates in an office of lawyers. Prosecutors accord status and greater prestige by elevating unit heads to executive staff level, a move taken consciously by Claire McCaskill when she sought to highlight the Family Support Division within the Office by bringing the Division chief onto the Executive Staff (Kansas City Case Study).

Finally, some changes are occurring in prosecutors' offices as pre-existing roles are re-defined to include new tasks and responsibilities. Increasing numbers of executive staff and unit heads, and even line attorneys, report that they 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, along with other criminal justice officials) 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 some assistants.

- ii. Second, community prosecution sections and units are among the new sections being added to prosecutors' offices. In 1996-97, discrete community prosecution units or sections were present in Boston and Indianapolis prosecutors' offices. In all four locations, specific roles, projects, and programs identified as part of an overall community-oriented prosecution effort or agenda also existed apart from special units. Overall, approximately 20-25 percent of the resources or staff in the prosecutors' offices were allocated to nontraditional, community-oriented operations.

At our first Working Group Meeting, we asked prosecutors who were present what fraction of their employees (either full or part time) or resources were committed to nontraditional, community-based efforts or activities. Answers ranged widely: from 50 percent of the budget and

30 out of 250 total staff in Kansas City, plus most of 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 twenty percent of total staff in Ralph Martin's Office in Boston; and about ten percent in Portland, Oregon.<sup>25</sup> Other than McCaskill, all prosecutors could imagine these percentages increasing for nontraditional operations (Working Group 1, April 19, 1996).

We summarize community-oriented prosecution structures (and positions) briefly by site:

**Boston:** In 1997, District Attorney Martin merged the positions of Community Prosecution Coordinator and Chief of the District Courts, thereby bringing community prosecution to the Executive Staff level. Martin sees the following as essential to the Office's community prosecution efforts: Two community prosecution programs—the Safe Neighborhood Initiatives (collaboratives involving assistant district attorneys, police, probation, district courts, city agencies, and citizens, in East Boston, Chelsea, Dorchester, and Grove Hall-Roxbury), 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 in each. The Community Based Juvenile Justice Program is attached to the Juvenile Unit: roundtables bringing together prosecutors, school and school district officials, police, the Department of Youth Services, youth workers, and probation officers operate 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.

**Indianapolis:** The Street Level Advocacy section is part of the Felony Trial Division: it includes five deputy prosecutors (four assigned to work out of IPD district stations, and the fifth with the Sheriff's Department) and two paralegals, all of whom focus on specific neighborhoods, working with officers and citizens to identify and address local crime problems. One investigator, working closely with the Street Level Advocates, runs a nuisance abatement/narcotics eviction program. Deputy prosecutors from different locations in the office participate in a number of problem-solving partnerships that the Prosecutor has convened, bringing together other law enforcement agencies, governmental and civic organizations, and private interest groups. Among these is the Safe Parks Initiative, and a project to establish "Centers of Hope" sexual assault teams and centers.

**Kansas City:** The Criminal Drug Prosecution Division contains DART (the Drug Abatement Response Team), which is actually a proactive, as well as responsive, problem-solving unit headed by an assistant prosecutor. In addition, through the Neighborhood Prosecutors Program, which began in the Criminal Drug Prosecution Division but continues to involve prosecutors who have moved out of that Division and work in other locations office-wide, assistants serve as liaisons to particular neighborhoods around the City. Other functions identified with community prosecution are dispersed among a number of different positions and roles in the office: for example, Anti-Drug Tax Administration division staff have convened and directed community-oriented problem-solving partnerships such as the Paseo Corridor Drug and Crime-Free Community Partnership, and citywide Law Enforcement Collaboration programs, and worked with DART.

**Austin:** There were no discrete community prosecution units, sections, or roles in the office at the time data were collected. Instead, functions associated with community prosecution have been incorporated into the roles of various individuals, more often at the executive/supervisory level,

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<sup>25</sup> Prosecutor Michael Schrunk answered, even though his office was not one included in the study. Prosecutor Scott Newman was not present at the meetings when this discussion took place.

but also including line prosecutors. All executive staff had numerous responsibilities outside the office, as well as overseeing the functioning of their respective divisions internally: the District Attorney himself and the Directors of the Family Justice Division, Grand Jury Intake, Special Prosecution, and Victim Witness Divisions were most active externally. A number of line attorneys work in locations outside the office, such as at the Children's Advocacy Center, the Child Protection Team; others work with youth organizations or speak regularly in local schools.

- iii. Third, as prosecutors' offices are restructuring to accommodate new community prosecution goals, while maintaining a large, strong capacity to prosecute felony cases in the traditional model, a tension is emerging between these two tracks.

One of the problems arising internally, within prosecutors' offices, is the segregation that may develop between case processors and the other attorneys, who are working on special community or problem-oriented initiatives. This segregation can give rise to a tension, played out in the "two-track" dilemma, where new community prosecution and problem-solving units are separate from, and function independent of, case processing. This structural differentiation may 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 that a successfully prosecuted case has, and prosecutors in these roles may flounder unless conscious steps are taken by the District Attorney or County Prosecutor to manage these tensions.

The Indianapolis Street Level Advocacy Program illustrates some of the difficulties inherent in the "two track dilemma:" during 1996, the program included four Street Level Advocates and two paralegals operating largely on their own out of police district stations, and in target neighborhoods (a fifth Advocate and third paralegal were added later to work with the Sheriff's Department; see Indianapolis Case Study). The advocates' mandate was to work closely with police and citizens, and to address problems related to drugs, nuisance abatement, and domestic violence—by screening and filing all felony cases (except drugs, homicides and sex crimes), selecting four to five cases of importance to the neighborhoods to prosecute personally, and helping to devise and implement specific strategies for reducing crime and improving public safety. In concrete terms, this meant (in part) advising individual officers before they made arrests about what was needed for prosecution, making training tapes for police, sharing information with the Metro Gang Task Force concerning local gang problems, contacting the nuisance abatement investigator to let him know about problem locations and helping to obtain evidence to enable authorities to close drug houses, speaking to elderly groups about safety measures they could take, attending regular neighborhood association meetings, conducting domestic violence education sessions, tracking crime patterns and specific cases, reporting back to citizens about the progress of cases or local law enforcement efforts, and planning public safety-related activities in the community.

Many advocates found their new job stimulating, and a welcome change from full-time prosecution. Yet they also reported that "prosecution by relationship" was time-consuming and demanding, with long hours in the community, the need to work hard to develop a relationship with police, plus the additional requirement of trying cases. Although police and citizens could not have been more positive about the work of Street Level Advocates, burnout and turnover were high among Advocates, who said they did not know how to measure their own success, were unsure as to how much support they had from the County Prosecutor himself, and felt unappreciated by other deputies in the Prosecutor's Office. Applicants for the program were not numerous: there were no perks or incentives offered, no clear record established in the office concerning whether service would help or hurt one's career trajectory, and responses to the

program from other prosecutors within the Office were mixed and often negative, with many simply not understanding what the advocates actually did.

With its emphasis on deputy prosecutors engaging in localized problem solving, directly with citizens and police in the community, the Street Level Advocacy Program has been at the forefront of community prosecution—a stream of prosecutors from around the country have visited Indianapolis to observe the program, and many have sought and are continuing to replicate it in some fashion. Yet the Street Level Advocates themselves wrestled constantly, and at times painfully, with a sense of ambiguity in their roles and status within the Prosecutor's Office. To the credit of County Prosecutor Scott Newman, many of these problems are being addressed at the present time (see below, Convergence and Updates, and Indianapolis Case Study, Postscript).

In contrast, assistant district attorneys serving in community prosecution units in the Suffolk County District Attorney's Office in Boston—in particular the Prosecutors in Police Stations (PIPS) and the Safe Neighborhood Initiatives (SNIs)—have not felt this ambiguity. Created as a one-year pilot project, PIPS is a small unit that places two assistant district attorneys directly in police stations—currently in Jamaica Plain (E 13) and Chinatown, Beacon Hill and the North End in downtown Boston (A 1).<sup>26</sup> The duties of PIPS are to screen all incoming applications for complaints from the area station, review search warrants, offer investigatory legal assistance and consultation on cases (and even larger issues) for police, provide liaison between felony trial and district court attorneys in the District Attorney's Office and police, target and prosecute high profile community interest cases (including felonies in Superior Court), develop partnerships with community members and groups, and be available for taking on additional responsibilities according to the needs of the area station house (see Boston Case Study, Postscript). By all accounts, the PIPS have been responsible not only for winning over police in the two districts, but for gaining a lot of support for their activities throughout the District Attorney's Office. For example, the two PIPS were largely responsible for organizing and turning out assistant district attorneys for the 1997 National Night Out celebrations in their areas.

Several Safe Neighborhood Initiatives operate in the Boston area. Since the first SNI was established by Massachusetts Attorney General Scott Harshbarger, along with District Attorney Martin and BPD Superintendent-in-Chief William Bratton, in Dorchester in 1993, Martin has started SNIs in East Boston (1994) and Chelsea (1995), and joined with the Attorney General's Office in working with the Grove Hall SNI in Roxbury (1995).<sup>27</sup> Assistant District Attorneys work with each SNI in the District and Superior Courts; Assistant Attorneys General work in Dorchester and Grove Hall.

Each SNI operates as a formal partnership among prosecutors, police and other criminal justice agencies (probation and parole, and municipal, transit and housing police), the Mayor's Office and city agencies, and local citizens within a specific neighborhood. Elected officials send representatives to meetings, and assist where possible, but have been informed that the SNIs do not represent a vehicle for them to advance their own agendas. In three of the four SNIs, a coordinator (a nonlawyer, with experience as a victim witness advocate or community organizer) hired by the District Attorney or Attorney General's Office organizes meetings and activities, compiles data on arrests and court activity, and is constantly available to citizens.

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<sup>26</sup> A third is assigned to work on homicides, but this arrangement is closer to a homicide response team model.

<sup>27</sup> Attorney General Harshbarger and his staff have established SNIs in several other counties of Massachusetts as well. The Assistant Attorney General who has worked continuously with the Dorchester SNI is on loan to the District Attorney's Office.

Citizens Advisory Councils (or Coordinating Committees) meet monthly, bringing citizens together with prosecutors, police and other agency representatives to discuss safety issues and problems of crime and quality of life: citizens typically provide information about where incidents or problems are occurring—what street, what address—and the nature of the problem, which is as likely to be illegal parking, public drinking, prostitution, or juvenile gang members congregating noisily at night, as violent crime. Prosecutors and police listen—and also report back to citizens on their recent efforts in court (giving information on particular cases) or on the streets. In three of the four SNIs, a Steering Committee comprised of prosecutors, police and other law enforcement agency representatives meets separately to devise strategies for addressing the problems that citizens have identified.

Prosecutors who work in the SNIs have to be well-rounded: they need good litigation skills; must be able to work with citizens and police alike—sometimes to stand up to exasperated residents, or even those with their own political agenda; and they must be prepared to work to get to know a neighborhood well. When one assistant district attorney came on board as a new SNI prosecutor, the police were impressed and sent a memo around the department: “We have a new, tough, aggressive prosecutor who is really going at it...let’s get going—we have to keep up with him, and give him what he needs to do his job effectively!” That same prosecutor prepared a genealogy to try and sort out for himself and the police an intricate web of family members, many with the same names, who kept appearing as offenders in court. Assistant District Attorneys handle misdemeanor and quality of life offenses, such as prostitution, as well as felonies. But prosecution isn’t the only tactic utilized: they also developed a “Johns Project” to give offenders the option of doing community service—cleaning up local streets in full view of the media—instead of going to trial. With police, they planned “reverse stings” to lure offenders with outstanding warrants to appear (to “redeem a prize”). Instead, the offenders were arrested. In Dorchester and Roxbury, prosecutors joined with police and other criminal justice officials in Operation Ceasefire, a Boston project seeking to prevent further juvenile violence and killings (Buntin 1998; Kennedy et al. 1996; Kennedy 1997). They speak in schools, to Kiwanis Clubs, at meetings of elderly residents and tenants associations. In court, they handle everything from quality of life offenses to violent crime, and they talk to judges, telling them about neighborhood conditions, what the SNI is trying to accomplish, and why.

It is clear throughout the District Attorney’s Office (as well as the Attorney General’s Office) that these units are high priority. For example, recruitment is competitive, and assistant district attorneys are hand-picked for positions to ensure that they bring a set of qualities, and skills, that will make them likely to succeed. Most are senior level district court attorneys with proven trial skills (PIPS must have jury trial experience as well): “[District Attorney] Martin sees this as a core function that prosecutors will continue to perform, even though they work in the community, and one that gives them credibility with the police and members of the public—they can say ‘look what I did for you, I put this guy away’” (Boston Case Study). Both PIPS and SNI attorneys have opportunities to try important cases with senior attorneys, and receive first choice at positions that are available when they are ready to move on. PIPS receive an extra stipend of \$2750; a beeper, cell phone, voice mail, and a laptop computer; two offices (one in the District Attorney’s Office, and the other in an area station house); access to Superior Court investigators; and second seating on a murder trial. Both SNI and PIPS attorneys, as well as non-attorney SNI staff who are part of the units, have greater access than others at their level to District Attorney Martin, and the District Attorney himself attends SNI functions several times a year.

Martin’s strategy is a conscious one that goes to changing the culture of the organization, as well as indicating to the public how important he believes the work of the SNIs to be. It seems to be

paying off: SNI prosecutors feel that their work is highly valued in the Office; they have seen other SNI prosecutors move up to desirable positions and expect to do so themselves; and they report great satisfaction in the positive relationships they have developed with citizens and the police. The accomplishments of the SNIs are published throughout the Office as well as the community: crime rates that have fallen more than those throughout the City; greater satisfaction on the part of citizens and a renewed commitment to staying in their neighborhoods; increased support for the Office in the community; and heightened cooperation from police.

There is another path to adopting community prosecution, however: instead of creating two "tracks," District Attorney Martin and other prosecutors are also beginning to work toward dispersing new problem-solving, community-oriented functions across existing units by adding to the current responsibilities of deputy prosecutors and assistant district attorneys. As District Attorney Martin describes it,

I still haven't settled, in my mind, on whether there is a one best practice with respect to community-based prosecution. And by that, I mean, in Claire's [McCaskill's] office there is more of a divide between the traditional case processing prosecutor and those who do the community based initiatives. In my office, I've tried to utilize...I would probably describe it as a drip rate. You know, you try and seep the ethic in osmotically among a broader array of prosecutors. And try and avoid the divide. And it's not easy. But I don't think we know enough yet to know if there's one best practice, or if you can use both, or if there is some sort of an amalgamation of the two, not to mention others (WG 2, May 2, 1997).

One way in which this takes place is through decentralization and moving the line of accountability downward, and outward, to the neighborhoods.

- iv. Fourth, once prosecutors begin working with citizens in neighborhoods, or want to do so, they feel a pressure to decentralize, and to reorganize by geographical area rather than functionally for both case processing and problem solving. During the study itself, prosecutors were trying to accomplish this goal in a variety of ways.

The best examples of implementing a geographically-oriented approach lie with Boston's PIPS and Safe Neighborhood Initiatives, and Indianapolis's Street Level Advocacy Program, described above. The Prosecutor's Office in Kansas City maintains a neighborhood prosecutors program in which individual deputies who served in the criminal drug prosecution division were assigned to act as a liaison with particular neighborhoods around the City, and some retained these responsibilities even after moving to a new position in the Office. The degree of participation varies, however, from deputy to deputy: some meet regularly with neighborhood associations and police, following up on cases important to the neighborhood, and even working with police and citizens to devise strategies to address local crimes—such as residential burglary. Others have done little and are only nominally part of the program. Prosecutor McCaskill admits the limitations of this arrangement, but also sees some positive results:

You know, you're not telling this neighborhood, this prosecutor is going to handle all the crime in your neighborhood. This prosecutor is not available to you twenty-four hours. But rather, you're going to have someone you know in the prosecutor's office, that knows you, that's familiar with your neighborhood and its problems. Someone that can answer your questions knowledgeably, that can get you to the right people (WG 1, April 19, 1996).

In other types of activities carried out under the aegis of COMBAT in McCaskill's office—for example, the DART team's work, and the Paseo Corridor Project (bringing together various city agencies, private groups, law enforcement, the courts, and the Prosecutor's Office to focus on reducing and preventing crime along the Paseo Corridor section of the City)—a geographical, neighborhood-oriented approach was the norm. In fact, every office studied carried out some types of problem-solving efforts that were targeted at specific neighborhoods.

For most offices, two factors present an obstacle to reorganizing entirely along geographic/neighborhood lines. First, it is the City Attorney who typically has jurisdiction over ordinance violations and sometimes even misdemeanors, which are prosecuted in municipal, city, or county courts. In Austin, this jurisdiction is shared between the City Attorney and County Prosecutor; while the District Attorney prosecutes felonies (see Austin Case Study). Second, aligning trial teams to match specific neighborhoods directly conflicts with the organization and procedures followed by trial courts that assign cases randomly rather than by area. This was the case in Austin, Indianapolis, and Kansas City. In Indianapolis, Prosecutor Scott Newman, in 1996, sought to implement a new geographically based prosecution effort in the Juvenile Court, assigning four deputies to handle residential burglary cases, each within a particular probation district (similar to but not identical with Indianapolis Police Department districts), and to meet with police, residents, and community members in that area, cooperating with street-level advocates insofar as possible. Cases from each area were to be handled by the appropriate deputy and heard within a single courtroom. Unfortunately, the operation of the geographically based prosecution effort right alongside other operations in the Court that were not geographically based proved difficult from the perspective of the Court, and served to undermine implementation of the program.

Increasingly, as the study moved on, the model that seemed to hold most potential for replication was the Indianapolis Street Level Advocacy Program. In the Section on Convergence and Updates (1998), below, we discuss some recent efforts to move in this direction.

## *2. Administration/Personnel*

### *a. Leadership and Change Agents*

Each of the four prosecutors we studied served as a leader in two realms—within the Prosecutor's Office, as well as in the external context or environment. Within the Office, it was clearly the District Attorney or County Prosecutor who offered at least a general vision of a new mission, as well as authorization for assistants to develop and carry out a range of new tactics, including the initiation of contacts with community members. At the same time, the leadership of the prosecutor in the wider community, particularly in criminal justice matters and in furthering the values identified with community prosecution, also reflected back into the Office, enhancing his credibility there.

Even though the mission and overall strategies of the District Attorney or Prosecutor are still evolving, it is important for staff within the Office that s/he is able to enunciate clearly what the goals of the new strategy are, and what is expected of them. Being asked to move outside of the traditional roles for which many were trained, and into a more unpredictable realm—working outside the office, with citizens in the community, in police stations, on streets—may create considerable uncertainty and a sense of risk for assistants. Without clear authorization and support from the Prosecutor, and a sense of where the boundaries lie for their efforts, this uncertainty and risk can become overwhelming.

No common pattern emerged among sites regarding other staff who might typically act as change agents: in some cases it is executive staff members; in others, it is newer attorneys who enter the office and move rapidly up within two to three years into positions in community prosecution. Prosecutors' offices are not as hierarchical as police departments, nor do they have as rigid a system of "ranks:" while junior attorneys tend to move around the office often through a more or less formal system of rotations, the District Attorney or Prosecutor may, as Claire McCaskill has done, watch for and pick out those lawyers with exceptional ability and place them in newly created community prosecution positions. For heads of community prosecution units or programs, however, prosecutors generally selected an attorney with a proven trial record, who was respected and viewed as credible throughout the office.

b. The Culture of the Prosecutor's Office

Changing the culture of the prosecutor's office—from *one* 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; *to one* 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—was a concern for all prosecutors in the study. The task is made more difficult because, in a sense, they 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).

The four chief prosecutors in the study are themselves developing distinct approaches for encouraging—and in some cases pushing hard for—a change in the culture of their organization. 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, in which 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." District Attorney Ralph Martin explains how he communicates this:

In the office, what I have tried to do, there are two things. It's one thing to make people do what you want them to do. It's another thing to make them want what you want. And I think the second criterion is much harder to fulfill. It's extremely hard. So, when I started talking, from the very beginning, about the importance of identifying juvenile offenders, before they become at risk, and trying to intervene with them earlier, a lot of people said, "Oh, that's just the boss being political. He's got to get elected, so he's going to say stuff like that."

Then, when I started putting some of the bright, young, talented prosecutors in the juvenile unit, to establish a priority prosecution unit and then I started moving prosecutors to convene working groups in the schools, that caused people to raise their eyebrows. They said, "Well, geez, maybe he means this stuff."

And then, when I started paying people a little extra to do this, that caught people's attention. And then, when I started saying, 'if you want to do well in the office, this is one of the units you've got to go through, before you get to a felony trial team, before you get to homicide,' then, that really caught people's interest.

And so, now people know that the juvenile unit is a serious unit. And we've done some good things in that unit. When I started talking about child abuse being a priority in the office, I first started talking about it externally, because they are the most vulnerable victims that we see. And we re-victimize them, over and over again, when we interview them three, four, five and six times. And we've got to do a better job at that. And, at first, it was, "yeah, that's the boss, you know, being political."

But then, when I started hiring people, when I couldn't find people internally to do the job the way we needed it to be done, I started hiring people to do it. And gave them equal status, as the other felony trial team leaders. Yeah, there was some grumbling, but over time, there has been more cross-pollination of ideas. And, I think, more respect. And as they see that the child abuse unit now generates probably twelve percent of our felony trial team indictments, then it was, okay, this is serious business.

The same thing with domestic violence. And over time, I think internally, we have increased the recognition that these units are value-added units. That they aren't just fluff, they aren't touchy-feely, that they, overall...make us a better office. They make us a more responsive office (WG 1, April 19, 1996).

A particular challenge for all the prosecutors lies in trying to move their staff away from the mentality of success as "winning trials," and to create longer-term goals coupled with clearly identified intermediate accomplishments in order to "wean people off" the need for an immediate victory (McCaskill, WG 2, May 2, 1997). This is a difficult job with some attorneys. Indeed, Ralph Martin represents the views of most when he acknowledges that not everyone is going to be able to change, or to move into community-oriented work: "Some of the best prosecutors in the office, you know, traditional, hard-hitting felony prosecutors, are scared to death of encountering the community...it's an imponderable to them. It's the anxiety of going outside of your experience. You get them in a different environment and they're just not comfortable. But they are still valuable to the office" (WG 1, April 19, 1996).

Nevertheless, observations of attorneys working in community prosecution positions in all four offices suggest that given the opportunity, many experienced prosecutors—"burned out" from trying cases, or merely wanting a change—welcome a move into community-oriented roles that involve a significant degree of creative problem solving. Moreover, they often prove very good at their new jobs, and are able to bridge the gap between the "two tracks." For example, among Street Level Advocates in Indianapolis it did not seem to be the case that one or another type of training provided a person who was more or less successful; experienced litigators showed considerable evidence of innovativeness and creativity in problem solving, as did those with different or more varied experiences. Furthermore, once in these new positions, many lawyers are changed by the experience. Sometimes, as Ronald Earle notes, putting people in different roles is an impetus for personal growth, one in which they learn that a two-dimensional, right-wrong, perspective doesn't always hold true. Earle describes assistant district attorneys whom he has hired, who burn out on prosecution, and need a change: "For example, one of my best prosecutors now is at the Children's Advocacy Center. He's a big, burly...no-nonsense kind of guy. He volunteered...to go to the Children's Advocacy Center. Another one of my best prosecutors is with the Child Protection Team. And they got burned out in the courtroom and they wanted to do something different that engaged them more, at the human level" (WG 1, April 19, 1996).

Observations of the four offices in this study suggest that a change in culture is clearly underway, although by no means complete. While significant support for, and valuation of, community-oriented prosecution is apparent, there remain the skeptics, the unconvinced. It is impossible to assess percentages in favor or against: some attorneys we interviewed expressed their opposition candidly, in spite of their perceptions that the Prosecutor or District Attorney was solidly in favor of community prosecution.

Beyond the divide over community prosecution, there are several common elements that stand out across all sites in the organizational culture. These are stated explicitly in the Indianapolis Case Study, but characterize other offices as well. First, deputy prosecutors share a sense of idealism and devotion to their profession: they love being prosecutors, and want to be good at their job. Many of the newest and youngest worry that they will not be able to stay in the job because of relatively low salaries and high debts from law school. Second, they share a commitment, all at once, to different values and dual senses of mission for prosecution: the basic business of prosecution involves “punishment and retribution, without apology,” but also “assisting victims of crime by using prosecution and all means possible to get rid of criminal activity,” “public service...to be leaders in the community...creating coalitions to solve problems so that you don’t have to prosecute so much,” “working with police to make sure we can vigorously prosecute what they investigate,” and “improving the quality of life in the county for people who don’t commit crimes, by all these means.” No one is willing to abandon the idea of punishment as necessary, but most couple it with the recognition that punishment should be integrated with rehabilitation and restitution.

Third, deputy prosecutors feel increasing pressure not only to be good trial attorneys, but “all things to all people”—to punish, obtain restitution and retribution, “win cases,” “make judges and courts happy,” “be a victim advocate.” They also feel demands emanating from the community: in particular, as the office does more community prosecution, citizens like it and want more, without any decrease in traditional prosecutions. And sometimes these demands are not accompanied by what they perceive as real support for prosecutors from the community. While some assistant prosecutors are energized and invigorated by the opportunities presented, others say they feel pressured and “caught in the middle.” Finally, in spite of the problems they describe, many express a belief that they can make real contributions in their jobs, especially when they are able to work one on one with police—they mention riding along on patrol, giving feedback to officers on a case the officers had worked up, prosecuting cases that were important to officers.

### c. Personnel Issues

- i. Standards for recruitment are changing to include not only litigation skills, but commitment to community service, and interest in problem solving. Prosecutors generally agree that strong litigation “specialists,” are still needed, but increasingly are seeking “generalists” who bring other skills and interests to the new tasks that the District Attorney or Prosecutor is asking them to take on, as well as to case processing.

Although pay scales remain low and noncompetitive with the private sector, competition is nevertheless lively for entry-level positions in most prosecutors’ offices. Only in Indianapolis did it appear that the low pay scale was limiting the pool of available applicants, where Prosecutor Scott Newman was considering mounting a marketing campaign at local law schools in the area. Most entry-level positions paid between \$25-30,000 (at most) at the time of the study. In most offices, applicants are not generally hired for specific positions, but are expected to be capable eventually of working in many different roles in the office. Most are new attorneys (in Kansas City, for example, about 80 percent have just completed law school or a clerkship); within this pool, there is a definite preference for hiring assistants who have worked in the office as interns

before completing law school (again, about 80 percent of Kansas City new hires are previous interns) (WG 2, May 2, 1997). In Austin, the District Attorney's Office usually hires attorneys only after they have had prior experience in a city or county attorney's office, or in another district attorney's office. Each office occasionally hires laterally.

In terms of hiring criteria, new assistants are expected to show promise of attaining, or else already possess, proficiency in traditional litigation skills. In Indianapolis, for example, new deputies will have "a good academic record; demonstrated interest in litigation; a desire to be a prosecutor; and a "pro-law enforcement" attitude (Indianapolis Case Study). All other prosecutors involved in the study agreed that good litigators were still needed, and would continue to be recruited and rewarded for their skill.

Nevertheless, other criteria for hiring are being adopted in those offices that value community prosecution and problem solving. These new criteria are directed at identifying individuals with broader interests, experiences, and skills—"generalists" as opposed to specialists in litigation—on the assumption that they will bring different, and valuable, resources to bear in community-oriented initiatives, in problem-solving tasks, and even in the process by which most cases are in fact resolved—plea negotiations. As Zachary Tumin explains,

...disposing [of] a case by plea is a negotiating process that needs to be informed by...what would be valuable to do, what relationships are at risk and need to be restored, what new connections to communities are possible to make so that we're not just reducing crime, but we're also fashioning a just and fair solution to those problems of crime. And the emphasis on trial lawyering and trial skills might not necessarily be a complete answer to that challenge... (WG 2, May 2, 1997).

District Attorney Ronald Earle agrees:

...in the debate as to whether you want generalists in the office, or specialists, I believe I'm going to come down on the side of generalists. And the reason is because the job of the prosecutor now is changing. It is not just trying cases. Because, as we all know, 90 percent of the cases are settled by plea. And so, determining what that plea is going to consist of and fashioning that plea will require some familiarity with the dynamics of the community. Because the issue, really, is how do you form the punishment? Prosecutors have more to do with that, really, on a daily basis, than they do with trials.... But the point is that the vast majority of the prosecutor's work is in negotiation. And the object of that negotiation is to fashion a punishment that works to change behavior, or that at least ought to be the object.... And to do that requires some interaction with and familiarity with the community, because that is the place where behavior gets changed (WG 2, May 2, 1997).

Prosecutors Martin, Newman, McCaskill and Earle are all grappling, then, with whether different roles in the office should be filled by "generalists" or "specialists." Ideally, all would like to find individuals with the training and interest to do all things, and each office has in fact managed to find a few exceptional individuals who bring together legal and other types of formal training and experience, and who can prosecute cases as well as lead community-oriented initiatives. In Boston there is Gretchen Graef, a former social worker and therapist as well as lawyer, who heads the Community Based Juvenile Justice Program in the District Attorney's Office. In Kansas City, Molly Merrigan, again trained as both a social worker and lawyer, heads the (Diversion) Drug

Court in the Prosecutor's Office. But clearly these are exceptions, individuals who in many cases have been recruited by the DA or Prosecutor, and not the rule.

More generally, to identify whether applicants for positions in their office possess these broader interests and skills, prosecutors are asking them explicit questions concerning their commitment to and experience in working in the community. In Kansas City, Claire McCaskill looks for judgment, knowledge of the law, writing skills, desire to work in prosecution, evidence of a commitment to public service generally and in the local community, and ability to relate to victims and minorities. She explains, "I've been continually disappointed at the inability of line prosecutors to rise above the courtroom culture and address the broader community perspective. So now I've begun asking applicants, 'what have you done in the community?' I have a vivid recollection of asking this of a young woman, and got a 'deer in the headlights' response. She had done nothing but have a social life and gotten her education, and wanted to be here to become a trial lawyer. I didn't hire her" (Kansas City Case Study). In Boston, District Attorney Martin also looks for individuals with differing backgrounds and experiences:

...more and more, we need people who see that there are other strategies that can be useful. And so, when I interview for new prosecutors now, I invariably start off the interview with, so what brings you here today? Because I'm interested in a dialogue with that person, I want to know how they think about the world at large. I want to know where they came from, what's their background training. I love it if they've done other things in life. A certain breadth of experience and appreciation, more than anything else, to me, is crucial (WG 1, April 19, 1996).

There may be some cause for optimism in these efforts: Prosecutor Scott Newman finds that he is starting to see among his applicants "sharp, aggressive" lawyers with good trial skills, but who like doing and trying new things, and therefore traditionally avoided prosecutors' offices in favor of a legal services organization, or the Civil Liberties Union, or a public defender's office. But Newman also notes that law schools could better inform their students concerning what public interest opportunities might be available in prosecution, and prosecutors themselves could carry out marketing in those schools (WG 2, May 2, 1997). The Boston DA Office's Director of Community Prosecution and Chief of District Courts Marcy Cass is encouraged by the extent to which attorneys new in the Office who are recent law school graduates seem interested in and receptive to adopting a community orientation in much of their work, making it possible for her to introduce changes in all the district court prosecution teams, not just in the community prosecution units (personal communication).

We have already mentioned the increase in numbers of non-lawyers that prosecutors' offices are hiring, maintaining on the staff, and moving into executive positions. These include greater numbers of victim/witness advocates, as well as highly trained specialists in public health (such as Jim Nunnally, who heads the COMBAT Administration Division of the Prosecutor's Office in Kansas City, and his staff), grant writing and supervision, journalism, marketing, community and public relations, computer technology and information management systems, and others with experience in working in government or other criminal justice agencies, whose skills are put to use in the extensive collaborations that are ongoing between prosecutors' offices and the police, city agencies, and other units of government. Every indication from the offices studied here is that this trend remains strong. And according to Claire McCaskill, whose office hires more non-lawyers than any of the others studied, the presence of these individuals:

Has forced the office in more ways than just the elected prosecutor, to think outside the box and to deal with issues outside of traditional case processing. It's

probably what...is most effective...in keeping us focused on problem solving, as opposed to case processing....It's had a huge impact on our creative quotient...how creative we try to be and how innovative.... Because these folks don't realize how startling some of the things that we're thinking about doing, and doing, are. Whereas, the people that have been in the office for years and are within the culture of trial lawyers...they are not comfortable with it (WG 2, May 2, 1997).

- ii. Formal training in community-oriented prosecution and problem solving within prosecutors' offices, for new assistants and non-lawyers, and as part of continuing education, is relatively limited, but slowly increasing.

There is a wide range in the degree and nature of training offered in the different prosecutors' offices. Most training for new attorneys entering the office occurs within the context of specific job assignments, with more senior attorneys mentoring those less experienced, as new prosecutors move through rotations in the office (Kansas City Case). In some offices, new attorneys are assigned to misdemeanor prosecutions (such as Boston, where they begin on district court teams), or the Appellate Division (Boston). Although most offices emphasized that at some point it was desirable for assistants to have experience working in a juvenile division or unit, new attorneys seem less routinely assigned to such units than was the case even a few years ago—perhaps because of the increasing importance that prosecutors say they are placing on juvenile crime.

The most comprehensive in-house training for attorneys takes place in the Suffolk County District Attorney's Office in Boston, where Ralph Martin created the position of Director of Training in 1996 (Boston Case Study). Community prosecution has been integrated into the intensive week-long training course that all new attorneys attend. All offices have held seminars in which lawyers working in community prosecution initiatives speak about their functions to other assistants. During the summer of 1996, District Attorney Martin arranged for (and attended) a workshop to be conducted locally by the American Prosecutor's Research Institute for approximately 35-40 of his staff, from line prosecutors to executive staff, and including a number of non-lawyers. A few staff from other sites attended APRI workshops on community prosecution individually.

No training comparable to the formal POP (Problem Oriented Policing) courses taught in police departments occurred in any prosecutor's office studied. Nor were most prosecutors directly familiar with written materials on problem solving.

Reports from prosecutors at all sites confirmed that the best learning experience for them involved visits to other sites in which community prosecution programs were ongoing, and creating opportunities for them to meet and talk with other prosecutors engaged in community prosecution, most often at professional conferences or meetings.

- iii. All prosecutors are struggling with how to measure the performance of prosecutors in the new tasks they are being asked to undertake. To date they have not identified a new set of formal measures.

In District Attorney Ralph Martin's Office, when assistant district attorneys were being recruited to fill positions in the newly created PIPS (Prosecutors in Police Stations) unit, Martin and his Director of Community Prosecution, Marcy Cass, identified a number of potential candidates and brought them together for an evening session that served up pizza and plenty of discussion about the unit. In addition to "selling" the program, Cass and Martin asked the assistants to "brainstorm" about how they might approach some of the problems that PIPS would have to address on the job.

In effect, they were asking for a demonstration of the problem-solving abilities of the candidates—a tactic used by some police departments currently as part of promotion processes.<sup>28</sup>

But asking assistants to demonstrate a problem-solving ability is just the beginning, and it is considerably different from developing specific measures that can be used to assess their performance. Without exception, every office we encountered in this study was struggling with how to measure attorney performance in new roles: all found traditional (and for the most part) current measures centered around numbers and types of cases processed, and the resulting dispositions, lacking (WG 2 discussion, May 2, 1997). Although anecdotal accounts of success, as well as failure, were plentiful, prosecutors sought some middle ground, between numbers of cases and anecdotes, that would capture more accurately what was taking place, and permit judgments as to the level of proficiency attained by the prosecutor.

Formal evaluations in place for assistant district attorneys and deputy prosecutors in most offices, apart from assessing case preparation and trial skills, also provide for rating of prosecutors' relationships with police, and with victims and witnesses (all sites), quality of work with the public and maintenance of a public image, work with outside agencies and individuals, and leadership. (No site included all these items.) All offices indicated that they are working on, or hope to develop soon, new performance measures for community prosecutors, but none have yet done so. Instead, prosecutors are still "thinking out loud" about what kinds of measures might be appropriate. Claire McCaskill suggests

...getting away from conviction. Getting away from how many trials. And talking about...how many probation revocations have you had.... Because if...someone successfully makes their first probation, particularly if they're between the ages of 17 and 25...chances are pretty decent...we aren't going to see them again. But if they don't make their first probation, we're likely to have them hanging around us for a significant period of time...(WG 2, May 2, 1997).

Ronald Earle proposes that because crime offers an opportunity to intervene in the life of an offender, and with the community and victim, to rebuild the social fabric, and because the level of participation by citizens appears to affect their perception of the crime rate, then "increasing the number and quality of interaction between people might be a fertile field for inquiry, in terms of performance measures" (WG 2, May 2, 1997).

One tool for assessing, if not formally measuring, performance used by the District Attorneys and Prosecutors in our sample was to monitor closely, and in person, the work actually done by attorneys in community prosecution positions. Prosecutor Scott Newman held a retreat for Street Level Advocates at his home during the summer of 1997; he requires a written monthly report from each advocate documenting problems identified, and strategies for addressing them. Newman is particularly concerned about "mission creep," and burnout among attorneys in the Unit, and in keeping them focused (Indianapolis Case Study). District Attorney Ralph Martin relies on frequent contact with Safe Neighborhood Initiatives staff by his Directors of Community Prosecution and External Affairs, but he also visits the areas personally, talks to the attorneys, and

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<sup>28</sup> For example, Police Chief William Finney of the Saint Paul (MN) Police Department has used a competitive problem-solving exercise as a tool in assessing candidates for promotions, and in selecting officers to whom he assigns specific appointed tasks. See Catherine Coles, *The Development of Community Policing in Saint Paul, Minnesota, Case Study Prepared for the Urban Institute and NIJ, Program in Criminal Justice, John F. Kennedy School of Government, Harvard University, 1998.*

will take a call virtually on the spot from Sara LoCoco, the outreach coordinator who oversees East Boston and Chelsea SNIs.

#### d. Strategic Planning

Strategic planning for community prosecution was ongoing in all prosecutors' offices during the course of the study (see Austin Case Study, Indianapolis Case Study, Kansas City Case Study). These efforts were so diverse and wide-ranging that they are not easily categorized: some involved planning for the purpose of changing the culture, and level of knowledge concerning community prosecution, in the Office; others aimed at engaging as many staff members as possible in planning for upcoming structural changes, or offering them educational opportunities.

During 1996 and 1997, Ralph Martin initiated several strategic planning exercises in the District Attorney's Office, especially at the executive level, to focus generally on community-oriented prosecution. Recognizing the problem of "devaluation" of community prosecution programs that was present in the office as a whole, he decided upon an approach that would inform staff so that they would move toward *wanting* to be involved, rather than feeling coerced to do so. Early in 1996, he brought together groups of "traditional" prosecutors and staff involved in community prosecution (primarily those in the SNIs and in the Community Based Juvenile Justice Program) to talk about the new strategies, including their goals, but especially what outcomes were emerging—such as lowered crime rates, and the benefits of greater community involvement. Later that year, when Martin brought in representatives of APRI for the workshop on community prosecution (held outside Boston at a resort and conference center), problem-solving exercises directed participants to address actual problems in specific neighborhoods. The solutions generated through those exercises were being acted upon the next Monday morning by prosecutors and other staff, back in their offices—a plan to reduce shoplifting, vandalism, and loitering on Newbury Street in the Back Bay, and heroin dealing in Charlestown (Boston Case Study).

Martin and his executive staff also established an ongoing "system of project management review," whereby some of the longer-term community prosecution projects headed by a senior manager are being reviewed on a quarterly basis by Martin himself, and other office personnel, many of whom are not in management positions. Martin says the process has multiple goals: "One, to try and...get them attuned to the value of community-based prosecution, as it affects traditional prosecution, and to get their input on many of these projects. And then hopefully, over time, to get them to develop certain initiatives that can then be followed by the same type of project management review" (WG 2, May 2, 1997).

In all sites, strategic planning processes that were underway in 1997 led to new developments in community prosecution by 1998, including the creation of new community prosecution units (Austin and Kansas City), planning for community justice projects (Indianapolis, and Austin), and working with other criminal justice agencies to realign relationships and tasks (Austin). These changes are addressed in the section on 1998 Updates, below.

#### e. Funding

Except for Kansas City, which is funded by the Anti-Drug Sales Tax, COMBAT, all other offices were struggling to a greater or lesser degree with how to support new efforts in community prosecution. The bottom line for most is that case processing (trial team) units cannot be cut to provide resources to support community prosecution: the commitment to the core capacity, prosecuting cases, remains a priority. This means that if a community prosecution capacity is built, it must be supported with additional funding. County, state, federal, and even private grants have provided a source of funds for many pilot projects. Prosecutor Claire McCaskill controls grant match funds amounting to ten percent of funds generated through the COMBAT sales tax

(roughly \$1.5 million per year), and makes it a priority to apply for whatever grant funding is available. Both Austin and Indianapolis offices have had considerable difficulty in finding funds to support community prosecution out of tight budgets. Austin recently was turned down by the County Legislature on its request for a full-fledged community prosecution program; although Indianapolis has been able in the past year to expand its Street Level Advocacy Program with a federal Law Enforcement Block Grant.

Prosecutors such as District Attorney Ralph Martin are leery of starting programs by relying on grant funds, building public expectations, and then not being able to maintain the programs when the funding ends: "I think one of the things we have to think about, as we march forward on community-based prosecution, is how to reallocate resources, not just look for additional resources. But how to shift and reallocate and reprioritize, so that it doesn't always require additional funding" (WG 2, May 2, 1997). In one regard the District Attorney's Office in Boston is fortunate: assistant district attorneys are already located in neighborhood District Courts, prosecuting cases that arise from that local area, and thus can be assigned responsibility for working with a local Safe Neighborhood Initiative without requiring many additional resources. But there are other costs associated with these collaborative efforts: overtime for police officers who work on special SNI projects; salaries of SNI non-lawyer outreach coordinators; funds for community-oriented projects (such as printing newsletters, setting up programs for youth during the summer or after school, and even conducting activities like National Night Out). Since 1994, the District Attorney's Office has applied for and received several grants relating to community prosecution operations, and has participated as a partner in community prosecution grants obtained by other criminal justice agencies. It received \$100,000 per year from July 1994-June 1998 to fund the East Boston Safe Neighborhood Initiative; approximately \$100,000 per year from 1993-1997 for the Franklin Hill Comprehensive Gang Initiative, which targeted gang violence in the Franklin Hill public housing development in Dorchester (including a policing component, and prevention component); and \$50,000 for the period July 1997-December 1998 to fund the Community Based Juvenile Justice Program. In addition to the grants, the Office spends an additional \$125,000 per year out of its general fund (coming from the state) on community prosecution projects—to underwrite policing operations, promotional materials, meeting costs, and other expenses.

In some places, neighborhoods have developed fundraising capacities and can help contribute to the costs of operating local collaborative initiatives—for example, in the Dorchester area of Boston, site of another Safe Neighborhood Initiative (funded by the State Attorney General's Office), well-organized neighborhood associations have at times been able to raise some monies. But the more impoverished the local community, and the weaker its own capacity for raising private funds or mobilizing support from citizens, the greater may be the need for additional funding to support activities beyond prosecution itself. By 1997-98, in all four sites, Weed and Seed funds either had been or were being used to provide funding for some portion of the initiatives involving community prosecution in these types of areas.

#### D. TACTICS FOR COMMUNITY PROSECUTION: EXPANDING THE TOOL KIT

The overall trend in prosecutors' offices that we studied is toward the use of a greater number and variety of tactics or, as some have called it, a larger "tool kit." Within this tool kit, case processing remains a core function: nevertheless, it has evolved into a form of selective prosecution, based upon new standards, influenced more by the priorities and input of private citizens, and involving civil suits as well as criminal cases. Case processing has also been joined (although not yet eclipsed) by other tactics, including the use of civil remedies that fall short of

prosecuting cases, establishing partnerships and relationships in the community and with other law enforcement agencies, engaging in problem solving to prevent and reduce crime, and managing the image of the office in the community and the flow of information to the public.

In examining the tool kits developed by prosecutors, the questions that interested us pertained not only to what new tactics were being used, but where the balance lay between traditional case processing operations and other tactics, and where it might be shifting.

### *1. The Balance between Case Processing and Other Tactics*

We know from the estimates provided by our prosecutors that about 20-25 percent of their employees (either full or part time) or resources overall were committed to nontraditional, community based activities (Working Group 1, April 19, 1996; see above, Structures in Change). Our data provide another perspective on this issue. By looking at the work of individual deputy prosecutors at the sites in our sample, we can see more specifically how they combine and use different tactics in their jobs.

First, we found that deputy prosecutors and assistant district attorneys assigned to community prosecution units or positions routinely utilize a variety of tactics, including case processing. Street Level Advocates in Indianapolis screen cases from their designated districts, and carry a caseload at any one time of approximately five active cases, in addition to working with citizens and police in other types of activities. (At times during the study they were also pulled from their work in the districts and asked to prosecute unrelated cases, which might take them away from advocacy duties for a week or two at a time.) In Boston, one district court prosecutor assigned to the East Boston SNI estimated that in 1996 he spent approximately 50-60 percent of his time prosecuting cases, and the remainder on SNI-related meetings (with the Advisory Council that included citizens, and the Steering Committee, with police and other criminal justice agencies), conferring with the SNI outreach coordinator, and carrying out various activities in the community. The Director of Community Prosecution in Boston has always carried a case load, and been involved "on the ground" with the SNI Steering Committees in East Boston and Chelsea that plan specific law enforcement activities—in spite of her changing administrative and supervisory responsibilities (she was also head of a Superior Court Trial Team, and then moved to become Chief of the District Courts, while remaining Director of Community Prosecution).

Among attorneys we interviewed who were not assigned specifically to community prosecution positions or units, some reported that they, too, were utilizing various non-case processing tactics (described below). Because we were not able to survey all attorneys in the four prosecutors' offices, we are unable to generalize about the exact portion of time they spend on these other tactics. For some, it is no doubt negligible. Based upon observations and anecdotal evidence obtained in interviews at each site, we do know, however, that prosecutors in special units such as domestic violence, juvenile, and sex crimes/child abuse are active in community initiatives aimed at crime reduction and prevention, and that many of these activities are neighborhood-based (all sites; see also Convergence and 1998 Updates, below). We also know that some prosecutors not in special units attend neighborhood association meetings and maintain ongoing relationships with local citizens in the areas (Kansas City, Boston), and that others meet and counsel minority student groups in high schools (Austin). In Austin, many assistant district attorneys told us that such activities were encouraged by District Attorney Earle and executive staff, although not required.

In conclusion, for at least one quarter of deputy prosecutors and assistant district attorneys, and probably more, case processing is becoming a less important mode of operation relative to other tactics in the prosecutor's tool kit than it has previously been. We expect this balance to continue

tipping toward greater use of other tactics, especially because problem-solving efforts to prevent and reduce crime have been very popular with citizens.

## 2. *Case Processing*

### a. A Core Function

In every prosecutor's office that we studied, case processing remained a core function and tactic. Prosecuting cases provides prosecutors with the "teeth" they need to show that they are still serious about violent felony crime. District Attorney Ralph Martin, for example, sees himself and his role

...first and foremost to enforce the law. You've got to do that. If you don't enforce the law, you're not worth the doormat you cross every day when you come into the building. Fortunately, I had the stats to provide that I had done that. Conviction rate, indictments, in every category I had the stats to prove that I'd enforced the law.... I think some of the arguments that we have put forth over the past three and a half years, the public has bought into, because first and foremost, they saw me as being tough on crime (WG 1, April 19, 1996).

To document this core function, in each of our case studies we describe case processing operations briefly and present basic office-wide data on new case filings and dispositions, including numbers of jury trials, for several years prior to and spanning the course of the study. Not all data are comparable across sites, since some include misdemeanor charges and cases, while others present felony data, as defined by the jurisdiction and activities of the prosecutor's office in each state. Since it was not our purpose in the study to conduct extensive research on and analysis of case processing operations (and time constraints precluded our doing so), we confine ourselves here to offering a few observations that pertain to how case processing fits into overall office operations and priorities, and how it links up with other tactics used by prosecutors.<sup>29</sup>

When we began compiling case processing data, we found that documentation of office-wide case processing operations was often not easily available. A number of factors contributed to this. Certainly one was that every office was reviewing its management information system, finding shortcomings in current operations, with the intention of modifying or replacing it in the near future. But also, screening functions tended to be dispersed, carried out separately for misdemeanors, felonies, and for juveniles, and by special units—child abuse, sex crimes, domestic violence, drug and non-drug prosecution (in Kansas City), public integrity or fraud (Special Prosecutions), and community prosecution. In some sites, one individual reviewed all cases of a particular nature—for example, in Kansas City, all cases that involved prostitution and sex for hire charges. Finally, statistics on numbers of trials, and dispositions, frequently were compiled only at the division, unit or trial team level, and it took a certain amount of hand tallying to produce them.

Certainly the fact that substantial numbers of cases are being funneled through special units, and tried vertically within them, is not a new finding (Moore et al. 1984; Buzawa and Buzawa 1996; Cahn 1992). We know, too, that screening and subsequent processing of cases in these units are governed not only by office-wide policies, but by policies and guidelines specific to the units

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<sup>29</sup> In future research, it might be worthwhile to look more carefully than we were able to do at whether numbers of cases processed remain consistent, or begin to decline, when other tactics are introduced into the prosecutor's office as part of community prosecution and problem-solving efforts.

themselves.<sup>30</sup> What is of particular interest to us, however, is that even though many of these began primarily as functional case processing units, offering some special features—such as vertical prosecution and expedited handling of cases, or a Sex Crimes Unit with a capacity for conducting a single examination of a child so that the victim is not “re-victimized” in the process of collecting evidence and preparing a case—they now carry out non-case processing activities as well. Typically, prosecutors assigned to domestic violence, sex crimes, and juvenile units that we observed offered community education programs, held community outreach activities, cooperated with hospitals, schools and social service agencies, served on local task forces, and were even developing prevention strategies.

Furthermore, as the study went on, we found that members of the units were being assigned to work with community prosecutors, targeting particular neighborhoods. The Gang Unit in the District Attorney’s Office in Boston provides an example: Gang Unit attorneys share information not only with the Youth Violence Strike Force (BPD’s anti-gang unit), the U.S. Attorney’s Office and the Bureau of Alcohol Tobacco and Firearms, but with SNI attorneys and other district court attorneys. Although the Unit is heavily oriented toward investigation and prosecution, its chief, and executive staff in the Office, are considering the potential benefits of reaching out more directly to the community—not just to obtain better cooperation from witnesses, but also with regard to violence prevention. Victim witness advocates have already been performing this function, and assistant district attorneys have begun speaking in local high schools with Youth Violence Strike Force officers, bringing in prison guards to tell students about what incarcerated offenders face. District Attorney Martin would like to see more involvement—perhaps with his attorneys speaking in elementary schools in order to contact younger children and introduce them to the District Attorney’s Office (Boston Case Study). We provide further examples below (see point 4).

Our point is that case processing itself continues to evolve and change at the same time that other tactics are being adopted for use in prosecutors’ offices. Many prosecutors not formally assigned to community prosecution roles or units are actually using both case processing and other tactics on a day to day basis, as their work takes them into closer contact with community groups, and involves them in formal problem solving to reduce and prevent crime.

#### b. Selective Prosecution: Changing Standards

One of the ways in which case processing is changing is through the application of different standards for selecting cases to be prosecuted, and for determining how they will be treated as they are processed. In particular, we can identify the following changes in standards:

- i. Prosecutors in the study all apply a “get tough” approach to violent (especially repeat) offenders, pursuing them with the most severe sanctions available, but are more inclined to use alternative sanctions, diversion, and treatment for nonviolent and first-time offenders.<sup>31</sup>

<sup>30</sup> Policies governing plea negotiations and agreements in the District Attorney’s Office in Boston are for the most part not written, with Senior Trial Attorneys guiding decisions of team members. In Austin, general policies and guidelines are provided in writing, but practices are set within Divisions and by Trial Team. Indianapolis has written policies and guidelines pertaining to pleas and sentencing, and deputies must obtain permission to depart from these. In Kansas City, the Criminal Drug Prosecution Division has written guidelines and policies covering several types of cases—these are developed by senior staff in consultation with Prosecutor McCaskill. The Non-Drug Prosecution Division has no division-wide written guidelines, but special units (sex crimes, domestic violence) develop their own.

<sup>31</sup> Mellon, Jacoby and Brewer 1981 refer to this type of intake policy by prosecutors as “Defendant Rehabilitation—the Environmentally Permissible Policy,” but assert that “This individualized defendant orientation makes this policy difficult, if not impossible, to maintain in an assembly-line, high-volume

Prosecutor Claire McCaskill's policies provide a clear example of this dual approach in case processing. She is serious about going after violent offenders. Office-wide guidelines prohibit the dismissal of an armed criminal action count without the consent of the Chief Trial Assistant, Deputy Prosecutor, or the Prosecutor; preclude dismissal or a reduction of charges for one of the seven "deadly sins" without prior approval of a Chief Trial Assistant or the Chief Warrant Officer, and reduction of a first degree murder charge without the Prosecutor's agreement; and prevent reduction of a pending charge, or probation, for repeat violent offenders, while requiring conviction to be attempted on the highest grade of offense supported by the evidence. Similar types of policies are in effect in all offices included in the study.

At the same time, however, McCaskill presides over a comprehensive program (COMBAT) that offers a broad array of intermediate sanctions, including diversion and treatment alternatives for substance-abusing offenders who have not committed violent acts. In addition to the diversion Drug Court, during 1996 the Judge Mason Day Report Center opened in Kansas City, founded through the efforts of COMBAT Administration staff in McCaskill's office. The Center serves as a general assessment and intake center for the Drug Court, offering full employment counseling, health and mental health screening, and substance abuse assessment, but also fills a need that COMBAT staff saw was not being met by treatment options associated with Drug Court diversion programs. For those individuals whose substance abuse problems are coupled with a lack of internalized structure and skills—who cannot manage anger, keep appointments, or accommodate to a structured schedule so that they could participate successfully in outpatient programs—the Center offers intensive all-day, or evening, programs to build these skills (Kansas City Case Study).

Among other sites, Austin, like Kansas City, provides a wide range of alternatives to prosecution, and intermediate sanctions. In District Attorney Ronald Earle's Office, as part of a standard intake process, the Appropriate Punishment Team (APT), comprised of assistant district attorneys meeting with representatives of Pre-Trial Services, Community Corrections and Supervision, the Sheriff's Office, Austin Police Department, and the District Clerk, offers sentence recommendations for defendants who have committed nonviolent offenses, and recommendations for pleas where defendants are not incarcerated. The recommendations emphasize alternative, community-based sanctions, aimed at reducing future criminal behavior. They typically include a period of incarceration, restitution to the victim, and rehabilitation services. Neighborhood Conference Committees, which allow for the diversion of nonviolent youthful offenders to appear before neighborhood panels, and complete a contract involving restitution and mentoring of the juvenile, provide another alternative to standard prosecution (Austin Case Study).

- ii. Prosecutors are seeking greater citizen input into case processing. As a result, criteria for deciding which cases are to be given greatest weight in case processing increasingly reflect citizen priorities and perceptions about what is "serious," instead of being accorded high priority because they are "index crimes."

As police have known for some time, prosecutors too are learning 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). While prosecutors may at some time come to an independent realization of the importance

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court system"(p.65). Yet this is exactly the procedure that appears to have developed in all sites in this study.

of addressing misdemeanors and ordinance violations through case processing, the impetus for their doing so now appears to come from the message they receive from private citizens, businesses, and the police. Nevertheless, prosecutors have taken the message seriously—they, too, talk about “quality of life crimes,” not as “victimless” but as having a significant impact on the community.

This does not mean that prosecutors are foregoing, or discarding, felony case prosecution; what they are doing is adding low-level crimes and misdemeanors to their case processing agendas. This trend is more visible where the jurisdiction of the prosecutor’s office covers the prosecution of misdemeanors—in Boston and Indianapolis. In Boston’s Safe Neighborhood Initiatives, assistant district attorneys regularly prosecute misdemeanors, including offenses such as street prostitution and public drinking. Each meeting of an SNI Citizens’ Advisory Council includes a report on current cases handled by the police and prosecutors, and a discussion of local problems that citizens and police are seeing on the streets (which often turn into cases later on). At any given meeting, a large proportion (well over half) of these involve misdemeanor offenses or violations—everything from illegal parking on narrow streets, to prostitution, public drinking, youths gathering late at night, and loud music coming from particular houses.<sup>32</sup> In several districts of the City, including SNI areas such as East Boston, assistant district attorneys have implemented a “Johns Project” in conjunction with the District Court, Probation, the Court Community Service Project, and a local health center. Offenders are offered a continuance without a finding for three months, with conditions that they attend an AIDS education course, participate in four and a half hours of community restitution (which sometimes means cleaning streets in the local neighborhood), and pay court costs. During 1997, prosecutors and citizens alike informed us in several SNIs throughout the Boston area that with the recent reduction in violent crime, they were increasingly able to turn their attention mostly to quality of life issues in their neighborhoods.

This increased attention to “quality of life” issues, low-level crimes, permeates not only case processing, but problem-solving initiatives as well. And where a prosecutor does not have jurisdiction to prosecute misdemeanors, such as in Austin, the use of civil remedies and problem solving replaces formal prosecution in criminal courts.

- iii. Prosecutors are bringing citizens more directly into court processes through the use of community impact statements, court watch organizations, and reporting on the progress of cases of significance to local citizens.

The entry of citizens into the courtroom and into case processing itself, not as immediate victims but as members of a local community that perceives itself as “victimized” by crime, is a phenomenon that we observed in all sites. Paralegals working with Street Level Advocates in Indianapolis mounted a major effort to collect community impact statements from local citizens for use in courts during 1996 and 1997; the same tactic is being followed currently in Boston. Court watch groups (in which citizens attend court proceedings) have also been organized by citizens, and community prosecutors in particular make it a regular practice to report back to representatives of local neighborhoods on the outcomes and progress of specific cases of interest. Prosecutors report that many judges react favorably to community impact statements, although a small number of judges still refuse to allow them to be used in the courtroom (see below, Context: The Courts).

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<sup>32</sup> Based upon observations and attendance at SNI meetings regularly from 1995 to the present.

- iv. Crimes involving juveniles (as either offenders or victims) and domestic relationships (such as domestic abuse, and sex crimes) are being given great emphasis by prosecutors, especially through special units and programs that combine case processing with other tactics.

Many experienced prosecutors recall "cutting their teeth" in the District Attorney's Office by starting out in a juvenile prosecution unit.<sup>33</sup> No longer: the prosecution of juvenile cases, and cases involving domestic relationships, now is considered high priority in prosecutors' offices. In special units, cases are handled through vertical prosecution, and often by deputy prosecutors who also take part in crime prevention and reduction efforts in the community. Where prosecutors lack formal jurisdiction, such as over juvenile prosecutions, they are turning aggressively to crime prevention and reduction, providing support for other criminal justice agencies, and using other available tactics that do not involve formal prosecution (see Kansas City, below). Even where offenses generate mostly misdemeanor cases, such as domestic violence, and therefore tend to be handled by municipal prosecutors outside the district attorney's office, county prosecutors and district attorneys are finding ways to become involved.

The range of innovation in new and existing programs in this area can hardly be overemphasized. We describe selected programs briefly for each site:

**Austin:** In Austin, District Attorney Ronald Earle has brought together the prosecution of all family-related crime by creating a Family Justice Division in the District Attorney's Office. His rationale for doing so was that victims and offenders often were part of the same family, and the needs of entire families could be better addressed by coordinating prosecution and other functions carried out by his Office. Earle still likes to see assistant DAs gain experience at some time in their career with a rotation in the Family Justice Division, but for a different purpose than learning basic trial skills—he wants them to understand the broad, interrelated problems associated with these types of offenses.

The Family Justice Division is a special unit outside of the Grand Jury Intake and Trial Division: it handles all matters involving children and families—including child abuse, death, civil and criminal neglect, and juvenile prosecutions. Since 1988 it has expanded from a staff of two criminal, two civil and one and one-half juvenile prosecutors to seventeen attorneys, who handle criminal and civil child abuse, and juvenile prosecution. Components include: the Child Protection Team (in which attorneys assist State Child Protective Services caseworkers, in civil cases, seeking to remove children from abusive households), a Child Death Review Committee, the Children's Advocacy Center (including one attorney who works with children to prepare child abuse cases, and other attorneys who prosecute), Civil Child Abuse (attorneys who represent the State Children's Protective Services after petitions are filed removing children from abusive households), the Juvenile Unit (which prosecutes juvenile offenders at the Juvenile Court), an auto theft prevention assistant district attorney, and a gang activity prosecutor (Austin Case Study).

Creating these structures inside the Office to handle cases is only half the story of what District Attorney Earle has attempted to do, however. To involve the wider community, he also set up the Juvenile Agency Coordinating Committee (JACC) and Management Coordination Team (MCT), groups responsible for addressing juvenile crime in a coordinated fashion. The planning undertaken by these groups has led to programs such as First Offender: when an analysis of

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<sup>33</sup> See, e.g., "Organization Priorities," in National District Attorneys Association, Resource Manual and Policy Positions on Juvenile Crime Issues, Adopted Nov. 16, 1996.

continually escalating recidivism among juvenile offenders revealed that no significant sanctions were being imposed for the first, often second, and even third, arrests, and offenders were not even going to court. Earle and JACC created the program. Under it, juvenile first offenders, even petty misdemeanants, must appear before a judge. A truancy program was also created, and in 1996, Earle himself started (along with the City Health and Human Services Department) the first Neighborhood Conference Committees in which trained citizens would hear juvenile cases diverted from court (Austin Case Study).

**Boston:** In Boston, District Attorney Martin created a Domestic Violence Unit in 1993, a year after taking office. It is the only one in the state to operate as a full unit in the Superior Court: the rationale is that the presence of this unit will mean that cases arraigned in the lower, district courts are less likely to be dismissed by district court judges, and serious cases are more likely to be forwarded to the higher courts. Most domestic violence cases are misdemeanors, handled at the district court level. In four district courts (Chelsea, Boston Municipal Court, Roxbury, and Dorchester) representing areas of the City in which domestic violence is most prevalent, a "point prosecutor" handles domestic violence cases that are not sent on to the Superior Court felony team. The Unit Chief and her staff serve as back-up, taking cases rejected by Superior Court teams and pursuing them, while victim-witness advocates make contact with victims after police reports are filed, and offer referral assistance for housing, counseling, and medical assistance. The Unit Chief and victim witness advocates provide training in domestic violence for all new assistant district attorneys and all district court attorneys, as well as for some Superior Court attorneys. They also conduct training at the police academy. Domestic violence staff report that police report-writing has improved markedly, and better cases are being produced. Finally, staff from the Unit work with the Safe Neighborhood Initiatives on local projects, as well as on a range of outreach activities in the community.

The District Attorney's Office prosecutes juveniles through a separate Juvenile Unit. Attached to it is the state-mandated Community Based Juvenile Justice Program, shaped by Martin for operation in Suffolk County. This program coordinates a number of roundtables at middle and high schools that bring together prosecutors, police, school officials, probation, attendance officers, and state agency representatives to identify juveniles who either pose a risk to the local school, or residential, community, or who are themselves at risk. District court prosecutors attend the roundtables, along with the director of the program and a nonlawyer project manager, who prepares and keeps current lists of juveniles who are being monitored by each roundtable. At monthly meetings, both court-involved juveniles and those who are identified by police or school officials as needing attention, are discussed, and specific plans are devised for providing services or taking appropriate action on a case by case basis (Boston Case Study).

**Indianapolis:** We discussed above Prosecutor Scott Newman's attempts to decentralize the prosecution of some cases involving juvenile offenders by assigning deputy prosecutors to handle cases by police district, a move largely thwarted because the organization of the juvenile court was not compatible. In the areas of domestic violence and sex crimes, he has been able to make greater headway. The Marion County Prosecutor's Office Domestic Violence Unit handled approximately 4,000 cases in 1996. Misdemeanor and D felony cases are prosecuted through the Unit; trial teams in the Office's general Felony Division prosecute other felonies. Although written guidelines and a domestic violence protocol guide operations, individual deputy prosecutors are given substantial discretion in developing proposed pleas, and sentences. An extensive diversion program is available, with emphasis on counseling and substance abuse treatment for offenders. The Unit refers offenders (and victims) to service providers, acts as a liaison between the court and these providers to report the defendant's compliance to the court,

and also cooperates with the Municipal Court Probation Department that oversees cases in which domestic violence counseling is ordered as a condition of probation.

While data were being collected for the study, the Family Advocacy Center in Indianapolis was going through a period of uncertainty, without a permanent head, and at times short of funds. During this period Newman became its advocate within the county, even digging into Office funds to pay the Center's rent. A related priority was the creation of Centers of Hope, sexual assault response centers that Newman worked hard at setting up in conjunction with the St. Vincent and Wishard Memorial Hospitals. Working with deputy prosecutor and grant writer Lori Spillane, Prosecutor Newman sought and obtained several S.T.O.P. Violence Against Women discretionary grants, a Lilly Endowment grant, and Victims of Crime Assistance Funding to create the centers. When they opened, he conducted part of the training programs personally. The Marion County Prosecutor's Office now conducts statewide training sessions on the creation and operation of sexual assault treatment centers and teams; provides funds to staff and equip the centers; and has trained medical staff there in legal aspects of working with victims (Indianapolis Case Study).

**Kansas City:** In the Jackson County (Kansas City) Prosecutor's Office, domestic violence has been a priority for Prosecutor McCaskill since she took office in January 1993. Due to the high numbers of cases and a commitment by McCaskill to prosecute them, the Unit was expanded in 1994 from one prosecutor (who worked closely with the Kansas City Police Department (KCPD) to file and prosecute all cases) to three assistant prosecutors, one investigator, a victim advocate, and a secretary. That same year, Mayor Emanuel Cleaver joined McCaskill in setting up a community-wide Task Force,<sup>34</sup> and a separate Municipal Court was allocated (with an assistant city prosecutor assigned), to handle all misdemeanor cases. The Prosecutor's Office added to its operations as well: a domestic violence prosecutor met with police detectives each morning at the Police Department to review cases not sent to the assistant city prosecutor. During 1996, approximately 600 cases per month were reviewed.<sup>35</sup> McCaskill went still further, however, pushing to lower to three the number of prior arrests necessary to have a case move to her office for prosecution, by proposing legislation that would make a third misdemeanor assault into a Class D felony. In addition to prosecuting increasing numbers of cases, some without victim participation, deputy prosecutors assigned to the Unit now train all KCPD officers in domestic violence investigations, and teach other prosecutors state-wide how to develop domestic violence protocols and prepare effective cases. Near the end of the study, the Office was planning to convene a community council to bring together representatives of criminal justice agencies, health and service providers, and schools to develop a countywide plan for addressing domestic violence (Kansas City Case Study).

Even though McCaskill's office does not have jurisdiction to prosecute juveniles, she was the driving force behind the creation of a new Truancy Project, along with the Family Court. Prosecution of parents for failure to ensure student attendance is a last resort in the program. As part of an agenda involving reform of the child abuse system in the county, she was able to set up an arrangement between her Sex Crimes Unit (which prosecuted criminal abuse) and the Family

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<sup>34</sup> The Domestic Violence Task Force included Municipal and Circuit Court judges, the KCPD Domestic Violence Unit, battered women's shelters, Kansas City's Law Department, the Prosecutor's Office, Legal Aid representatives, the US Attorney's Office, the Juvenile Justice Center, and several non-profit victims service agencies.

<sup>35</sup> Those in which the suspect had a record of fewer than four domestic violence arrests, no weapon was involved, no order of protection was in place, and no serious injury was sustained, went to the Municipal Court for prosecution; all other cases were prosecuted by the County Prosecutor's Office.

Court (that might be working on rehabilitating the same family), so that attorneys could “second chair” each other’s proceedings and coordinate actions involving a single family (see Kansas City Case Study, and above, Elements of the New Mission).

c. Using Civil Law and Civil Remedies

Civil remedies and civil suits represent a new area in prosecution that offers fast and effective results for prosecutors trying to address problems identified by citizens and police in specific neighborhoods (Finn 1991, 1995; Finn and Hylton 1994; Cheh1991; Mann 1992). We found several types of remedies being used:

First, prosecutors, or nuisance abatement investigators, were able to address “problem properties”—drug houses, small businesses that were centers of drug-dealing activity—by gaining the assistance of City code inspectors in closing or boarding up buildings as a result of safety, health, and code violations. In some sites this tactic is used primarily by the City Attorney’s Office; in others, the District Attorney or County Prosecutor’s staff work with police and city inspectors and to carry out the bulk of closings.

Second, under legislation authorizing nuisance abatement, or forfeiture actions against property owners who, once placed on notice of unlawful drug-related activities carried on by tenants, fail to take steps to curb such activity, prosecutors’ offices are pursuing landlords. Usually, a letter from the prosecutor’s office, invoking the authority of the prosecutor and asking cooperation in removing troublesome tenants, is sufficient to provoke a response. Failing all else, prosecutors file suits against the landlords. In Indianapolis, a nuisance abatement investigator working with Street Level Advocates claimed that he could close a drug house down within two weeks with these two options, bringing considerable relief to a neighborhood burdened by crime emanating from the location. In Kansas City, the DART (Drug Abatement Response Team) team in the Prosecutor’s Office uses these same methods with drug houses, and with motels that drew prostitutes and drug dealing. In 1996, DART prosecutor Mike Sanders also developed a carrot to use with the stick: a seal of approval for houses in which landlords maintained anti-drug lease provisions, attended DART training and had a good track record, code inspectors had approved the property, and environmental improvements had been made to reduce opportunities for illegal drug use or sales.

Third, prosecutors are asking courts to issue stay-away or restraining orders for prostitutes and drug dealers as conditions of bail and probation. Again, this can bring immediate relief to a neighborhood troubled repeatedly by the same offenders. In Boston, under a Massachusetts trespass statute (Mass. Gen. L. c. 121 B, s. 32C-E), injunctions prohibiting entry to public or subsidized housing developments may be issued against offenders. Violation of an injunction constitutes a criminal offense punishable by \$3500 fine or two years in the house of corrections, or both—and judges have sentenced offenders for one to two years—providing a useful tool to prosecutors attempting to rid the projects of drug dealers, and armed or violent offenders who “hang out” there even though they don’t live in the area. In 1998, Austin District Attorney Earle decided to follow the example set by the San Jose (CA) City Attorney’s Office<sup>36</sup>—using nuisance laws to target association among gang members, and even non-criminal acts in specified areas. In July, when several drug dealers retaliated after criminal trespass complaints had been filed against them, the District Attorney’s Office asked the court for an injunction to prevent them from congregating in a neighborhood in a Weed and Seed area in Northeast Austin. The injunction was issued.

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<sup>36</sup> People ex rel. Gallo v. Acuna, 929 P.2d 596 (Cal.1997).

### 3. *Developing Partnerships*

Developing close working partnerships with police, other criminal justice agencies, government, and representatives of the local community—including businesses—is a basic component of the tactics of prosecutors (see Context, below). Prosecutors have always worked with police, citizens as victims, and other criminal justice actors, in case processing and as part of their role within the court organization (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 Prosecutor Claire McCaskill's office 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>37</sup>

Establishing a minimum level of trust among all participants so that information can be reliably shared will be a major issue for all groups. When the Roxbury Grove Hall Safe Neighborhood Initiative in Boston began operating in 1995, a deputy prosecutor had recently been killed in the area. Relations were already tense between police and the African-American community, and for many months, prosecutors and police were unwilling to trust local community members, who they

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<sup>37</sup> Jackson County Prosecutor's Office, *Strategies to Enhance Law Enforcement and Prosecution Coordination: A Concept Paper* by Jackson County, Missouri. 1997.

thought knew the perpetrator of the crime. Citizens resented these suspicions and were skeptical of the motivations of prosecutors and police in coming into their community. It took almost two years before trust could be established and productive work begun—and then problem solving “took off.”

We look in greater detail at the relationships we observed between prosecutors and police below (see Context). Understanding processes involved in building partnerships between prosecutors and police, and the community, as well as the nature of these partnerships, is the subject of ongoing research.

#### 4. *Problem Solving to Prevent and Reduce Crime*

With the adoption of a commitment to assist in reducing and preventing crime, problem solving has become *the* new tactic used by prosecutors. COMBAT staff in the Jackson County Prosecutor’s Office explain why: “Crime reduction is ultimately an exercise in problem solving. The central question is whether the problem is defined as ‘the case’ or ‘the causes.’”<sup>38</sup>

##### a. Developing the Capacity and Implementing Problem Solving

Prosecutors are developing a capacity for problem solving to prevent and reduce crime, and increase public safety, in many corners, and through many operations, of their offices. In the special units we have described, staff not only prosecute cases but also join in community-based efforts and programs. Increasing numbers of non-lawyer staff (victim witness advocates, health professionals, social workers, and police) bring additional skills and perspectives that enhance problem solving. Community prosecutors who persist in their jobs, by necessity have to hone their problem-solving skills. Through hiring programs that emphasize different skills for new attorneys, educational opportunities offered as in-service training, and by sending prosecutors out to observe and train at other locations, the prosecutor’s office can increase the resources that can be brought to bear in problem solving.

We treat problem solving as a tactic here, but in fact, when applied by prosecutors, problem solving incorporates every tactic in the prosecution tool kit, in a wide-ranging approach. Most problem-solving efforts that we have seen make use of case processing together with other tactics, and are carried out through collaboration with other criminal justice agencies and representatives of the community. To summarize, we have found the following elements to be critical to this approach (although we do not see every one present in every problem-solving effort):

- a proactive orientation to crime, emphasizing prevention as well as enforcement;
- attention to quality of life issues, both as an end in itself and as a means of reducing crime generally;
- regular and direct communication between the prosecutor’s office and community residents, with the explicit purpose for prosecutors of setting priorities in prosecution that reflect citizen concerns;
- creation of a partnership involving police, prosecutors, other elected officials, community organizations, local businesses, schools, churches, and residents to develop strategies, identify and obtain resources, and assume joint responsibility for public safety;
- flexibility in law enforcement methods, incorporating civil sanctions such as forfeiture and nuisance abatement;

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<sup>38</sup> Jackson County Prosecutor’s Office, *Strategies to Enhance Law Enforcement and Prosecution Coordination: A Concept Paper* by Jackson County, Missouri. 1997.

- bringing into courtroom proceedings a clear statement of the community's interests (such as through impact statements and declarations of residents);
- according greater attention to the needs and desires of victims during the prosecution of cases and less attention to simply "winning a case"; and
- blending a "tough on crime" approach in the prosecution of habitual offenders and cases involving violent crimes with a willingness to use diversion, treatment, and community service in other cases where offenders might be rehabilitated and the community ultimately better off (see also Stevens 1994).

#### b. Examples of Problem-Solving Initiatives

Several types of problem-solving activities are currently being led by prosecutors: special programs or projects created to address a particular crime problem city-wide; special programs that target crime and public safety conditions generally, in one neighborhood; and ongoing problem solving in community prosecution units and other special units in prosecutors' offices. Prosecutors also participate in efforts that are led by police, mayors, and other officials.

Many of the programs described above represent the outcome of problem-solving efforts by prosecutors. For example, District Attorney Ronald Earle was motivated to establish a Children's Advocacy Center after the death of a young child in Austin. The entire process took many months, and involved representatives of all criminal justice agencies, as well as private citizens. Neighborhood Conference Committees grew out of the frustration of citizens in Austin over the amount of juvenile crime they were seeing, and their inability to do anything about it even in their own neighborhood. Problem solving is ongoing in community prosecution units such as the Street Level Advocates in Indianapolis, and Boston's Safe Neighborhood Initiatives. We describe here two recent problem-solving projects that we have observed, and one example of how a prosecutor identified a problem that would lead to more formal problem solving.

**Kansas City: Targeting Crime in a Neighborhood – the Paseo Corridor Drug and Crime-Free Community Partnership.** In June of 1998, a U.S. Department of Housing and Urban Development Best Practice award in the category of neighborhood transformation went to COMBAT for the Paseo Corridor Project. Formed in February 1997 under the leadership of the County Prosecutor, the partnership represented more than sixty property owners, community and neighborhood organizations, local, state, and federal officials (including the Mayor's Office, City Council and City Departments, City, state and federal prosecutors, KCPD, and HUD, the FBI, DEA, and ATF), and resident groups. Its goal was to clean up a fifteen-block area of Kansas City—once a beautiful boulevard, but more recently one of the worst crime areas in the City. The area has a concentration of assisted housing, with extensive drug and criminal activity. Although Kristen Rosselli, Director of Planning for COMBAT in the County Prosecutor's Office, organized the partnership and coordinated its work (also participating were the head of the DART team from the Office, and a neighborhood prosecutor—see below, 1998 Updates), six committees were established to carry out particular functions: partnership agreement/monitoring, lease/rules and regulations, law enforcement, faith initiative, resident empowerment, and economic development. In a signed agreement, participants established a mission, which was to improve the quality of life for residents, business owners, and employees in the Corridor, and a coordinated three-phase strategy. Phase 1 would focus on attaining safety, security and economic stability; Phase 2 on lifestyle enrichment and self-sufficiency; and Phase 3 on community development through economic empowerment.

After the first year, the crime rate in the Corridor had been reduced by 50 percent, and residents reported that they felt safer. A uniform lease agreement, rules, and regulations had been adopted by all multifamily properties. A nearby Weed and Seed area was expanded to include the

Corridor, and over twenty-five abandoned buildings, sites of drug activity, had been demolished. A neighborhood liquor store began carrying more groceries and changed its name to a market. KCPD were denying signature bonds for incidents in the area, and the courts agreed to stiffer conditions of probation for prostitution-related crimes. Property owners and managers helped to change the Missouri Landlord/Tenant law to expedite evictions for drug-related crimes in rental housing, and a landlord training program was set up to teach landlords and property owners ways of reducing drug and criminal activity in rental housing. Finally, according to Rosselli, "lines have blurred between public housing residents, those living in privately-owned Section 8 housing, and other inhabitants of this area. Residents have begun looking at each other as neighbors and community partners."

**Indianapolis: A Citywide Problem - Safe Parks Initiative.** In June 1996, Prosecutor Newman, along with Mayor Steve Goldsmith, announced the Safe Parks Partnership, a program to curb criminal activity, especially drug dealing, public indecency, vandalism, and prostitution (mostly misdemeanors), in City parks in order to make them a "safe haven for kids and families." Newman led the planning for the project, which took place over the course of several months, and included the involvement of Street Level Advocates and Municipal prosecutors from his office, Indianapolis Park Rangers, the Police Department, the Marion County Sheriff's Department, Indianapolis Greenways, the Corporation Counsel, and the Public Defender's Office. Once in operation, neighborhood groups and volunteers would also become involved. The law enforcement components of the initiative would be carried out through IPD and Ranger bike patrols, undercover operations in secluded park areas, and occasional curfew sweeps for late-night violence and gang activity. The Prosecutor's Office devised special plea policies for dealing with offenders: no pre-trial diversion would be offered for offenses committed on park property, mandatory community work service for acts of vandalism, graffiti and criminal mischief would be performed in the parks, offenders convicted would be banned from all parks for one year, and enhanced penalties applied for drug dealers and drug offenses. Cases involving public intoxication were to be filed. Plans were also made for citizen volunteers to be trained, and then under the supervision of Park Rangers, to begin patrolling nature trails with two-way radios, looking for violators. It was hoped that additional efforts would be taken by neighbors of the parks to increase their presence, and eventually push out "negative elements."

**Boston: Identifying a Problem - Juveniles in an MBTA Station.** During the spring of 1997, large groups of high school age youth (up to 500 or more) were congregating after school in the Forest Hills MBTA (subway) station, near English High School. Secretaries from the Prosecutor's Office were talking about it—they were alarmed because of the rowdiness, and fights that sometimes broke out in the station, but could not avoid the area because they took the train home from work. The situation seemed more than what MBTA Police could handle, and Boston Police were called in. When Marcy Cass, Director of Community Prosecution and Chief of the District Courts, heard about it, she decided to investigate before taking part in a plan to turn the youth out and arrest offenders. She sent one of the PIPS (Prosecutors in Police Stations) prosecutors she supervised out to take a look—he talked with police, probation officials, street workers, and some of the kids themselves, and stumbled onto a surprising explanation. Kids were gathering in the "T" station, coming from a number of schools, because it was a safe place: there were too many police around for anyone to risk taking a weapon in, and so any fights that broke out would be "clean." A new project was born—the Forest Hills Safety Project—bringing together city and municipal police, prosecutors, street workers, probation officers, and school principals and police. Prosecutors began working on a committee formed to search for solutions: the goal would be to devise a plan—short of arresting and prosecuting the juveniles—for addressing the problem of how to provide a safe environment for the youth, while reclaiming the station for T passengers who had become afraid to use it.

### 5. *Managing the Message*

Prosecutors fully recognize that the public must understand the shift occurring in their mission and tactics, not only in order to gain legitimacy for them, but also to facilitate community acceptance of a new role as partner and participant in crime control and ensuring public safety. The need to communicate with the community arises, then, not only during a campaign for re-election, when the mission is up for validation; rather, “managing the message” becomes an important tactic, or tool, for the prosecutor in attempting to build relationships and partnerships with the community, and carry out programs. Furthermore, the “echo effect” is felt within the organization as well, reinforcing the prosecutor’s attempt to shape a new culture in the prosecutor’s office. Professionally trained media specialists come to play a significant and influential role both within the organization, and in shaping the relationship between the prosecutor and the prosecutor’s office, and the community, public and private groups, and other justice agencies in the environment. We recognize that the prosecutor’s use of the media could also be considered as part of the context for prosecution, and is directly related to the source of authority; since we also view it as a tactic, we discuss it here.

All the study prosecutors were vitally concerned with “managing the message.” Both County Prosecutor McCaskill and District Attorney Martin maintain non-lawyer media positions in their offices; Prosecutor Scott Newman added a media specialist during the course of the study. District Attorney Ralph Martin relies on three non-lawyer staff members in his office for many of the same communications with the media. A press secretary handles press calls, day-to-day briefings and communications regarding ongoing cases and arraignments (although the First Assistant, Chief Trial Counsel, and District Attorney all receive and respond directly to some calls), and prepares occasional articles for local papers. The current Director of External Affairs (formerly press secretary for the District Attorney’s Office) serves as a policy advisor to Martin, with special responsibility for new developments in prosecution, writing proposals and managing grants (such as the Chelsea SNI), legislative liaison with the State House, assisting in planning and carrying out various programs and events sponsored by the Office and held in the community, and facilitating media coverage of Office programs and activities not only locally, but on a national scope. In addition, a Director of Community Relations, who has a background in human services and criminal justice, develops and oversees a broad range of outreach programs and activities (the summer DARE program, the Boston Coalition on Children, Youth and Families, and the Franklin Hill Comprehensive Gang Initiative), many of which are aimed at educating the public—teaching citizens about the basic operations and services offered by the DA’s Office, and advising them on how they can have greater access and input. A lifelong resident of the City, she has also facilitated collaboration between the Office and professional and business organizations. When Martin first took office, she arranged for him to speak personally to every neighborhood association and crime watch group in the City. Martin himself writes a monthly column, “From the Desk of...” that appears in smaller neighborhood papers, reaching neighborhoods throughout the area.

McCaskill has probably moved further than the other prosecutors in our study in treating communication with the media as a continuing part of operations:

When I meet with CEOs and I say to them, how would all of you feel about your job if the only way your board of directors knew how you were doing was what they read in the newspaper? Well, that’s a startling concept to them that your job performance is always filtered by the media. The only way the people we work for know how we’re doing is how we’re portrayed in the media. So why should we be reactive to that? Why should we be any more reactive to the media than we are to the problems? If we’re going to be proactive about the problems, then it seems to me we need to aggressively manage the public education. And that

means, I think, being a lot more street smart and pragmatic about the media. And so I have two full-time people in my office that do nothing but manage the message, manage the public education of what we're doing. It's not smoke and mirrors. I want the media to come in and look closer because we're doing lots of substantive things. But we've got to trick them in because if it doesn't bleed, it doesn't lead.

So, I hired a journalist...not a lawyer. His job is to aggressively help the media get the information they want about crime. Boy do they want it! They love Glenn. Their job is so much easier now because Glenn is there every day faxing them probable causes...getting them the dockets. Glenn is doing a lot of their leg work for them for anything that's a public record. So, it's saving them a lot of time.... The flip side is, when Glenn calls an assignment editor and says, you know, we're doing a big event in the neighborhood about our dumping problem. It's very hard for those assignment editors to say, "Gee, Glenn, we're too busy today...covering something that bleeds." [T]hey know they need the information out of our office for the day-to-day running of the news. So therefore, they're much more accommodating when we're wanting to get something out in the community about a positive program we're doing.... I think it is, in many ways, responsible for the turnaround in the perception of the drug tax...because we were able to publicly educate people about what their money was paying for and that it ...was working....

The other person in my office is a proactive person who does nothing but try to figure out ways to involve the community in as high a profile way as we can with some of the work we're trying to do. Example, she prevailed upon the [Kansas City] Royals...to do a COMBAT night at the baseball stadium. So we have a whole night at one of the Royals games where the COMBAT logo is displayed...kids in our prevention program get to go around the field before the game and somebody gets to throw out the first pitch....She got a radio station to adopt a drug house and ...[do] a remote from a drug house, where they prevailed on listeners to call in and donate money to fix up the drug house. So as you drove to work you were listening to this rock station say, "we need somebody to buy a toilet. Now call in! We need \$75...for the drug house we are re-doing....[A]n informational line you can call twenty-four hours a day to get information about what's the latest drug that's being used. Where is treatment available in your neighborhood? Where are prevention activities for your child? How do you recognize if your child is doing drugs? I stole her from Hallmark...she was in marketing (WG 1, April 19, 1996).

McCaskill also went to a large advertising agency in Kansas City to develop a new logo for the Anti-Drug Sales Tax: "...I said to him, I need help. Here's what we're doing in this program. It's wonderful. It's working. But nobody understands what we're doing. Nobody knows about it." Not only did the agency head give McCaskill a new logo—COMBAT (Community Backed Anti-Drug Tax, with the symbol of a strong arm)—he helped to develop an eighteen-month plan for "selling" it in the community (WG 1, April 19, 1996).

Senior staff in McCaskill's office are fully supportive of her approach. Jim Nunnally, Director of the COMBAT Administration Division, points out that:

When they [the press] see so much proactive [activity] going on, then when you do make a mistake in the prosecutorial side, they're not as apt to be so critical because they know that there is a balance. And there is always something before them, in a kind of balanced menu of proactivity: we're trying not only to prevent crime itself, but to work on what could turn bad. So when you walk through the hall here, [they ask] "what are you doing?" We can say, "we're working on truancy, domestic violence, landlord training, fathering programs, treatment, employment education." All of these things are going on, and they're never at a low-grade level, they're always at a high, sophisticated, inter-governmental approach, and they produce results. We get results both from prosecuting, and from these proactive types of activities. So if the press want to do a lot of stories on that, they have a lot of stories to choose from. But they can always link them to how we've handled something that's bad, a serial killer or whatever, and this comes together in a way that is planned and strategic.<sup>39</sup>

Pat Glorioso, another top COMBAT Administration staff member, adds that continuously talking with the press and maintaining a presence in the press "demystifies the criminal justice system...people don't trust what they don't understand, [and] most average citizens don't comprehend what goes on in criminal justice.... When it's constantly in the news, and you're constantly communicating, then people understand the ups and downs."<sup>40</sup>

Some prosecutors at our Working Group meetings expressed concern over whether the public would disapprove of the use of tax dollars for hiring media specialists to "manage the message" to the public, seeing it as a self-serving political move by prosecutors. McCaskill, however, thinks it was the right thing to do:

I don't feel guilty about it...we're very proud of it.... I think it is making sure that my bosses know what we're up to and that the perception begins to match the reality. Because the perception in Kansas City a couple of years ago was that crime was the number one problem, based on a survey that was done by the newspaper...by sixty-eight percent of the people surveyed. But when asked "Do you feel safe in your own neighborhood?" eighty-two percent of the people said they did; that is the perception versus reality. And I want to get everybody over to the reality and away from the perception that we've got Uzis on every corner and it's an unsafe place to live and work and raise your kids (WG 1, April 19, 1996).

District Attorney Ronald Earle agrees, though he has not used media specialists extensively: "We've talked about pandering to the ignorance of the public or lack of knowledge.... We have to remove that incentive to pander. And the only way to do that, it seems to me, is to educate the public" (WG 1, April 19, 1996). To carry out this education process, Earle has taken a different route: establishing and then working through the numerous councils that carry out criminal justice planning in Travis County. In conjunction with the Community Justice Council (on which elected officials sit), and the Neighborhood Protection Action Committee (comprised of citizen representatives), Earle has been able to conduct public forums in neighborhoods around the area, and to sponsor education programs that have been filmed (along with the forums) for showing on county access television. These forums were held to "educate" citizens about the ideas underlying the proposed building of a Community Justice Center to house local offenders in the community; when the State Legislature designated Austin as the site for a pilot project for such a Center, more

<sup>39</sup> Coles, personal communication, 3/18/97.

<sup>40</sup> Coles, personal communication, 3/18/97.

forums were held to discuss where it should be located. Earle describes the education process: “[O]nce you start talking about...the idea of using crime as an opportunity for intervention in the life of the offender and in the life of the community...then people say...‘that makes sense.’ And you start talking about the idea of how foolish it is to send people two hundred miles away and expect they’ll come back fixed. They figure it out” (WG 1, April 19, 1996).

The results have been not only to educate the public, but to affect public policy, according to Earle: “The idea of community corrections is a great threat to the entire prison establishment. This is statewide. But what has happened in Austin is that the effect of the council process has been to mobilize the community. It’s given the community a greater level of sophistication, of understanding of what the real issues are in law enforcement and in criminal justice. It has impacted policy makers...” (WG 1, April 19, 1996).

Prosecutor Scott Newman is thinking ahead, about new ways of communicating and interacting with the public, using the flow of information to bring them closer to the Prosecutor’s Office and its work:

I think there are a lot more things to do. Developing and using data with the community is one in particular.... I’d like to see citizens be able to have and download photographs of people who have stay away orders in their neighborhood, who are on pre-trial release, who are on bail, to restore some of the neighborhood input in that system of watching folks.

I’d like people to be able to pull up in their neighborhood’s “today’s court calendar,” based on geography: in the Haughville neighborhood, these are the cases in which crimes occurring in Haughville are set. You go to this court, at this time, or that court at that time, if you care to (WG 1, April 19, 1996).

#### E. THE CONTEXT FOR PROSECUTION

The structure of governance and the political culture within which prosecutors operate directly influence their ability to implement a new strategy of prosecution. Other actors—the courts, a strong mayor or city manager, elected City Council members, even a popular police chief—can be obstacles, or assets, to the prosecutor’s course. District Attorney Ralph Martin recognizes what a difference good relationships can make: “One of the things I remember seeing at the first meeting of this group was...Newman [Flanagan], when he was DA [prior to Martin, in Boston], never had the luxury of doing some of the things that I’m trying to do, because the relationship between the DA, the police commissioner and the mayor at that time was very different than...now” (WG 2, May 2, 1997).<sup>41</sup> Coming to grips with this problem led Martin to believe that in Boston, forming strong relationships was the way to make things work: “...if I could

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<sup>41</sup>District Attorney Martin benefited from a far different police department than that which confronted District Attorney Flanagan. During the late 1980s and early 1990s, the BPD was involved in a series of events that ultimately resulted in the creation of the St. Claire Commission — a commission charged with investigating the operations of the BPD. The Commission’s final report was scathing, especially concerning the capacity of the department to innovate or to implement community policing, and the relationships with other agencies that are implicit in community policing. The appointments of William Bratton by Mayor Flynn and, after Bratton left to become New York City’s police commissioner, the appointment of Commissioner Paul Evans by Mayor Thomas Menino gave Martin opportunities for collaboration with the BPD, and the City, that simply did not exist before then.

contrast what our experience has been compared to [District Attorney] Ronnie Earle's experience...Ronnie has been an institution builder. I've tried to be, I think, more of a relationship builder...create good working relationships among the principals in most instances. And then, operationally let people carry out the directive" (WG 2, May 2, 1997).

### *1. Prosecutorial Leadership*

From the experiences of prosecutors in the study sample, and those who joined our working group meetings, we can identify a number of factors that contribute to a prosecutor's ability to develop a community prosecution capacity and implement it within the local context. Joan Jacoby enumerates four that she finds crucial (WG 2, May 2, 1997): the first is a prosecutor's personal leadership qualities, including a commitment to making change. A second factor is sufficient tenure in office, or in a position of influence in the political or governmental environment, for the prosecutor to build up credibility as well as political capital (see above, Bases of Authority). For both District Attorney Ronald Earle (after twenty plus years in office and experience as a legislator and judge), and County Prosecutor Claire McCaskill (experienced as a county and state legislator), the reserve that they possess at this stage has been immensely helpful in getting re-elected. Prosecutor Scott Newman, now running in his first re-election campaign, sees himself as still building this record:

I'm still in the conservative wing of the movement in the sense that I think you have to start with your core competency...in terms of law enforcement strategy, and not raise expectations too early, and not jump in and say "okay, next week I want to start a community prosecution program and I want you to be in the schools and doing community mediation panels." You can't start there. You have to establish your credibility and start demonstrating results with what you know how to do best that is unique to prosecutors, even traditional prosecutors, and build from there. Yes, we've deepened what we do, but I don't think we could have done it successfully by putting together the community court discussion if we'd come to that first [see below, Convergence and Updates].... I don't think I could have just gone in on any given day and said, "I'm the new prosecutor, I'm starting community prosecution. Presiding judge, chief probation officer, people, come around the table, and I want to put a court out in the community." They wouldn't have understood where I was coming from. They understand that better because of the processes we've been through, and the way we've brought them along (Indianapolis Case Study, Update).

A third factor is the prosecutor's ability "to mobilize local government resources to assist in crime avoidance and crime prevention" (Jacoby, WG 2, May 2, 1997). For example, all prosecutors in the study have been able to obtain support from City government for code enforcement and nuisance abatement operations, and assistance as well as in mounting specific programs and projects—the Paseo Corridor Partnership in Kansas City, the Safe Parks Initiative in Indianapolis, the Franklin Hill Anti-Gang Project. Finally, the last element is building partnerships with citizens: "when you get the government in place, when you have the access into the governmental resources, then you need to move out to the citizens in the private sector.... Because you must now bring the citizens and the business and private sector in" (Jacoby, WG 2, May 2, 1997). Each of the prosecutors has reached this stage, with the Safe Neighborhood Initiatives in Boston, numerous task forces and councils (including the Neighborhood Conference Committees) on which citizens serve in Austin, the substantial contributions that private citizens and groups make to COMBAT in Kansas City, and the involvement of Indianapolis's citizens in the Centers of Hope and in working with Street Level Advocates.

These last two elements—the ability to marshal resources and mobilize citizens—are both clearly related to the ability of the prosecutor to form relationships and use them profitably. In fact, data from the four sites suggest that the ability to build relationships and lead coalitions within the community is emerging as an essential, if not the key, component in the ability of a prosecutor to implement a new strategy of prosecution.

a. Building Coalitions: Working Relationships and Community Collaboration

From the perspective of the prosecutor with a new mission, one that includes preventing and reducing crime as well as making 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.

Like Ralph Martin, the other prosecutors in the study have also developed a capacity to convene other actors in the community, and to build and even lead coalitions. Late in 1996, Scott Newman began exploring how heads of criminal justice agencies in Indianapolis could work together more productively. He wrote to presiding judges, officers of the City-County Council, the mayor, sheriff, Chief Probation Officer, and the Public Defender, to propose the creation of a Criminal Justice Coordinating Council to begin a dialogue concerning how criminal justice processes might be more effectively planned, coordinated, and implemented in the county. This group is now meeting informally (Indianapolis Case Study). Claire McCaskill has used her position as head of COMBAT to leverage both formal and informal cooperation from every sector of the community, while Ronald Earle works formally through the system of Community Justice councils and task forces, and informally through his own considerable ties in the community, built up over a lifetime of governmental service.

b. Breaking down Boundaries

Prosecutors in our study report that in attempting to develop collaborations, they have faced intense turf battles, struggled with vested interests in the community, and had to overcome resistance from other agencies (see for example, Prosecutors and the Police, below). Nevertheless, as we look at the relationships between prosecutors' offices and other agencies and groups in our four sites and try to assess how successful prosecutors have been in building coalitions, one feature that emerges is the extent to which boundaries between organizations appear to be breaking down. Jacoby's insight appears correct: "By integrating the efforts of law enforcement, the office of the prosecutor, and the courts with local government agencies, the schools, and the public, prosecutors have made major changes in the role and function of their offices to support the adoption of a common vision by disparate interests" (1995:291).

The demands arising out of these 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, COMBAT, program 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 such as a Day Report Center, it is easy for them to 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 all four sites, collaborative initiatives between 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 work” 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 has been visible in concrete situations arising in the study sites, and they have not all been resolved.

In the following sections we look briefly at prosecutors’ relationships with a few of the other key players in the community—city government, the courts, and other prosecutors—whose involvement in addressing crime and safety can help or hinder the ability of the prosecutor’s office to succeed.

## *2. The Prosecutor and City Government*

City government and city services assume great importance in community prosecution initiatives for a number of reasons. While prosecutors may hear the message from citizens that “misdemeanors matter,” and be willing themselves to step up efforts to prosecute quality of life offenses and to work on problem solving outside of case processing, they are unlikely to make much progress unless city government shares their commitment. When City Attorney Mark Sidran developed Seattle’s new “lounging” ordinance (in 1993) to address problems associated with people congregating along buildings in the downtown area, interfering with pedestrian use of sidewalks, entry to businesses, and citizens’ ability to shop, he needed strong support from Mayor Norman Rice and the city council (Kelling and Coles 1996:216-17). Similarly, when Prosecutor Scott Newman worked on the Safe Parks Initiative in Indianapolis, he lined up sights with Mayor Steve Goldsmith, the Corporation Counsel (see above, Tactics, Examples of Problem-Solving Initiatives), and several city agencies. Apart from working with police, who are subject to city control, prosecutors may need assistance from the city in facilitating their work with citizens in neighborhoods; they will no doubt ask for cooperation from city departments—code enforcers, school officials, zoning and licensing boards. And they will look to city resources—for funding of initiatives, for assistance in going after grants from other sources. In short, where county prosecutors and district attorneys at an earlier time may have had little interest in or reason to seek a closer relationship with city hall, prosecutors who engage in a community prosecution strategy today look to city officials as important partners.

We heard two stories from county prosecutors and district attorneys about working with city government: first, where interests were shared and relationships between a local district attorney or county prosecutor were especially strong, as in Boston between District Attorney Ralph Martin and Mayor Tom Menino, the result was productive collaboration that significantly enhanced the efforts of prosecutors. Representatives of the Mayor’s Office attend Safe Neighborhood Initiative meetings regularly in Boston, and deliver everything from “school zone” signs that the SNI wants posted to warn drug dealers away from schools, to organizing community forums to address particular crime issues. Even line prosecutors in the SNI know who to call in city government, and can depend upon getting a response.

Second (and not necessarily in the absence of the first), where city service delivery has broken down, prosecutors find themselves increasingly responsible for being “watchdogs” whose role is

to prod, poke, and try by whatever means possible to push agencies into “doing their jobs.” Given our small sample, whatever detailed examples we could provide would reveal confidences that we wish to protect. Nevertheless, we can say that this message is not one that we heard infrequently, or in only one site. Prosecutors working in local neighborhoods report that they—like police—are increasingly taking on the role of advocate on behalf of citizens in trying to obtain basic services—everything from rubbish collection to street lighting, from health and safety code enforcement to maintaining schools. In frustration, they ask the question, “why should *we* be doing this?” and answer it by saying, “because no one else is.”

### 3. *Prosecutors and the Courts*

Prosecutors and police alike, in all four sites we studied, reported that the courts presented the biggest challenge to moving ahead with community prosecution. At the same time, at each site prosecutors praised the efforts of numerous individual judges for their responsiveness and willingness to work with other justice agencies in the local community to improve the coordination among agencies, and even to address broader issues of public safety. From the four to six judges we interviewed at each site (in both municipal and felony courts), we received a wide range of responses concerning the extent of their awareness of, and support for, community prosecution initiatives.

Looking across the sites, two aspects of the courts appear to have a significant impact on the ability of prosecutors to move into a community prosecution strategy: first, the organization and operations of the courts; and second, the attitude of the courts toward several of the basic elements of a community prosecution strategy—in particular the importance of low-level crimes (misdemeanors and quality of life offenses), the value of intermediate sanctions such as drug courts and other diversion programs, and participation by the bench in community-based collaboratives.

#### a. Court Organization and Operations: Implications for Community Prosecution

To a large degree, the organization and operations of the courts influence the current structure of prosecutors’ offices, and act as a conservative force against prosecutors changing to a more decentralized, geographically-oriented mode of operating. The general pattern we observed is one in which felony cases are assigned to judges and courtrooms on a random basis: within prosecutors’ offices, teams of assistant district attorneys or deputy prosecutors are then linked with particular courtrooms.

Austin is a case in point: once cases are indicted, they are forwarded to the Travis County District Court Administrator for random assignment to one of four district courts. In the District Attorney’s Office Trial Division, one trial team works in each of the four felony district courts. Each team is staffed by a trial team leader and three other attorneys, a secretary, and a commissioned investigator; team attorneys review newly indicted and docketed cases, develop plea recommendations and offers, and then prosecute cases. Although cases involving possession of small amounts of felony controlled substances may be diverted to the county’s Drug Diversion Court, SHORT (System of Healthy Options for Release and Treatment), the majority of indicted felony cases are prosecuted through the Trial Division in this manner (Austin Case Study). In Indianapolis and Kansas City a similar system is followed, although Indianapolis’s misdemeanor courts are organized around police districts, with cases assigned to a court based upon the district of the law enforcement officers involved. (Indianapolis Case Study, Kansas Case Study).<sup>42</sup>

<sup>42</sup> In Indianapolis, on January 1, 1996, a unified court system was implemented by merging municipal courts (which heard criminal misdemeanors, D felonies—the least serious—and traffic cases, as well as civil cases) and superior courts (which heard A, B, and C felony cases, and civil cases) into a single system

Although there is an increasing attempt in all offices to implement vertical prosecution, where this process is in place—especially in special units, where domestic violence, sex crimes, gangs, drugs, and public integrity cases are handled—cases are generally not prosecuted with reference to a particular neighborhood or area.

The most significant implication of this form of organization and processing of cases by the courts is that prosecutors find it difficult, if not impossible, to orient their own operations by geographical area—a central tenet of community prosecution. Among our four sites, only Boston's district and superior courts are organized systematically to handle cases by geographical area.<sup>43</sup> Here, district courts (originally police courts) are dispersed in various locations throughout the city, in the neighborhoods of Brighton, Charlestown, Chelsea, Dorchester, East Boston, Roxbury, South Boston, and West Roxbury; Boston Municipal Court (BMC) is located in the downtown courthouse. Cases (generally misdemeanors and ordinance violations) are heard in the court for the district within which the offense was allegedly committed (or is otherwise punishable): each court is served by a team of assistant district attorneys assigned there. Similarly at the Superior Court level, four Trial Teams from the District Attorney's Office, each assigned felony cases corresponding to geographical areas from which the cases emanate, work in all six sessions in the County Courthouse.<sup>44</sup>

This overall orientation around geographical area, from the misdemeanor/district court level through the Superior Court level, provides a structure that is largely compatible with community prosecution as it has developed in Boston, particularly within the Safe Neighborhood Initiatives. It affords prosecutors an opportunity to gain an overall view of crime and safety problems, and knowledge about offenders and crime patterns, within a particular neighborhood. Even special

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of thirty-one superior courts. Under the new system, six "felony" superior courts hear A, B, and C, felonies, with cases assigned to the judges in each court on a random basis following screening by the prosecutor's office. An additional court hears only major felony (dealing) narcotics cases; and another functions as an expedited felony court. Superior courts previously designated as "Municipal" are organized as follows: four courts are assigned to handle misdemeanors, one per police (Indianapolis Police Department) district, based upon the assignment of the law enforcement officers involved; three courts handle D felony cases county-wide; one court handles all misdemeanor initial hearings; one court handles misdemeanors and D felony cases from Speedway and Indiana State Police; one court handles all traffic and ordinance violations; two courts hear all domestic violence misdemeanor and D felony cases, and (civil) domestic protective orders. A Juvenile Court, one of the Superior Courts, has jurisdiction over most crimes committed by juveniles up to the age of eighteen (to the age of sixteen for murder, robbery as an A or B felony, rape, kidnapping, or possession of a sawed off shotgun and some handgun offenses), including status offenses of runaway, truancy and alcohol possession. The Court has concurrent jurisdiction with the Criminal Court in cases involving adults charged with neglect, contributing to the delinquency of a minor, and violating the compulsory school attendance law (See *Indiana Code* 31-6-2-1.1 (January 1, 1996)).

<sup>43</sup> The Commonwealth of Massachusetts has a three-tiered court structure: at the trial court level, the district courts and municipal court of the City of Boston have original jurisdiction (concurrent with the superior court) over all violations of ordinances, misdemeanors (except libels), and felonies punishable by imprisonment in the state prison for not more than five years. In Suffolk County, for the most part, misdemeanors are handled in the district courts while felonies are disposed of in the superior courts. Most trials in district court are "bench trials" conducted by a judge; jury trials (with juries of six) are available in the Jury Session at Roxbury, Dorchester, Chelsea, West Roxbury, and the Boston Municipal Court. Juveniles are arraigned in special sessions at each of the district courts; jury trials are held in the Boston Juvenile Court located in the Suffolk County Courthouse downtown. However, this system is currently being replaced by centralizing the entire Juvenile Court system.

<sup>44</sup> There are four trial teams: one covers Dorchester and South Boston; a second handles cases from the BMC, East Boston and Chelsea; a third from Roxbury and Brighton; and a fourth for West Roxbury and Charlestown.

units are orienting their work increasingly toward the neighborhood-based district courts (see Tactics, above). Other prosecutors' offices are struggling with the dilemma arising out of the lack of fit between court structures and processes, and their own desires to address crime, and public safety issues, from a neighborhood orientation.

b. Court Responses to Elements of Community Prosecution

Prosecutors committed to a course in which they adopt citizens' priorities for addressing crime problems in local neighborhoods report their difficulty in convincing some judges that low-level "quality of life" crimes such as prostitution, drug use, public drinking, graffiti, intimidation of elderly citizens by rowdy youths, and loud music, need to be taken seriously—and that punishments beyond "court costs" need to be imposed (Kelling and Coles 1994). Prosecutors also find that the more judges hear this message from citizens themselves—through community impact statements, or by meeting with groups of citizens from a local neighborhood—the more they understand that communities are being harmed by these offenses, and that citizens want offenders to be held accountable. But many judges do not have this contact with citizens. Many are unfamiliar as well with the ideas circulating in criminal justice research that link reductions in misdemeanor and felony crime rates.

Perhaps the overriding factor influencing criminal court operations in Jackson County (Missouri) is the fact that the county is under a federal court order to expand its jail facilities or reduce the number of those held. Although expansion and construction plans are underway, limitations on the number of beds available and rising numbers of inmates (especially as a result of the seven "deadly sins" law mandating that 85 percent of time must be served for serious felonies) caused the presiding judge to create a release docket held on Thursday afternoons at the county jail in Kansas City. Acutely aware of the overcrowding situation, circuit court judges feel particularly constrained at not being able to use "shock time" sentences; and in Independence (a more rural/suburban setting, as opposed to Kansas City), judges are bothered because defendants whose offenses are deemed worthy of jail time in the Eastern Jackson County setting, many of whom are repeat offenders, are often the first to be set free. Many prosecutors share these sentiments.

The result, therefore, is that in cities where crime rates for violent crimes against the person have not dropped, such as Indianapolis, and where jail space is at a premium, such as Kansas City, the message that "misdemeanors matter" is one that does not engender much support from judges.

What is more hopeful, however, is the apparent willingness by courts to consider, and in some sites to take the initiative in introducing, intermediate sanctions, and seeking more treatment alternatives. All sites that we studied, except Indianapolis, were operating a diversion drug court (that offered counseling, substance abuse treatment, and other services) by 1996 (Austin Case Study, Kansas City Case Study, Boston Case Study). Even where prosecutors were responsible for generating the idea and the original funds, by all accounts judges became some of the staunchest supporters. In addition to drug courts, we also found judges such as East Boston District Court's Chief Judge Domenic Russo, who set his own "conditions of probation:" HIV education for all street prostitutes; and curfews for juveniles, lasting from 7:00 p.m. to 7:00 a.m., that could be terminated if a juvenile achieved honor roll status in school. Judge Russo also began publishing alphabetical listings of offenders with outstanding warrants in the local newspaper—with an offer from the court to offenders to turn themselves in with special consideration: the numbers of those taking advantage of the offer started out small, with only two or three each week, but are continuing to rise. Community service is an increasingly frequent component of sentences handed down in many misdemeanor courts.

A more controversial issue among judges has been whether they should participate in community-based collaboratives. Many have questioned whether meeting with citizens and prosecutors, and learning more about issues of importance to local citizens in neighborhoods from which cases emanated, would impair their image as neutral and objective adjudicators and their ability to ensure due process in the courtroom (see Packer 1968; Misner 1996:761-63). At the same time, prosecutors, police, and citizens, have argued that judges must be brought into local initiatives in order to educate themselves about crime and safety conditions, the concerns of citizens, and the philosophy driving community-based movements.

In Kansas City, Municipal Court judges heard many of the cases arising in connection with the Paseo Corridor Partnership project and other similar initiatives—yet it was only when presiding judge John Williams was asked to attend meetings and was informed about the goals of the project that he was able to bring the cooperation of the court to helping the project succeed. Since then, Judge Williams has been invited to participate in other planning initiatives involving the prosecutor's office. One of his most important contributions has been to inform other judges about the initiatives.

Nevertheless, in Boston recently the Safe Neighborhood Initiatives received a setback in their efforts to bring judges into their operations—which had been successful with only a few district court judges. In opinions handed down by the Committee on Judicial Ethics of the Massachusetts Supreme Judicial Court, the Court concluded that a judge was prohibited from accepting an invitation from the SNI in his area to participate in a tour of the designated area of the City, since it “would call the impartiality of the judge into question and would have the potential to convey the impression that members of the group had a special position of influence with the judges” (97-8). A judge was also precluded from participating in SNI Steering Committee meetings since s/he “would be exposed to the concerns of those aligned with prosecution in criminal cases” and not equally to those of the defense bar (98-9). Those few judges who have been in the Safe Neighborhood Initiatives are now considering what their next steps should be. Citizens and prosecutors on SNI councils are continuing to inform judges about issues they are working on—with the predominant problem in 1997 being domestic violence.

Summarizing then, the responses of courts to current moves in community prosecution will be an important factor in how far and how fast prosecutors can proceed. In spite of the increasing criticism that courts are receiving from citizens and other agencies, there is not a clear indication that courts are mobilizing to address what their role—might, or should, be.

#### *4. District Attorneys/County Prosecutors and Other Prosecutors*

At this point, the development of community prosecution as a new prosecution strategy is limited primarily to district attorneys and county prosecutors. Nevertheless, state attorneys general, U.S. Attorneys, as well as city and county attorneys have participated in local collaborative problem-solving initiatives that are associated with the new strategy, and each office possesses discrete attributes through which it could make greater contributions to the overall goals of community prosecution. We think it is premature to say whether the strategy as a whole might eventually develop in a form that could be adopted by U.S. Attorneys; however, certain functions performed by city attorneys place them squarely in the trajectory of community prosecution as it is developing.

##### a. The State Attorney General

We did not systematically study or collect data on state attorneys general. Nevertheless, in at least two sites—Boston and Indianapolis—the attorney general himself either had previously been or was currently an active participant in community-based prosecution efforts. In

Indianapolis, as Marion County Prosecutor, Jeff Modisett introduced the street level advocacy program during his term in office from 1990-94. In 1996, Modisett was elected attorney general of Indiana, and expressed interest in exploring how he might continue to further community prosecution efforts in the state.

In Boston, Attorney General Scott Harshbarger created the first Safe Neighborhood Initiative (in Dorchester); throughout the course of our study, he continued to expand his support of the program by assigning assistant attorneys general from his office to work alongside assistant district attorneys in several SNIs, and by starting a number of new SNIs around the Boston metropolitan area. In Boston, the Attorney General's Office served as the grantee for Weed and Seed funds that supported the Grove Hall SNI, and also provided primary prosecution support for the Dorchester SNI. Campaigning for governor during 1998, Harshbarger voiced the hope that SNIs could be expanded throughout the state. Attorney General Harshbarger's other initiatives took his office into the realm of prevention, in areas such as youth violence (Harshbarger et al. 1997). Prosecutors from the Attorney General's Office also participated in the Boston Gun Project and Operation Ceasefire. We believe that the Attorney General's role in sharing resources, supporting community-based initiatives, and leading crime prevention efforts in Boston lends support to the view that state attorneys general could become valuable partners of local district attorneys and county prosecutors in other locations.

b. The U.S. Attorney

Several attributes of federal prosecutors would seem to preclude their working in areas that are emphasized in community prosecution: since U.S. attorneys prosecute under federal law, defendants are likely to have reached a more advanced stage in their criminal careers; there is likely to be little contact with "quality of life" or public disorder offenses, or street crimes (such as prostitution, or low-level drug dealing cases); and federal prosecutors can prosecute minors only in limited situations—for some violent crimes or drug-related offenses. Yet federal prosecutors from U.S. Attorney's Offices in the study sites contributed to the efforts of district and county attorney offices in two ways: first, by assisting in selected prosecutions, particularly those of violent and/or career offenders; and second, through participation in collaborative problem-solving initiatives.<sup>45</sup>

Where state prosecutors want assistance in going after chronic or violent offenders, federal prosecutors can help: under federal law, pretrial detention is available, and the punitive capacity is enhanced—many federal sentences exceed state sentences, are mandatory, and parole is rare for many violent crimes. When offenders are sent to prison, they are likely to be sent far outside the state, away from friends and potential visitors. Federal prosecutors brought these "assets" to Boston's Operation Ceasefire, the collaborative effort undertaken to deal with juvenile gang violence. Assistant U.S. Attorney Ted Heinrich, assigned to work with the group of police, district attorneys, street workers, and other representatives of law enforcement agencies, told gang members in a "forum:"

"This kind of street crime used to be a local matter; not any more.... Right now, the youth violence in Boston is happening in your neighborhood. Which means that the United States Department of Justice cares about you. We can bring in the DEA; we can bring in the FBI; we can bring in the ATF; we can prosecute you federally, which means you go to Lompoc, not stateside, and there's no parole in the federal system any more: you serve your term. We don't want to

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<sup>45</sup> Many of these are discussed in Feigin 1998.

do that, and we won't if we don't have to, but it's violence that will get that kind of attention."<sup>46</sup>

Reducing gang-associated violence with the help of federal prosecutors, achieved in part by prosecuting gang members such as Freddie Cardoza (sentenced to nineteen years under the armed career criminal statute for possession of two bullets), was an important step in the overall effort to reclaim portions of Roxbury and Dorchester neighborhoods for citizens—and an important complement to the Grove Hall and Dorchester Safe Neighborhood Initiative agendas.

Federal prosecutors also have expertise in the areas of civil forfeiture (useful for seizing buildings used for drug dealing), and organized crime, which can be turned to the prosecution of gangs. In Indianapolis, a deputy prosecutor from the County Prosecutor's Office who serves as legal advisor to the Metro Gang Task Force has been cross-designated as an AUSA, so that he can prosecute cases generated by the Task Force in both state felony courts and federal courts. The Task Force is part of a Regional Gang Intervention Program, a collaborative effort drawing together prosecutors, including assistant U.S. Attorneys (AUSAs), policing agencies, and federal agencies in central Indiana, with the goal of suppressing, intervening in, and preventing criminal gang activity.

In all sites we studied, U.S. Attorneys were able to bring federal investigative agencies—such as the FBI, DEA, and BATF—into local operations. For example, in Kansas City, AUSAs assisted the DART (Drug Abatement Response Team) unit in the Prosecutor's Office, particularly in targeting meth-amphetamine activity in the county (where rates are among the highest in the country). County Prosecutor Claire McCaskill has been the clear leader in addressing the meth-amphetamine problem locally—during the study, she attempted to convene a state-wide symposium to educate officials and the public about problems posed by the production and sale of the drug, and to encourage collaborative planning and policy-making. But cooperation from federal agencies, especially the Drug Enforcement Administration and Environmental Protection Agency, has been crucial, particularly since toxic waste clean-ups pose serious hazards to health and safety, and local and state officials have not been adequately trained or equipped to carry out basic procedures (see Kansas City Case Study).

Finally, federal funding that is available for Weed and Seed operations, community policing, and community-oriented local projects may be obtained with the assistance of federal prosecutors. Weed and Seed funding has provided partial support for the Grove Hall Safe Neighborhood Initiative in Boston, and for a Street Level Advocacy position in Indianapolis. In Boston, after assigning assistant U.S. Attorneys to work with Operation Ceasefire, the U.S. Attorney later helped put together a package of job opportunities funded in part by a Department of Labor grant for youth who were trying to move away from a criminal lifestyle.

Perhaps more than any other site, the U.S. Attorney's Office in Boston, headed by Donald Stern, is seriously exploring ways in which federal prosecutors might assist the local community by becoming more involved in community prosecution. But this trend appears to be increasing in other locations. Recently, the head of the County Prosecutor's Street Level Advocacy Unit in Indianapolis moved to the U.S. Attorney's Office, to lead a new program funded by the Department of Justice. Her role will include addressing specific crime problems, as well as exploring how the U.S. Attorney's Office can be integrated into local strategies.

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<sup>46</sup> Ted Heinrich, Remarks at the Ceasefire Forum at Dorchester Courthouse, Boston (May 15, 1996), quoted in Kennedy 1997:467.

c. The City Attorney/Corporation Counsel

Although city attorneys and corporation counsel were not the primary focus in this study, they will be an important part of a more comprehensive effort to explore the development of community and problem-oriented prosecution. As Seattle (Washington) City Attorney Mark Sidran, who participated in our Working Group Meetings, points out,

In lots of big...and small cities around the United States, control over important elements of what will become either problem-solving prosecution, or community prosecution, is in the context of some kind of misdemeanor order maintenance strategies, some kind of nuisance abatement, civil remedy strategy. And those things are quite often not going to be under the control of the county prosecutor, or the district attorney...

...a great area of practice, in terms of community problem solving, will not fall to the county prosecutors and DAs in this country. It'll fall to the ability to get the city attorneys and city prosecutors, to the extent that they have jurisdiction over these things...to do it (WG 2, May 2, 1997).

Sidran's words suggest that many city attorneys, some without recognizing it to the extent that he does, are already in the business of community prosecution and problem solving. Some have already been partners in the development of community policing in their communities (Jacoby, Gramckow, and Ratledge 1995). City attorneys therefore may be significant, perhaps even necessary, partners for the district attorney or county prosecutor who is just now adopting a new strategy. But among prosecutors, they are a "different animal," with distinctly different capacities, assets, and liabilities, and a different approach to problem solving in a community, making their role an important one to investigate in its own right and not simply as an adjunct to district attorneys or county prosecutors.

***Functions of City Attorney/Corporation Counsel Offices:*** The city attorney or corporation counsel, unlike the county prosecutor, is usually appointed, by the city manager or council, or by the mayor, depending upon the form of city government. This makes the city attorney less independent than the district attorney. Mark Sidran may be an exception—he is one of very few city attorneys who are elected.

But more than this, the nature of the city attorney's job is fundamentally different from that of the district attorney. For a city attorney has a client. The City of Boston Law Department's acknowledges its responsibility to its clients in its formal mission, which is "to provide a high level of professional legal services to its clients – the Mayor, the City Council, and City departments – regarding their official capacities within City government." As Sidran sees it:

No city attorney, elected or not elected, would ever say, as you [a district attorney] did this morning, there is no client, you know in effect, maybe the client is the people, or some broad sense of the public interest. I absolutely know there is a client. My ability to do my job, even though I am elected, depends a lot on the attorney-client relationships that exist with the mayor, the city council, the city department heads, and so on (WG 2, May 2, 1997).

A corporation counsel (Boston, Indianapolis) or city attorney's office (Austin, Kansas City) has multiple functions, then, that cause it to operate as much like a civil law firm as a prosecutor's office. Most have, at minimum, a litigation section that defends the city or sues on its behalf (for example, to collect taxes, or to bring nuisance abatement or zoning suits—although these may

also fall in the prosecution section); a prosecution section that handles misdemeanor and/or ordinance violation cases; and a corporate services department that develops and reviews legislation and provides legal assistance to city officials, departments, and agencies. In most cases the corporation counsel or city attorney both advises the police department, and defends it in suits brought against the police or city; only in Kansas City did we see the police maintain in-house legal counsel who take on this responsibility.<sup>47</sup>

The division of prosecution functions among district attorneys/county prosecutors, city attorneys, and county attorneys varies by site.<sup>48</sup> Generally, city attorneys prosecute ordinance violations (including quality of life offenses), traffic offenses (although this may be shared with other prosecutors' offices), and often misdemeanors (such as domestic violence offenses). City prosecutors actually handle many more cases than do their counterparts in district attorney/county prosecutors' offices—and with far fewer resources.<sup>49</sup> Many with whom we spoke describe municipal court dockets as “driven by the police,” and report that misdemeanors and even felonies are routinely filed in municipal courts as ordinance violations.<sup>50</sup>

The magnitude of the prosecution function in city attorney offices varies, depending upon whether the office prosecutes misdemeanors, as in true in Austin (where prosecution of misdemeanors and violations is divided up between the city attorney and county attorney offices, while the district attorney prosecutes felonies), and Kansas City (where city ordinance violations, 90 percent of misdemeanors, as well as D-felonies, are all prosecuted by the city attorney, and county ordinance violations are prosecuted by a county attorney). In these offices, there are larger prosecution units, with greater numbers of prosecutors assigned to handle misdemeanors, than in Boston and Indianapolis. In Kansas City for example, the City Prosecutor in the City Attorney's Office has a staff of nineteen part-time contract prosecutors, and six full-time prosecutors. In Seattle, where City Attorney Mark Sidran's office prosecutes misdemeanors, thirty out of seventy lawyers are involved in misdemeanor prosecution, while the rest have nothing to do with criminal prosecution (WG 1, April 19, 1996). In Boston and Indianapolis, misdemeanor jurisdiction resides with the district attorney/county prosecutor, and a much smaller staff of city attorneys handles ordinance violations and/or civil suits (arising out of code enforcement, or zoning and nuisance abatement cases). In Indianapolis, the Chief Prosecutor oversees filings of ordinance violations, and two part-time attorneys handle cases that are actually tried. (Nuisance abatement staff, and attorneys who prosecute zoning and health and safety code violations are not included in these numbers.)

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<sup>47</sup> The Kansas City Police Department, under Missouri statute, is controlled by a state Board of Police Commissioners. See Kansas City Case Study.

<sup>48</sup> We distinguish here and in the discussion following between county prosecutors—the equivalent of district attorneys—and county attorneys who, along with city attorneys, had misdemeanor jurisdiction.

<sup>49</sup> Obtaining case processing statistics proved beyond the scope of this project. Accurate statistics on numbers of citations issued, and cases received, filed, and prosecuted, as well as those that moved through municipal courts, proved not readily available—although some municipal court judges did attempt to compile statistics for us on a court by court basis. The Honorable John B. Williams, chief of the Sixteenth Judicial Circuit, Municipal Division 204, in Kansas City, was particularly helpful. We hope to analyze and produce these data in subsequent publications. In Indianapolis, no records were maintained by the Prosecution Section on numbers of cases received or filed. In Kansas City, prosecutors in the Prosecution Division of the City Attorney's Office estimated that approximately 1000-1200 cases a day appeared on the municipal court dockets and were dealt with by the prosecutors.

<sup>50</sup> In Kansas City, judges and prosecutors alike report that many cases filed as ordinance violations are actually more serious misdemeanors and D felonies—and they may be treated more harshly in Municipal Court, with some going on to Associate Circuit Court judges as de novo appeals (Kansas City Case Study).

***Prosecuting Misdemeanors - A Different Culture:*** In terms of the operations and culture of the city attorney's office, misdemeanors matter: because there are generally no felony prosecutions (except in Kansas City, where D-felonies are filed), the attention of prosecutors is focused on low-level offenses. Again, Mark Sidran comments:

...When you take the misdemeanor responsibility and give it to a city prosecutor, it creates an entirely different dynamic.... Because, my number one job, as far as being a city prosecutor, is misdemeanor law enforcement. That includes serious cases, like domestic violence, but it also includes order maintenance. And my county prosecutor is totally on board, conceptually, but he's focused on the serious crimes that he ought to be focused on....

My people don't slug felons, because we don't have jurisdiction over felons. My issues, in terms of management and motivation and reward, are very different than you're going to find in an integrated prosecutor's office that has to deal with the people who want to be homicide prosecutors and felony trial lawyers on the one hand and don't really see the payoff in misdemeanor prosecution, or aren't interested in doing nuisance abatement, or land-lord tenant kinds of issues (WG 2, May 2, 1997).

Since Sidran himself is seriously committed to addressing misdemeanors, he finds not having to prosecute felonies an advantage: his attorneys are not constantly faced with the presence of felony prosecutors whose work is more highly valued.<sup>51</sup>

Nevertheless, the value placed on ordinance violation prosecutions in some offices depends in large part upon the policies and tone set by city government, as well as demand emanating from the police. In Indianapolis, for example, an anti-panhandling ordinance was on the books but never enforced until 1995, when the new City Center Mall opened in the downtown area. Local merchants who were part of Indianapolis Downtown, Inc., approached the city, anticipating panhandling problems: city attorney staff and the police then worked together to standardize enforcement and the filing of cases, and prosecution under the ordinance became a high priority. Prosecuting ordinance violations can produce turmoil and tensions within a city attorney's office: we learned of some assistant city attorneys who refused to prosecute ordinance violations, even though the legislation had been passed by the local city council, because they were nonetheless controversial in the local community. In Austin, an anti-camping ordinance has recently provoked ongoing citywide debate in which District Attorney Earle himself has become involved (see below, Convergence and Updates).

***Problem Solving for City Clients:*** It is not only the misdemeanor prosecution activities of the city attorney, or its involvement in collaborations with the county prosecutor, that give the office an important avenue into community prosecution. It is also the very different involvement in problem solving that takes place through the role of the city attorney in advising its clients. It is the clients—local government officials and representatives—who ultimately make the decisions.

Again, Sidran explains how this takes place in Seattle:

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<sup>51</sup> Nevertheless, some offices still serve as a training ground for new attorneys who want to move up into a district attorney's office, but need prior experience in prosecution (Austin).

Our community prosecution is built around community crime prevention councils that themselves are organized around the police precincts. And my liaison to that...is an assistant city prosecutor, who is also thinking like a lawyer for a client. So we're not there...saying, "we're here, we're the prosecutor, we're going to solve your problem." We there more with the mindset of, "we're lawyers and problem solvers and we have clients around this table. Our clients include the superintendent of the park department, the chief of police, the head of the city light—we own our own power company—the people who are in charge of building code enforcement. It also includes the people themselves, because I am directly elected....

What that means is that my people, as prosecutors, are there, not thinking that they necessarily are going to solve all these problems, but that they're going to give advice to people who have responsibilities for partnering in solving the problems. That might mean talking to the engineering department and the park department about whether and how they might go about closing parks at night, or closing public alleys to public access during certain hours to cut off drug dealers from using it as a haven. And empower the police to go in, using trespass enforcement. It might mean working with other city departments to close down a motel that has become a site for prostitution and drug trafficking, not because the police are going to be ineffective in dealing with prostitutes and drug traffickers, but because it's a better solution to abate and shut down the motel than to go after it on a case by case processing approach....

And it is also the idea that we'll identify areas where the law is inadequate to the task at hand. When the police say, we've got the drug traffickers that are hanging on corners, because of the mules and runners, when we contact them, they are not holding the drugs. Very difficult for us to make a case. It is very expensive to do buy/bust operations.... We don't have a loitering law that is constitutional. So the answer from the people in my office was, well, then, we need to find a way around or through the constitutional analysis to get ourselves a drug trafficking loitering law, loitering with intent to commit drug trafficking, which is a way of taking people out on the corner and prosecuting them, albeit, for a misdemeanor. Or prostitution loitering.... Or changing our public nuisance laws in ways that are defensible, but empower the community to invoke civil remedies for some of those issues.

So, we don't take on the "we're here and we're going to solve all these problems." We're here to provide linkages to the various players who can solve the problems. So, when my person calls and says...the police are really hot because they just posted signs that say the park is closed from 11:00 p.m. to 4:00 a.m., well that's ridiculous. It needs to be closed until 7:00 a.m., for reasons that the police on the beat know, in relation to the nature of that problem. I can call the superintendent of parks and say, you know, we have a problem here. And my advice to you is that you ought to address it in the following way. Because that's part of my role as the legal advisor to the park department (WG 1, April 19, 1996).

***District Attorneys/County Prosecutors and City/County Attorneys – The Relationship:*** For some county prosecutors whose jurisdiction covers both misdemeanors and felonies, it seems hard to imagine being limited to felonies. County Prosecutor Scott Newman comments "I can't

imagine having to function...where my authority is limited, where I can't do misdemeanors.... It is so unworkable.... And what I would be doing is I'd be cross-designating all over the place. Their people would be cross-designated as special deputy prosecutors and my people would be special county attorneys" (WG 2, May 2, 1997). As any prosecutor knows, the line dividing misdemeanors from felonies is not hard and fast, which perhaps explains why we found that working relationships between county prosecutors and city or county attorneys appeared strongest and most intense where the city or county attorney's office prosecuted misdemeanors (in Kansas City and Austin), rather than where misdemeanors and felonies were integrated in the county prosecutor's office (in Boston and Indianapolis).<sup>52</sup>

We identified three major areas in which cooperation took place between city attorneys and county prosecutors: in the coordination of misdemeanor and felony case processing; in civil remedies and code enforcement; and in community-oriented collaborative problem-solving initiatives.

i. Coordinating the Prosecution of Misdemeanors and Felonies.

In both Kansas City and Austin, misdemeanor prosecutions are in the hands of city attorneys and county attorneys. Yet there is significant collaboration in areas mutually agreed upon as high priority by District Attorney Earle, and County Prosecutor McCaskill, and their respective city attorneys. In Kansas City, drugs and domestic violence are the top concerns. In the case of domestic violence, policies and programs are well coordinated. In the City Attorney's Office, the attorney assigned to handle domestic violence cases in a specially designated municipal court communicates regularly with prosecutors in the Domestic Violence Unit of McCaskill's Office. Charging policies are jointly planned, and repeat offenders are monitored through a coordinated effort in both offices. Although all Kansas City Police have been trained by staff in the County Prosecutor's Office, they work with the assistant city attorney in charge of domestic violence cases as well. Since the passage of COMBAT (the Anti-Drug Sales Tax), city prosecutors have moved increasingly out of prosecuting drug cases, except for marijuana—Prosecutor McCaskill's office has taken over even low-level misdemeanor drug prosecutions.

In Austin, closer cooperation has developed between the District Attorney's Office and the County Attorney than with the City Attorney.<sup>53</sup> (The County Attorney has jurisdiction over the prosecution of Class A and B misdemeanors in county courts, with fines greater than \$500 and/or a jail sentence; the County Attorney and City Attorney both have jurisdiction over Class C misdemeanors, with fines of less than \$500, depending upon whether the crime was committed in the city, or outside the city in the county; and the City Attorney has exclusive jurisdiction over municipal ordinance violations with fines up to \$2000.) Not surprisingly, domestic and family violence are areas in which District Attorney Earle and County Attorney Ken Oden's staff are already working together, and planning for even greater cooperation. During 1996 and 1997, in part because of an increasing number of cases involving family violence (assaults)—over 5000 were filed each year, making up one quarter of all cases—the County Attorney's Office was exploring with the Family Justice Division in the District Attorney's Office the idea of forming a

<sup>52</sup> We should note that city attorney offices in some large cities may deal with cases arising in more than one county, and thus may have a working relationship with more than one county prosecutor. In our study, this was true of only of Kansas City, Missouri, a city of 320 square miles that covers parts of four different counties (and as an assistant city attorney pointed out, includes large rural areas as well). County prosecutors are even more likely to have more than one municipality fall within their jurisdiction, a feature that characterizes all four sites.

<sup>53</sup> The county attorney in Austin is also elected.

Family Violence Protection Team similar to the Child Protection Team that operated in Austin. The County Attorney's Office has a full intake division that issues protective orders; a trial division that staffs four criminal courts (including victim witness advocates), and an appellate division.

ii. Nuisance Abatement, Civil Remedies, and Code Enforcement.

All city attorney offices carry out some type of prosecution or other activities in the areas of nuisance abatement and health and safety code enforcement. In more than one site, lack of coordination and even competition among offices characterized early activities; more recently, with an increasing understanding of how effective a tool the use of civil remedies can be, offices have begun pooling their efforts. In Austin, city attorneys started the SAFE team in 1993, working with the Austin Police Department and neighborhood associations to target hot spots such as crack houses and shut them down, using both city nuisance ordinances and a state nuisance statute. One of the prosecutors involved in the project has since moved to the District Attorney's Office, and has generated interest in such activities there. The County Attorney's Office also actively investigates and prosecutes nuisance suits. In Indianapolis, for a number of years prosecutors in the Corporation Counsel Office, working with IPD police officers, fire department officials, and city code inspectors, conducted their own nuisance abatement activities, again targeting drug houses, motels, and going after liquor establishments through licensing procedures. It was only later (1996) that the County Prosecutor hired an investigator to work with his Street Level Advocates in nuisance abatement, and the two offices began exploring how they might work together. At first, through a kind of informal agreement, they each confined efforts to a different part of the City; more recently a Street Level Advocate left her position with the County Prosecutor's Office and moved to work in nuisance abatement in the office of the Corporation Counsel, improving prospects for cooperation.

In Boston's Safe Neighborhood Initiatives, assistant district attorneys work with the City Law Department, City code inspectors and the police to close and board up properties that they have identified and placed on a "Ten Most Wanted" list. A new Abandoned Property Project underway in the Grove Hall Safe Neighborhood Initiative seeks to identify (with community assistance) and place specified properties in receivership, facilitating their restoration or rehabilitation, and eventually assisting the receiver in foreclosing if the owner fails to pay for the costs of restoration. Prosecutors working with the SNI expect community members to take on most of the responsibility for the continuation of the project, in cooperation with the City, as soon as they have gained some experience with the process.

iii. Special Projects – Multi-agency Collaboration in Problem Solving.

City attorneys have participated in many of the collaborative initiatives and tactics that we have described in all sites: the Paseo Corridor Partnership in Kansas City, the Safe Parks Initiative in Indianapolis, the trespass initiative in Boston (see Tactics, above). Their role often consists of coordinating prosecution, where ordinance violations and misdemeanors are involved, bringing in attorneys to pursue the use of nuisance abatement or other civil remedies, and assisting representatives of participating city departments by providing legal advice.

**Conclusions - the Importance of the City Attorney in Community Prosecution:** City attorneys have, up to this point, been largely ignored in any discussion of community prosecution, or problem-oriented prosecution. We think there are three good reasons to include them: first, if citizen priorities continue to make their way into selective prosecution processes, then lower-level offenses that fall within the jurisdiction of city attorney offices—ordinance violations, and

misdeemeanors—will continue to matter. Second, city attorneys control, and have the capacity to develop even further, the use of civil remedies (such as nuisance abatement and code enforcement) that are proving particularly useful as part of the growing tool kit of prosecutors. And third, city attorneys can participate effectively in collaborative problem solving, not only by joining with county prosecutors in broad-ranging collaborative efforts, but through the day-to-day advising of their clients in city government that Mark Sidran portrays. Many county prosecutors (including deputies) in our study believe that some of the problems they are addressing would be better resolved by government rather than criminal justice agencies. The client-oriented problem-solving function of city attorneys can assist local government in taking (or taking back) the responsibility for solving these problems—by improving the delivery of basic services, creating and maintaining safe public spaces, and requiring responsible practices by landlords and business owners whose properties and practices are controlled by licensing boards.

##### 5. *Prosecutors and the Police*

Edward Flynn, chief of the Chelsea Police Department (MA) in 1996 and now chief in Arlington (VA), summed up a broadly held position in American policing when he commented at the first Working Group Meeting: “I’ve spent twenty-five years in police work and it is a new experience to be working with district attorneys’ offices that indicate the slightest interest in the priorities, concerns, or issues confronting local police chief executives. Beyond, of course, the obvious dramatic case incidents” (WG 1, April 19, 1996). Indeed, one police executive in this study saw the situation as having previously been so bad between his police department and the prosecutor’s office that he characterized it as the “line of blame” (Kansas City Case Study). In this characterization, police approach the line of blame with their police reports, toss them over and, unless they come flying back, that is the end of it. Feedback, cooperation, and collaboration were unheard of in such circumstances.

These circumstances have not gone unnoticed by researchers. Authors such as Feeley and Lazerson (1983), Buchanan (1989), McDonald (1982), and others have both documented difficulties in the police-prosecutor relationship and attempts to improve their working together. The primary areas of conflict appear to be case attrition and differing organizational priorities and agendas. These issues are perceived as being exacerbated by other factors: lack of person-to-person contact, differing work hours (inhibiting communication), scheduling problems, social distance (police as working class, prosecutors as middle-class professionals), and the lack of formal connection between the two agencies (Buchanan 1989; Feeley and Lazerson 1983). Attempts to improve the prosecutorial-police relationship have focused on improving communication, providing opportunities for direct contact, improving training, redefining roles, assigning liaison personnel, and creating police-prosecutor investigative teams – locally, regionally, or on a statewide basis (McDonald 1982; Buchanan 1989).

Case attrition and differing priorities are, of course, linked. For police, arrests serve multiple purposes. At times, arresting someone is an end in itself and police wish to pursue the matter no further. An arrest, say in a dispute, ends the dispute and for the arresting officer is sufficient, even if the person is jailed. In other cases, usually more serious felonies, investigating officers will make an arrest even when the case is weak. They “know” the person is guilty and want the person aggressively prosecuted. Prosecutors, on the other hand, are often driven by a desire not to “lose” a case. Case rejections, adjournments anticipating dismissals, and plea-bargaining to lesser charges all serve the goal of not losing (Feeley and Lazerson 1983).<sup>54</sup> Moreover, prosecutors are

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<sup>54</sup> Garofalo (1991) raises question about how much case attrition can be accounted for by weak or shoddy police investigations in six New York jurisdictions he studied. He writes:

also driven to win “big” cases. In order to win, they are often dependent on the quality of the police investigation. Thus, police and prosecutors are locked in an embrace: each needs the other to “succeed” (or not lose) in their work; however, success for one can be a loss for the other and vice versa.

One of this project’s explicit goals was to explore the congruence between the operational strategies of police and prosecutors. In the section that follows we will examine the interaction between the strategies of police and prosecutors – their “embrace.” It will become clear that the Indianapolis program of Street Level Advocates had the most impact on a police department. This is probably not surprising: Advocates worked directly in police departments and were readily available to police. Boston, too, had close working relations with assistant district attorneys; however, the impact was harder to sort out because Boston has maintained community courts. Consequently, a working relationship among line police and prosecutors was nothing new because they had not known anything else. The Safe Neighborhood Initiatives *formalized* some aspects of the police prosecutor relationship and focused it on neighborhood priorities, but prosecutors in this program did not “move into” police facilities as they did in Indianapolis; it was only with the PIPS program, near the end of the study, that this occurred.

In many respects, the relationship between the Kansas City Police Department and the Jackson County Prosecutor’s Office remained quite traditional; however, the Prosecutor there did things “well” in managing the relationship, using a variety of mechanisms to establish close and respectful working relations. Collaborative problem-solving teams brought some police and prosecutors together around problems, but prosecutors did not penetrate the police department to the same extent as they did in the above two sites. In Austin, while valuable programs were well received in “corners” of the department, especially in the investigation and child abuse divisions, the relationship between patrol and the District Attorney’s Office was strained, with many officers having a skeptical view of the prosecutor’s strategies and motives.

In the following pages we discuss the impact of strategic shifts in prosecution on policing within three broad categories:

- The Impact on Case Processing
- The Changing Relationship to the Community
- The Contributions of Community Prosecution to the Overall Police Strategy

#### a. Impact on Case Processing

Case processing was a central issue for police in three of the four sites we studied: Austin, Indianapolis, and Kansas City. In two of the sites, Indianapolis and Kansas City, police were delighted with the changes in prosecution and felt that case processing had been enhanced enormously. In Austin, the story was somewhat different. Police were frustrated that routine investigations were not handled in the same fashion as “special” investigations.

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“The numbers...suggest that relatively few instances of attrition were attributed by prosecutors to deficiencies in police case preparation practices... The image is not one of prosecutors being constrained by deficient police work in the cases presented to them; it is one of prosecutors who felt confident in most of their cases but who did not always feel that justice would be served by getting a conviction on the highest possible charge” (p.447).

Likewise, Feeley (1981) in the “Foreword” of the Revised Edition of the Vera Institute’s *Felony Arrests*, describes the search for justice in the differential handling of felony cases that result from disputes or fights among intimates, friends and persons who know each other.

In Indianapolis, the presence of Street Level Advocates facilitated case processing, and changed officers' attitudes about it, in at least three ways. First, it saved time: officers did not have to go "downtown" and (according to them) waste time parking, or waiting in line—the prosecutor was in the next office. Second, the discussion about cases with the advocates was a form of training—about the law and about the policies of the prosecutor. Finally, it provided a form of case consultation:

Now, because [name of prosecutor] is so close and accessible, detectives are more likely to call and ask questions before they do things. In the past they'd just do things and figure out whether they did the right thing later on. Now they call and ask "here can we go from here? What are our legal grounds?" Additionally, "[Name of street level advocate] is very quick to tell you why your case isn't going to go further, but she's also very quick to tell you what you should have done. Now that's one of the biggest criticisms I have of the prosecutor's office. If a pile of paperwork goes in, it looks just like that to the prosecutor who has to go through it – a pile of paper. But if you're sitting in front of the officer who made the arrest, it changes the whole relationship and allows you, for the first time to say, "We're in this together" – what I do impacts what you do – without all the finger pointing and name calling that normally go on. This is one of the most important parts of strengthening a criminal justice approach to public safety. When [name of prosecutor] tells me "This is what you have got to get to get this arrest," this is as good as it gets in the criminal justice system (Indianapolis Case Study).

A Street Level Advocate provides a similar point of view:

From observing first hand, I was able to help the officers better articulate some of their observations so that the facts rose to the level of "reasonable, articulable reason to stop" or probable cause to arrest. I try to impress upon the officers that it is easier to work together before the arrest or the paperwork, than it is to repair damage done. I also began making training tapes to be played at roll calls and also at detective meetings. The first tape explained Felony Screening.... This offers great opportunities for providing needed information and fostering a better relationship between law enforcement and our office. One last observation. The officers are much more likely to accept my decisions now that I have observed the problems and their responses first hand.... In turn I try to communicate my new perspective to the deputy prosecutors downtown...(Indianapolis Case Study).<sup>55</sup>

In Kansas City, the "line of blame" that was evident in earlier case processing has been broken down by a series of administrative moves:

In the most general sense, McCaskill has been credited for involving police – administrators, investigators, and line officers – in virtually all of her crucial activities. Specifically, she is credited with overcoming the "line of blame" by assigning prosecutors to work in the police department, by accepting police to work in the prosecutor's office (mutual liaison), by training police, by having a "second chair" for KCPD detectives at all hearings, and by focusing on solving problems, especially procedural problems that were irritants for police.... She

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<sup>55</sup> Jan Lesniak, Memo to Scott Newman Re: Community Prosecutor Program, November 28, 1994. Indianapolis Case Study.

manages such problems in a way that “even crusty old-line detectives have been won over” (Kansas City Case Study).

In Austin, feelings were somewhat more mixed on the part of police: indeed, there was considerable frustration. Police had high praise for Earle’s assignment of a prosecutor directly to the Child Abuse and the Criminal Investigative divisions, moves they saw as having many of the benefits identified above in Indianapolis. Moreover, they strongly approved of police participation in the Appropriate Punishment Team (a move to involve police in developing recommendations for sentencing). However, most Austin police described prosecution being handled in the same old ways:

Despite many joint programs...police picture a largely traditional police/prosecution relationship. That is, most cases are handled independently and sequentially – from police to prosecutor – with little feedback to police about the reasons for case handling or outcomes. For many in the department this is a deeply resented relationship. One exchange in the focus group gives the flavor of this resentment:

Informant 1 – “The cop’s viewpoint and what we see is a wholesale disposing of cases in the most expeditious manner without any thought, is justice being served? They’re [prosecutors and judges] just disposing of cases not serving justice.”

Informant 2 – “Right!”

Informant 3 – “Their purpose is clear the docket, not the streets.”

Informant 2 – “Right, right!”

Informant 1 – “Not clear the streets – that’s great” (complimenting informant’s 3 turn of the phrase) (Austin Case Study).

Looking across the sites, two have decentralized prosecution at least to some degree to the police district level: in Boston this has occurred as a function of maintaining longstanding neighborhood courts, and later through assigning two prosecutors to district stations; in Indianapolis it results from a conscious policy decision to have neighborhood advocates. In Boston, the basic relationship among police and prosecutors is casual, and not an issue. They know and deal with each other familiarly:

It is important to understand here that Boston has maintained its decentralized district courts and prosecutors who are assigned to them have offices either in the court buildings themselves or nearby. Consequently, different from the other cities studied here, because both police and prosecutors are geographically assigned, police officers and detectives have always known prosecutors on a first-name basis. As one patrol officer said: “In the past we’ve always had DAs in [neighborhoods]. You meet ‘em at the court and what-not.”

A detective added: “Most of the officers are familiar with DAs. We know them all on a first name basis. . . . Actually, some of the time we even socialize with them. “

Consequently, from one point of view, the development of SNIs has had little impact on the relationship among police officers and prosecutors. They know each other and communicate formally and informally (Boston Case Study).

Nevertheless, District Attorney Ralph Martin believed that something more could be done to improve the *working* relationship between police and assistant district attorneys. He decided to assign prosecutors to precincts with the creation of the PIPS program: "I should tell you in a month or two I'm going to...propos[e] that I put an ADA in a number of police stations.... At...that point they will have a vastly reduced caseload, but it's an evolutionary process" (WG 1, April 19, 1996). The program began operating formally in the spring of 1997. Accounts from PIPS assistants and police suggest that it has succeeded in improving the working relationships and case processing activities of police.<sup>56</sup> In Indianapolis, police are pleased, feel more productive, and seem to have developed a sense of collegiality with prosecutors as a consequence of prosecutors being located in each of the four districts.

In Kansas City, the County Prosecutor took more traditional steps to strengthen the police-prosecutor relationship: assigning a deputy as a liaison to KCPD and accepting liaison police officers in her Office, training, a "second chair" in court for detectives, and showing a special sensitivity to police issues. Finally, with respect to Austin, while there is recognition of the District Attorney's assignment of assistant district attorneys to special units, and his attempts to involve police in sentencing decisions, police officers and administrators continue to be rankled about the relationship of police and prosecutors. For the most part police lump prosecutors in with the courts, seeing both as concerned more about their own functioning than about what happens on the streets.

#### b. The Changing Relationship to the Community

Feeley and Lazerson (1983), based largely on the work of Egon Bittner (see for example, 1973), have made the point that diverging goals are a source of conflict between police and prosecutors. Police traditionally used arrest as a means of maintaining order. In such cases, as noted above, arrest is the means of restoring order; whether a case is prosecuted is not important to police. From the perspective we take in the late 1990s, it must be understood that order maintenance during the 1960s and 1970s was largely an "unofficial" activity, outside of the mainstream mission of police. That mission was to react to felonies and process them. Police leaders were busy attempting to extricate themselves from order maintenance activities – unsuccessfully, as Bittner's and much other research demonstrated – but nonetheless, officially. The felony law enforcement model was, of course, highly congruent with the orientation of prosecutors' offices, which were officially committed to felony prosecution as well.

The current strategic shift in policing embraces order maintenance. Police understand that disorder is a high priority of citizens. Moreover, both police and citizens view the attempt to address disorder as a means of preventing serious crime as well. In the quest to conduct order maintenance properly and manage it, arrest is no longer seen as an end in itself: citations and arrests are to be taken seriously. This, of course, begins to throw the police "out of whack" with prosecutors, focused, as prosecution officially has been, on serious felonies among strangers. The issue is whether the shift to community prosecution also changes, or adds to, the official mission

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<sup>56</sup> The PIPS program began in April 1997, as data collection on police was nearly complete for the study. We discuss more fully in the 1998 Updates section below. Although police were apprehensive about the program at first (at least one district commander refused to have a PIPS prosecutor assigned to his station), PIPS assistant district attorneys reported later that close, productive relationships developed between them and officers over a period of several months.

of prosecutors. Jurisdictional issues complicate this. Some district attorneys do not have jurisdiction over misdemeanors; others have jurisdiction, but in practice do not prosecute misdemeanors, leaving that to county or city attorneys. In our sample, for example, the County Prosecutor's Office in Kansas City and the District Attorney's Office in Austin prosecute few misdemeanors (although this is changing: see 1998 Updates below); the other two offices in the study do. This does not mean, however, that sites that do not have jurisdiction over misdemeanors or prosecute them fail to see misdemeanors as serious. Kansas City is an example of a site that, despite not prosecuting misdemeanors, still takes disorder seriously as a community problem and sponsors collaborations and activities that target disorder.

Police, especially in Indianapolis and Boston, believed that when prosecutors were in district police stations, they became more responsive to citizen priorities, including disorder and low-level offenses. First, the simple exposure of prosecutors to citizens was important. Boston is an example:

...most police believe that the SNIs [Safe Neighborhood Initiatives] have a great impact on their work and its success in neighborhoods. First, prosecutors in SNIs get to know neighborhoods. An officer talked about the value of getting to know residents:

They're coming out of their offices into the community as we are. Our relationship with them [a.d.a.'s] has always been good.... What's happening now is the community is getting to know them.... Now they know them and people are less intimidated by them. Like, for example, when they come to make an impact statement.

The officer went on to discuss how, as a consequence of going into neighborhoods and meeting with citizens, prosecutors were learning about the importance of minor offenses like trespassing, drug dealing, and drinking in neighborhoods. Now, prosecutors were being more innovative, using civil authority and stay-away orders (Boston Case Study).

Police in Indianapolis had a similar point of view:

The officers interviewed acknowledged and saw as legitimate, new demands placed on police by citizens, especially in the areas of control of drug dealing and maintaining order. Officers believed that prosecutors strengthened their hand in dealing with citizens in three ways: first by accepting and filing minor cases that they would not have in the past; second, by providing new tools such as nuisance abatement activities and stay away orders; and, third, by being there when citizens discussed their problems.... The presence of a street level advocate, on the streets with the officers, provided the prosecutor's office with the information it needed to make informed decisions about particular cases. In the view of police, street level experiences by advocates put them in contact with the "other victims" – the residents in neighborhoods who live in terror because of repeated low-level offenses by a few trouble-makers. "In the past, if I went in with a trespass violation they would have laughed me out of the office and gone on to 'important' work. But now, the prosecutor understands how important trespass violations are to regaining control of the neighborhood" (Indianapolis Case Study).

And again, a Street Level Advocate in Indianapolis confirmed these views:

I learned quickly that seeing criminal activity on the street is much different than reading about it in a probable cause affidavit. “High drug trafficking area” does not mean that once in a while, some one is selling drugs on that corner, it means that the same people come to sell drugs on that corner at the same time every day (Indianapolis Case Study).

Thus, in Indianapolis, citizen concern about disorder appears to enter the County Prosecutor’s Office through Advocates who are very closely aligned with police—so close that at times organizational boundaries are blurred. They share office facilities, are part of a police-prosecutor work group, and have regular contact with police. Furthermore, Advocates actually try some misdemeanants. In Boston, where neighborhood courts still exist, assistant district attorneys assigned to the district courts are more involved in a court culture, although they have regular formal and informal contacts with police. Moreover, prosecutors’ neighborhood activities are channeled through collaboratives like SNIs that formalize the relationship, not just between police and prosecutors, but among a variety of agencies and organizations. These collaboratives still afford opportunities for direct contact between assistant district attorneys and both citizens and police. Regardless of the difference, police in both Boston and Indianapolis are impressed by the impact of neighborhood contacts on prosecutors.

Kansas City and Austin present different models – models that have preserved stronger organizational boundaries. While police are involved in collaboratives, problem-solving activities, and neighborhood councils (to give just a few examples) in both sites, police seem less central to their community and neighborhood outreach. In each of these sites, non-lawyer as well as lawyer staff, from all levels of the prosecutors’ offices, including the prosecutors’ themselves, have been involved in neighborhood meetings, have been assigned to certain neighborhoods, have convened working groups around problems, and have developed programs or institutions to address community problems. Police play important roles, even leadership roles in some of the activities, but are a few degrees away from the *partnerships* between police and prosecutors that exist in Indianapolis. (This is not to say that all the boundaries between the County Prosecutor’s Office and the IPD have been broken down. Far from it. But, significant boundaries have been blurred, at least for the police patrol districts, the four prosecutors who work out of them, and by the influences that these four prosecutors can bring into the overall county attorney’s office and into the police districts.) In Kansas City, for example, County Prosecutor McCaskill made a deliberate decision not to place line prosecutors in police stations. But she did continue her predecessor’s practice of assigning prosecutors to neighborhoods: “We also do neighborhood prosecutors. These are prosecutors in the office. You are assigned to a neighborhood. Maybe it’s the neighborhood you live in. Maybe it isn’t. You may be in sex crimes and still have a neighborhood assigned to you. Your job is to work with the neighborhood association” (WG 1, April 19, 1996).

In other words, the relationship between police and prosecutors is going through an important change. What model of partnership will evolve as the dominant one has yet to be resolved.

#### c. Contributions to Policing

Aside from facilitating case processing and bringing police and prosecutors’ priorities more in line, police also saw close working relations with prosecutors as supporting their emerging strategy.

Chief Edward Flynn raised the issue of district attorneys “providing cover” for police departments and chiefs, especially in culturally diverse circumstances like Chelsea (Massachusetts):

...I have savvy politicians, who say, I know all about *Broken Windows* theory. You've got to deal with quality of life issues. Will you please make those Puerto Ricans turn their radios down? Would you please go to city hall and make sure those preachers don't have that loudspeaker on so loud. So, that quality of life issue becomes, in multi-ethnic, diverse communities, very much a two-edged sword that we have to be alert to.

Chiefs need political cover. The best political cover is an activist district attorney, who has the big picture and an ethical approach to what the job should be about (WG 1, April 19, 1996).

Later, he adds:

One of the reasons I invited him [Ralph Martin] in [the Safe Neighborhoods Initiative]...was a totally, thoroughly, unresponsive, uninvolved District Court. And that involved the probation office, as well as the assignment judge, as well as the attitude of the judiciary towards our community issues.

Now, I can't make the judge change. I'm just a whiny police chief. I needed a political actor – I use the term advisedly – who had some leverage, who had a program. A program that was getting positive press. A program that he was bringing to Chelsea. And, by extension to the Chelsea District Court. I needed that to get their attention.

Now finally, the chief probation officer is sitting at the table, with the police, with the DA's office, to negotiate ways that probation can help enhance community policing and community prosecutions. It's an essential role, because courts are the next untaken step, past DA's offices (WG 1, April 19, 1996).

This issue – providing “cover” or support for police chiefs or departments – was reflected in other examples. Part of the deep respect that Kansas City police officials had for the County Prosecutor was rooted in the support Claire McCaskill offered the police department. She publicly praised it. She “back-channeled” criticisms. She sent letters of praise. But, as noted above, it neither appeared, nor did police interpret it, as pandering to the police department or “becoming a cop.” She was perceived as fair: “Regardless of politics, she speaks out and tells the truth.” “Claire doesn't put up with a lot of crud.” “If a cop shoots a citizen, she comes out. If a citizen shoots a cop, she comes out” (Kansas City Case Study). An example of McCaskill's candor occurred during her first year, when her office bungled a case in which the police invested considerable resources. A man who ran late-night parties and was a big problem for the neighborhood was allowed to plead guilty and get probation. McCaskill and her staff had not gotten the information about how important the case was to the police. Rather than defend her office or try to share the “blame” with police, she simply went to the press and said: “we really screwed up, made a mistake, and it was our fault.” Police appreciated that she took the fall and the issue went away (Kansas City Case Study).

Prosecutors also “give cover” by helping citizens understand the constraints under which police operate. In Indianapolis, police recount that during their attempts to deal with the problems in Parkview, the presence of an assistant prosecutor at police/community meetings led to deeper understandings on the part of citizens about what police could and could not legally do in their attempts to solve problems.

Another function immensely helpful to police that the District Attorney or County Prosecutor can perform is to “bring to the table” people, and organizations, that police departments cannot. Chief Flynn raises this convening power of the District Attorney (see above). It was evident in Kansas City in the Paseo Corridor Partnership developed in 1996. The Paseo Corridor is a high-crime and troubled geographical area in the City. Led by the County Prosecutor’s Office, the formal collaboration drew together residents, police, representatives of city government, the municipal courts, community-based agencies, and other governmental agencies. Crime prevention and reduction activities ranged from increasing lighting, to improving leasing arrangements in both public and private housing developments, to aggressively enforcing loitering and trespassing ordinances. Crime reportedly dropped 50% (see Update below).

This same convening power of the District Attorney is noticeable in Boston. For many officers, the relationship with the prosecutors was more than just the pairing of police and prosecutors: the important factor was the broad multi-dimensional collaboration that came about as a result of the SNIs. While officers described the involvement of citizens and community interests in these collaborations, they were especially proud of the breaking down of professional barriers that resulted from the SNIs, as well as other efforts like Operation Ceasefire and Operation Nightlight (two collaborative projects in Boston that have received considerable national attention):

I see this happen a lot, when people come in from the justice department to speak to us about the SNI or they come in to talk to us about community policing. Everybody wants to know what’s making this work. And when you explain it to ‘em, everybody looks at you and says “There’s got to be more to it than that.” The big words of the ‘90s are “partnership” and “collaboration.” All that it is, is that we’re taking the mystery away of all of our jobs . . . We’ve broken down all the barriers. Everybody’s at the table (Boston Case Study).

Additionally, officers report that the feedback citizens receive about cases – either filtered through the police or directly from the prosecutor – is important to citizens. They want to know case progress and outcomes, and the SNI assistant district attorney can provide this information. Ultimately, this flow of information to citizens helps the police, who are more likely to have continuing contact with citizens in their own neighborhoods, and to benefit from citizens’ willingness to work with them.

In Kansas City as well, police believed that the prosecutor was important in the development of community policing. From the standpoint of Central District administrators and officers, the County Prosecutor has played a central role in the enhancement of community, or problem-oriented, policing in Kansas City (at least in the Central Patrol District). First, they describe her as having “political horsepower:” that is, she can call public attention to problems, mobilize resources, and keep attention focused on them. Second, McCaskill provides both organizational ability (can get things done through her staff) and credibility (she can speak with authority). Third, she has improved case processing in ways that have facilitated many law enforcement solutions to problems. Fourth, in problem areas such as the Paseo Corridor she has set policies that police believe essential to problem solving through case processing, e.g., not accepting plea bargaining and setting high bond levels for repeat and violent offenders. Finally, she has established problem-solving teams that include prosecutors, and from the point of view of the KCPD, these teams have been very powerful and effective (Kansas City Case Study).

Another area in which police saw close contact with prosecutors as beneficial was in improving police morale. In Indianapolis, police claimed that this occurred in several ways. First, police got

direct feedback about their cases and why they were, or were not, accepted. Those who took this seriously had the opportunity to improve their cases and have them accepted. (The old system was seen as a “crap shoot”: “case acceptance depends on the prosecutor you get that day and no explanations were given.”) Because of their understanding of why cases were rejected, police also believed that they would be in a stronger position to explain the reasons to citizens. Second, street level advocates provided case feedback to officers on all cases as they worked their way through prosecution, court, and sentencing, and were available to explain outcomes. This was done both informally, through routine contacts, and formally, through periodic reports that would summarize the status of all pending cases. Third, prosecutors were more sympathetic to officers who were the victims of threat and intimidation. This was important to officers. Officers’ views were that in the past all such cases were refused automatically and dismissively without regard for the serious potential in some of the threats. Although officers understood that this was a sensitive area, now, prosecutors would listen more carefully to individual circumstances and, at times under special circumstances, file on such cases (Indianapolis Case Study).

Finally, and without going into details, most prosecutors develop conscious strategies for structuring their relationship with police departments. We have touched upon Claire McCaskill’s policy in Kansas City most explicitly in this regard. But all prosecutors and their upper level staffs *worry* about police departments. They worry especially about corruption and abuse. Given the small sample size of this study, it is difficult to write about this without violating confidentiality. But it is clear that the idea of the district attorney or prosecutor as the “chief law enforcement officer” of a jurisdiction is one that many prosecutors take seriously: they attempt to influence and shape policies, not *just* in police departments, but *especially* in police departments.

#### d. Conclusions

We have examined the relationship of police and prosecutors in three general categories: case processing, mutual priorities, and other contributions to police departments. We have several general conclusions.

- i. To the extent that our sample is representative, police and prosecutors are structuring new patterns of relating to each other, and working together.
- ii. According to both police and prosecutors, case processing seems to be substantially improved by the assignment of prosecutors to police patrol facilities. Particular elements from the traditional model, such as mutual liaison officers and training of officers by prosecutors, seem to help as well, but they are most effective when inter-organizational (police-prosecutor) relationships are carefully tended to, especially by the District Attorney or County Prosecutor.
- iii. Exposure to community and citizen groups has a powerful impact on prosecutors – an impact not dissimilar to that experienced by police. In all four sites, prosecutors could see first hand what police had long known about public safety and crime issues on the streets. Prosecutors responded by joining with police and moving to solve neighborhood and community problems, including disorder, bringing their own “tool kit” to do so.
- iv. Prosecutors assist police departments in a variety of ways: they provide “cover” on politically sensitive issues, they serve as “conveners,” and they can be supportive of attempts to shift to community policing.

There are additional issues that surface in our data, such as the role of the prosecutor in the investigation of police corruption and abuse, about which we heard concerns voiced. Prosecutors

at one Working Group Meeting agreed that this role was one they could not afford to give up, for political reasons. At the same time, several argued that having prosecutors on the street with police was a definite incentive for police to act lawfully in dealing with offenders. While we recognize the importance of these issues, they were not at the heart of this research; our sample was too small to allow for such sensitive work to be done while maintaining confidentiality. The issue of organizational boundaries is another major one. It certainly cannot be resolved in this study. As Sally Hillsman noted:

We've moved from tight jurisdictional boundaries that we built in the early 20<sup>th</sup> century, in order to differentiate different roles as modern criminal justice evolved to now sort of no differentiation in jurisdictional boundaries. And kind of like a productive, togetherness "moosh," allowing us to solve problems (WG 2, May 2, 1997).

Clearly, all the prosecutors have to worry about their assistant district attorneys "becoming cops" when they become involved in partnerships and collaborations with police. And, given the excitement of some police work and the youth of some of the prosecutors, such co-optation is a very real threat. Perhaps, monitoring and directing such assistant district attorneys will be a different exercise than the traditional collegial and consultative supervisory patterns that have characterized district attorneys' offices. Yet, as Michael Smith notes, "[T]he barriers we put up are, in some ways, getting in the way of our performing the kinds of service for communities that we actually want to perform. Because we've got stuff to give each other, information, mostly" (WG 2, May 2, 1997).

#### F. OUTCOMES

The question of measuring what matters that has perplexed other criminal justice agencies also perplexes prosecution. District Attorney Ralph Martin raised this issue about community prosecution early in the working group conversations:

... I think many of us are still struggling with the concept of, how do you know whether or not you're doing a good job with this community-based prosecution stuff. And how do you know? I mean, it feels good. We all think we have good instincts and we like the response that we get, when we go out to these neighborhood meetings and these crime watch group meetings. But how do we know if we're doing a good job? (WG 1, April 19, 1996)

Martin's question, of course, pertains not just to community prosecution, but all aspects of prosecution. Traditionally, aggregate data about charging, level of admission in plea bargaining, dismissals, percentage of convictions, sentencing severity, and crime reduction have been used to judge the organizational performance of prosecutors (Jacoby 1980; Gottfredson and Gottfredson 1988). Other, softer measures, have included, efficiency, equity, justice, and just desserts.

That some of these traditional aggregate data have limited value, even politically, is implicit in comments by Claire McCaskill:

... I don't have any idea what our percent of conviction is. And I ran for election in November and didn't bother to get the number. And we don't talk about it around our office.

What have traditionally been the measures have been percentage of convictions, how much time you get, how many trials you have had and what are the part one crimes. That has been the traditional kind of four touchstones of how good a prosecutor's office is . . . (WG 2, May 2, 1997)

Such data can be relevant to a prosecutor's career, however, as was made clear by Ronnie Earle who had just finished a campaign as well: "In my campaign, conviction rates were an issue. Number of jury trials were an issue" (WG 2, May 2, 1997).

Nonetheless, there did seem to be a consensus among prosecutors in the study that even though they continue to use traditional outcome indicators (mostly for lack of anything to replace them), these measures are inadequate for representing what they are attempting to achieve with community prosecution. Sally Hillsman summarized the mood of the Working Group on this issue:

We're going to have to really take seriously Ralph's question to himself, which is, how do we know that we're doing any good here? How do we know that?

And it seems to me that similarly to the area of community policing, we are going to have to go to measuring different kinds of things that prosecutors' offices have never done before, in terms of thinking about...the accountability of their offices....

The other thing is the level of management. That is not aggregate measures of everything the office is doing or the conviction rate or whatever, but disaggregated measures. Because when Ralph [Martin] started to ask that question, what he did was he went to the neighborhood level. He said, let me look at a neighborhood and see what's happening. And he went to very different kinds of measures. He said crime was not only going down but business was going up. That leads to a whole lot of different notions about not only what you were trying to accomplish, and how you measure it, but what you are accountable for.

...We can't answer the measurement questions, I think, right now because we haven't answered the question...[about what we are trying to do].... How do you measure the outcome of something and what you are accountable for when what you are trying to accomplish is being done in close connection with other people? If they screw up, are you responsible? If they don't do their piece, are you accountable? How do you stand up and say this is what we did, the we being the narrow we, as opposed to what we did, meaning...me and all my partners....

...we need to think about what the role of the community is, in both developing those standards and in actually engaging in the measurement of those standards (WG 1, April 19, 1996).

With little guidance available in developing outcome measures that reflect their offices' changing missions and operations, all prosecutors in the study are proceeding, tentatively, with formulating an approach to the problem. Thinking about measures that might be appropriate for a new community prosecution program with problem solving as its key tactic, Prosecutor Claire McCaskill's COMBAT staff focused on

...the benchmark to gauge the effectiveness of the...initiative...[is] 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. 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>57</sup>

In Austin, District Attorney Earle has begun to wrestle with the issue of outcome measures not only for his office, but for community-wide initiatives in which he plays a major role. Recently he proposed the following recommendations for community assessment outcomes to the Community Action Network (CAN), in which he is a participant. CAN is a partnership of social service providers, city and county officials, and health and human service departments, funders, and business and community groups, that 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 were:

- Increase in the percentage of residents who report an improved perception of personal safety;
- Decrease in the incidence of juvenile delinquency and adult crime;
- Increase in the number of mentoring relationships for juveniles developed as a result of referrals;
- Increase in the percentage of juveniles participating in after school programs and family strengthening activities as a result of referral;
- Increase in 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;
- Increase in the percentage of victims involved in community and neighborhood problem-solving activities;
- Increase in the number of volunteers, including Neighborhood Associations, participating in child abuse/neglect prevention and treatment activities;
- Increase in the participation of volunteers, including Neighborhood Associations, in domestic violence prevention, detection, intervention and accountability.

These outcome measures reflect several goals, and indeed Earle links the outcomes to proposed strategies.

One measure that stands out in the list is improved perceptions of safety by citizens. Prosecutor Scott Newman also looks for the outcome of "people feeling safe.... The greatest crime statistic to me...is how many walks can an elder couple take in their neighborhood" (WG 1, April 19, 1996). Professor Mark Kleiman proposes similar measures: if the prosecutor's job is crime control, then "the outcome measure is safety." Safety can be assessed, according to Kleiman, at both subjective and objective levels: by looking at whether people feel safe to do various things, as evidenced by

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<sup>57</sup> Jackson County Prosecutor's Office, Strategies to Enhance Law Enforcement and Prosecution Coordination: A Concept Paper by Jackson County, Missouri. 1997.

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).

A second important measure that appears several times in District Attorney Earle’s proposed list goes to increasing the involvement of citizens themselves, including victims, in crime prevention and reduction activities. This theme emerges also in measures developed by staff in District Attorney Ralph Martin’s office for use in the East Boston Safe Neighborhood Initiative (SNI). SNI goals for July 1996-June 1997 were:

- a) Reduce crime and the perception of crime.
- b) Provide the opportunity for community input into law enforcement activities.
- c) Create an alternative dispute resolution program to ease burden in court.
- d) Targeted prosecution with prompt resolution of cases.
- e) Establish youth worker program to provide outlet for area teens.
- f) Co-ordinate law enforcement efforts.

Outcome indicators, which corresponded closely to these goals, included:

- 1) Decrease in part one crimes for the calendar year 1996.
- 2) Community recognition of the SNI and its efforts.
- 3) Multiple activities in collaboration and partnership with a wide range of city service agencies and community groups.
- 4) Positive police response to case management and inter-departmental cooperation.
- 5) Strengthening police-community ties.

The SNI measures also reflect the fact that District Attorney 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 even police and the community.

All of these measures are relatively general in nature. Developing specific indicators, especially on a neighborhood basis will be complicated, of course, for prosecutors as for other criminal justice agencies – both devising them, and finding ways of presenting them that are straightforward and convincing. As police and many prosecutors already recognize, one difficulty lies in the fact that the same measure or indicator can have different meanings in different neighborhoods in the same city. In the tough Indianapolis neighborhood of Haughville, recently, “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). To formulate discrete measures at this level, prosecutors will surely require substantial input from citizens, with intimate knowledge of local conditions.

In sum, it is fair to say that among all the issues facing prosecutors who are moving into a community prosecution strategy, measuring outcomes—and performance as well—poses one of the most difficult and urgent challenges. Perhaps not surprisingly, since outcomes sought are in some sense a mirror of the prosecutor’s mission, several common elements are identifiable in the relatively general measures currently being used. They include: lowered rates of crime and

victimization; increased perceptions of personal safety by citizens in their own local neighborhoods; increased use of public spaces by citizens (as an indication of their perceptions of safety); increased 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.

## VIII. CONVERGENCE AMONG SITES AND 1998 UPDATES

The process of change that began in previous administrations accelerated through interaction among the four offices during the course of the study. This occurred in several ways: as the researchers (Coles and Kelling) provided information, upon request, about programs and activities at other sites; as the prosecutors and district attorneys met each other and talked about their programs at the Working Group Meetings held in April 1996 and May 1997 at the John F. Kennedy School of Government, Harvard University; and as reciprocal visits were made by, and communication grew among, deputy prosecutors and assistant district attorneys at the various sites. No doubt these changes were linked also to information made available by the American Prosecutors Research Institute, National District Attorneys Association, and the National Institute of Justice, which identified innovative prosecutors' offices, disseminated information and held workshops on community prosecution (APRI 1995a, 1995b; Boland 1996), and provided funding to support visits among sites nationwide.

The result was a noticeable convergence among the four sites by the end of the study; data collected during 1998 for updates suggest that the degree of convergence is now even greater. We describe here some of the major changes in and additions to the operations of the four offices in the study between May 1997 and June of 1998. They include: the creation of new community prosecution units; making changes in and strengthening existing units; strategic planning in offices to chart a course for future development in community and problem-oriented prosecution; the creation of community justice programs and multi-agency criminal justice initiatives in several sites, with significant input from prosecutors; and ongoing questions concerning the institutionalization of community prosecution as current prosecutors leave their offices.

### A. NEW EFFORTS AND PROGRAMS IN COMMUNITY PROSECUTION

First, new efforts were made to establish community prosecution units in those sites in which none existed previously—both the Travis County District Attorney's Office in Austin, and the Jackson County Prosecutor's Office in Kansas City. The model is the Street Level Advocacy program from Indianapolis, with some adaptations to meet local needs.

In Kansas City, the Neighborhood Justice (NJ) Prosecutor Program has been in operation since August of 1997, supported from normal operating funds (although a Local Law Enforcement Block Grant was awarded to enable prosecutors and police to carry out geographic mapping of crime spots). To get the program up and running, a few new positions were created, but some trial teams in the Office also lost positions. "Top people" in the Office were encouraged to apply for NJ positions—a raise was offered for those selected; candidates had to be able to "think outside the box," be creative and aggressive, have good people skills, be open to trying new strategies, and be experienced trial attorneys.

Headed by Bronwyn Werner, previously chief of the sex crimes unit, the new program is comprised of four additional prosecutors, each assigned to a geographic area coinciding with a patrol division in the Kansas City Police Department (Metro Patrol, Central Patrol, East Patrol, and South Patrol); the prosecutor assigned to South Patrol also covers Eastern Jackson County. Neighborhood Justice Prosecutors are expected to work on anti-crime strategies in their areas, as determined by the needs of each. Unlike Indianapolis's Street Level Advocates, the NJ prosecutors neither screen nor file cases, instead concentrating on work with police, city agencies, school officials, and private groups—neighborhood organizations, business and church leaders. The NJ prosecutors also do not focus as much on specific neighborhoods, but on crime problems and patterns that have an inter-neighborhood impact. Werner reports that recently NJ prosecutors

have concentrated on liquor establishments from which a significant amount of crime originates, bringing in a “responsible business strategies” approach developed previously in the Office, as well as filing suits under a state statute that permits the prosecutor to file a state liquor control action to take away the liquor license of an irresponsible business. NJ prosecutors also work on certain cases where there has been a community-wide impact, such as a burglar who has victimized a large area, or a rash of rapes. Often these are high profile cases that start when police alert prosecutors to them early on during investigations; prosecutors work closely with the police, and then take the cases to trial (including pleadings).<sup>58</sup>

In addition to the four prosecutors’ general reduction and prevention efforts, other resources targeted at particular crimes are available to the NJ program. For example, a Child Protection Liaison Attorney, whose function is to devise strategies for reducing child abuse and neglect in the county, is focusing her efforts on East Patrol Division, where the highest number of hot line calls originate. The Truancy Coordinator works with NJ prosecutors to set up truancy projects in schools in their divisions, while the DART team assists NJ prosecutors in shutting down drug houses in the areas, working with landlords, and addressing environmental crimes, such as illegal dumping. The Director of Planning for COMBAT is also available for assistance in convening joint meetings that will bring together all the players—federal, state and local law enforcement agencies, probation and parole, the City Attorney and City Prosecutors, the City Court Judge—where some issue requires collaboration among them. Through the NJ program, even these specialists are beginning to collaborate: the Child Protection Liaison Attorney is developing protocols with the Truancy Coordinator for assessing whether truancy might be resulting from a child being abused or neglected; she is also working with DART (the Drug Abatement Response Team) to develop a new protocol for use with children found in meth-amphetamine houses, who may be subjects of neglect or sexual abuse.

But whereas funding was available in Kansas City for a new community prosecution program, in Austin additional county funds had to be sought, and they were not forthcoming. District Attorney Earle and his staff put together and submitted to the County a (1998) budget proposal for a new community prosecution program. To produce the proposal, they conducted a functional analysis to determine what various staff members who had been working extensively in community-oriented efforts were doing, and how much time they were spending all together, in addition to the functions they were performing in their regular jobs as First Assistant, head of the Family Justice Division, and others. Their time equaled two full-time lawyers, plus a community justice program manager, a secretary and a paralegal. Earle recounts that “the Commissioners Court actually congratulated us, and made a big deal out of how much work we put into that presentation to show them so graphically what we were talking about” (Austin Case Study, Update). But the Commissioners Court gave the Office funding for only one position—a community justice program manager. For this position, Earle hired Darla Gay, a police officer with extensive experience in problem solving and community-oriented policing. He also assigned his own secretary to work with her. Earle is moving ahead with numerous other new programs, utilizing existing staff; so far he has not been able to obtain funding for new community prosecutors, except for a position that may be funded by Weed and Seed.

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<sup>58</sup> These cases often emanate from the recently enacted “red file system” that the Prosecutor’s Office helped the police to set up: police identify four to ten individuals or businesses that they believe are contributing to the demise of a neighborhood, based upon criteria set out for selecting cases. A notation is inserted into the computer system to indicate that these are red file cases, for which a report must be written whenever police have any contact with the individual. When dispatchers see these notations, they alert police about them.

## B. REFINING EXISTING COMMUNITY PROSECUTION INITIATIVES

In Indianapolis, site of the Street Level Advocacy program that other offices have replicated, Prosecutor Scott Newman has turned this past year to strengthening the program and its base within the entire Office. His own thinking about the program has changed in some fundamental ways. Concerned with whether the program was maintaining its sense of direction, Newman began with a retreat that he held for Advocates at his home—a clear message not only to the Advocates, but other staff in the Office about how much he valued the program. Thinking it was time to “step back” and encourage the Advocates to look at what they were doing, and why, he asked them to prepare concept papers presenting a broader vision for what they wanted to do in their districts, and worked with them on strategic thinking exercises, to try and bring more focus to the program. As Newman sees it, “There is a kind of cycle in the lives of community prosecutors where they start out very focused on some limited law enforcement goals, then they learn more about the community, and start getting pulled in different directions, and every once in a while they need help in refocusing and knowing where to place their energies” (Indianapolis Case Study, Update). Prosecutor Newman has also decided that the rest of the Office needs to know more about what the Advocates are doing: a quarterly newsletter detailing program activities has been created, and is being circulated throughout the Prosecutor’s Office, as well as to police and in the community. Among the positive outcomes noticeable for the Advocacy program this year, one is greater stability in personnel.

More subtle but no less important is a new focus in where Newman sees the activities of Advocates headed, and one that has shaped his own thinking. He explains:

I think the thing I’ve learned most in the last year is this notion of treating the community as an end in itself rather than as a means to an end. You see that philosophy played out in the concept papers...instead of “let’s get a bunch of citizens to come to court and ask for a higher sentence,” we want to impart an ownership experience to the community for their justice system, so we’re doing the restorative justice thing, where we get the community involved with juveniles in sentencing, and the community court, which we will have up and running this year, kind of a “Midtown Community Court” idea (Indianapolis Case Study, Update).

Newman’s views are shared by every other prosecutor we studied: for example, District Attorney Ronald Earle speaks of the “...essence of community prosecution—the same basis for and rationale of community policing—using the skills acquired through police work/prosecution to solve the problems that lead to crime. I don’t even see it any more as solving the problems. I see it as facilitating the solving of problems by neighborhoods” (Austin Case Study, Update). This is the phase into which Boston’s Safe Neighborhood Initiatives are moving. In the Grove Hall SNI, a project that took off slowly and painfully, citizens are increasingly taking the lead, with prosecutors offering assistance in achieving community goals. In addition to monthly meetings of prosecutors, police, and a few community representatives, the SNI now holds well-attended community meetings throughout the SNI area every other month to allow for greater participation by residents and business owners. Programs of local interest have been presented in the last year on domestic violence, child abuse, and other issues of concern to the community. In Grove Hall, citizens now feel that they “own” the SNI—it may have begun as a prosecution and police effort, but the locus of leadership and initiative has now moved into the community (Boston Case Study, Update).

### C. STRATEGIC PLANNING AND CHANGING THE CULTURE

Strategic planning at the executive level is ongoing in all four sites, and the question of how community prosecution should figure in the priorities of each office is a central question. We referred above to the ongoing management review process taking place in District Attorney Ralph Martin's Office in Boston. Martin is also contracting with an outside agency to come in and work with an internal MIS review group, especially to try and expand the capability of his own personnel to use the data that are being collected.

But the process is perhaps most interesting with the shape it has taken in Austin, where District Attorney Ronald Earle and his new First Assistant, Rosemary Lehmberg, have opened the process and the debate, up to the entire office. And the debate is literally changing the culture of the office. As Lehmberg and Earle describe it unfolding: "We started with a small group of prosecutors, a cross section, having a conversation. It grew into a weekly meeting. Since this affected so many peoples' lives, they just started showing up. And one deputy prosecutor...started generating proposals and charts...." The debate unfolded, about what changes should be implemented across the board; about how neighborhood accountability, and greater attention to the concerns of citizens, could be built into the current system.

The conversation grew and grew, moving from the possibility of assigning a violent crime prosecutor and property crimes prosecutor to each court, to vertical prosecution, "the whole concept of vertical prosecution, and the benefits that it might provide, versus the scheduling of cases that would be difficult where you've got one prosecutor handling it all the way through." Earle and Lehmberg also got prosecutors thinking about whether bureaus might be developed in the Office—one for violent crime, another for property crimes, "and the reasons for that are primarily, we spend a lot of time dealing with violent crime...but nobody gives a damn about home burglaries and auto theft and graffiti, and lower-level offenses.... So the idea was, if you give a prosecutor just burglaries and disorder offenses, that they're going to do a better job and pay more attention to that category of offense." Lehmberg explains, "we were trying...to include everybody in these conversations, because we would get better information that way, and also it gives everybody an idea of what we're thinking about." A recent meeting, attended by about forty lawyers, ended with an "inventory," at which participants said, "we'd like to explore vertical prosecution; we do not want to be in a pool, we want to be assigned to a court (because there is chaos otherwise); they said, almost to a person, the Family Justice Division piece isn't broken yet, so don't fix it. We need to try those cases, and give special attention to them, and yes, they wear people out, but we can work on that" (Austin Case Study, Update).

And so, the process is underway in Austin, "step by step." Neither bureaus nor vertical prosecution have been established, but they are still being considered. Lawyers in the Grand Jury Intake Division have been assigned to screen cases for individual courts. With the new police chief, and changes in policing, District Attorney Earle wants to explore having "a prosecutor as part of a COMSTAT team. So we're talking about a total neighborhood empowerment proposition here. So you're not just doing cops and prosecutors, you're doing cops, prosecutor, and neighborhood empowerment."

One other strategic decision has come out of this process: District Attorney Earle has learned that those attorneys in his office who are moving most rapidly ahead into community prosecution are facing pressure from their peers. The level of anxiety in the office is high. As Rosemary Lehmberg notes, prosecutors "are scared to talk about how neat this stuff is; they don't want to get rejected by their peers, right? So we're going to start that process of sending as many people as we can to these conferences, more often, different people, and bring some folks down here just to

talk about normal old, 'how to do you handle your cases?'" Earle puts it clearly: "There needs to be some foxhole camaraderie that's shared, that cannot be shared by upper management. It's just not possible." And finally, Earle concludes

...this issue of culture change is ubiquitous—everybody is facing the same issues.... I've got an idea of how to do this...there are really three parts to it: include everybody in the conversation...everybody come in and give us your two cents worth.... Secondly is to bring in people from other places who speak the language. Third (and this is the most important piece...) is bring people from the community into the office, into the courts, as cheering sections (Austin Case Study, Update).

#### D. NEW COMMUNITY JUSTICE PROGRAMS AND MULTI-AGENCY INITIATIVES

Almost all sites that we studied are currently planning or starting new community justice programs and multi-agency initiatives. Prosecutors have led the way in developing concept papers and plans for these efforts. For example, the Marion County (Indianapolis) Community Justice Pilot Project Proposal has been funded, with plans to open a community court in the Weed and Seed area. Prosecutor Newman envisions a renovated storefront building, with probation having an office there, as well as a prosecutor from his Office. He also is part of a group that has begun meeting informally as a new criminal justice coordinating council in Indianapolis. In Austin, Texas, District Attorney Earle is attempting to plan for the creation of a new community court—which has received support from the mayor, the City Manager's Office, and local businesses in the downtown area. The process is causing a major public debate concerning quality of life issues and the proposed location of expanded services for substance abusers and the poor, to be provided in the city center (see Update, Austin Case Study).

#### E. INSTITUTIONALIZING COMMUNITY PROSECUTION

As prosecutors begin leaving their offices, questions about the degree to which the changes they introduced have been institutionalized move to the forefront. District Attorney Ronald Earle, and County Prosecutor Claire McCaskill both ran for re-election in 1996, during our study, and were re-elected. In 1998, District Attorney Ralph Martin, and County Prosecutor Scott Newman are both waging campaigns for re-election.

With Claire McCaskill's decision to run for State Auditor this year, the status of community prosecution in Kansas City could also be in question again. If elected, McCaskill will leave the Prosecutor's Office in November, to be replaced for the last two years of the term by an appointee of the County Executive. Internal candidates from the Office who might be appointed to replace McCaskill could be expected to continue many current Office policies. Additionally, the continuation of COMBAT funding could provide another source of continuity. Prosecutors working with the new Neighborhood Justice Prosecutors are optimistic that the program will continue, however, even if McCaskill leaves. As one prosecutor sees it:

...my feeling is that it is becoming such an ingrained part of the police department and our office, and we've had a lot of successes, and it's been a very positive experience...I can't imagine whoever comes into Claire's position is not going to maintain it. I really think there is going to be a lot of public pressure because the neighborhoods love it, and the police department loves it. There is going to be overwhelming pressure on Claire's successor to maintain this same level of activity.

...The City Council here loves it, too. They like the fact that we're...a watchdog over the City to make sure they are doing what they are supposed to be doing (Kansas City Case Study, Update).

## IX. CONCLUSIONS

### A. WEIGHING THE RISKS AND LIABILITIES IN THE NEW STRATEGY

Every strategy must balance opportunities and risks. We have put forward the idea the community prosecution offers prosecutors a host of potential opportunities—including enhanced case processing, crime prevention, crime reduction, improvement of the quality of neighborhood life, strengthening the capacity of private citizens for maintaining safer public spaces, reconnecting law abiding citizens to criminal justice processes from which many have been alienated, and gaining political approval and support. But as Joan Jacoby, who has perhaps conducted more research on American prosecutors over a longer career than any other researcher, asserts, there may be very good reasons why some prosecutors have been reluctant to “buy into” community prosecution (WG 1, April 19 1996).

Many of the reasons for not “buying into” community prosecution were discussed by participants in our Working Group Meetings. Prosecutors included in the study are well aware of them: they grapple with most every day, more or less successfully. The most significant of these risks, or liabilities, include the following:

- Concern for due process and equal protection;
- Co-optation of prosecutors;
- Overreach of prosecutorial authority and function;
- Overreach of prosecutorial competence;
- Limitations in the system of legal education;
- Control of prosecutors and organizational workload;
- Prosecutorial co-optation of citizen movements;
- Raised public expectations;
- Lack of congruence between organization of the courts and organization of prosecutors;
- Lack of existing outcome measures to determine what community prosecution actually accomplishes;
- Lack of standards for measuring the performance of assistants/deputies involved in community prosecution or problem solving;
- Political costs.

We state each of these in turn, briefly.

#### *Concern for Due Process and Equal Protection*

The function of the prosecutor—doing justice—has traditionally included protecting the rights of those arrested and indicted. Like criminal investigation in policing, prosecution must be done “right:” that is, it must protect the rights of individuals and, if the rights of an individual conflict with efficient prosecution, individual rights have primacy. Exposed, as neighborhood prosecutors and street-level advocates are, to the sufferings that offenders have inflicted on communities, it is not hard to imagine that this balance might shift, and that the result might be a targeting of minority groups in local neighborhoods.

#### *Co-optation of Prosecutors*

Although prosecutors could face co-optation from many sources, police and community groups appear to present the strongest hazards. Under “concern for due process” above, we alluded to the danger of zealotry that could emerge if prosecutors were influenced too strongly by citizen

concerns. Saying “no” to a community, when everyone knows an offender is guilty of a specific crime, when that guilty person has been a chronic and serious problem in the community, but when the evidence is simply not strong enough to indict the offender, can be very difficult—especially during elections.

Police, too, are extraordinarily capable of co-optation: their work is exciting, they have a particular mystique, and they are skilled at persuasion. Young, inexperienced prosecutors in particular may be especially vulnerable in this regard. More than this, however, prosecutors also have a responsibility to investigate police crimes – a function that close collaboration between police and prosecutors could contaminate.

#### *Overreach of Prosecutorial Authority and Function*

It can be argued that the shift to community prosecution expands enormously both the function and authority of prosecutors, and makes what is an already powerful public agency into an even more powerful one. Over the past decades prosecutors have already expanded their domains into provinces once controlled by police (such as the investigation of murder in Massachusetts), or to a greater degree by the courts (plea bargaining). In community prosecution, their boundaries are further expanded into community organization, and community advocacy.

#### *Overreach of Prosecutorial Competence*

Some argue that there is nothing about law students, legal education, prosecutors’ offices, or the prosecutorial culture that will endow prosecutors with the competence to do serious problem solving, or to become effective in neighborhood affairs. Rather, the core competence of lawyers is litigation, and they should stick to it.

#### *Limitations in the System of Legal Education*

Law, in contrast to police, is a highly developed profession requiring a well-defined educational base. Legal education, organized as it is around cases and caselaw, shows little inclination to broaden its approach and provide education for lawyers that will substantially depart from its traditions. Moreover, in its current form, legal education offers little to assist prosecutors in developing methods of problem solving or measures of performance—important elements of any prosecutorial strategy.

#### *Control of Prosecutors and Organizational Workload*

Many prosecutors are fresh out of law school and inexperienced. To ensure their professional growth, as well as procedural consistency, relatively equitable handling of cases, and even equitable workloads in prosecutors’ offices, centralized organizations and administrative processes are essential. As former prosecutor Andy Sonner pointed out, “we abandoned the whole system of keeping . . . prosecutors in the geographic areas, because I just couldn’t split the office workload up into that many little bites and keep it even” (WG 1, April 19, 1996).

#### *Prosecutorial Co-optation of Citizen Movements*

The idea that prosecutors should closely align themselves with citizen groups or even help organize them raises the specter that if prosecutors themselves are not co-opted, they will bend these organizations to their will either for political or organizational gain. According to this view, citizen groups are best understood and organized as counter-power groups, whose task is to keep prosecutors “honest” and not “get in bed with them.”

#### *Raised Public Expectations*

The story of police and criminal justice agencies over the past three decades has been one of dashing hopes for managing the crime problem. “Wars” on crime, drugs, and even violence have

failed to yield a safer or less fearful world. Community prosecution may only raise new hopes, largely unfounded on any real theory of action, that prosecutorial “partnerships” will be able to provide answers that agencies working on their own, in their own domains of competence, could not provide.

*Lack of Congruence between Organization of the Courts and Organization of Prosecutors*

Courts have been centralized in most communities. The idea that this trend will reverse itself is unrealistic, particularly since most prosecutors and police find the courts to be lagging behind more than any other justice agency or institution in incorporating changes consistent with the move toward community-based, problem-solving strategies. Attempts to organize prosecutors geographically will flounder on courts and court calendars that will continue to operate community-wide.

*Lack of Existing Outcome Measures to Determine What Community Prosecution Actually Accomplishes*

Community prosecution (following in the footsteps of community policing) efforts cannot be measured at this time: attempts to add to or replace traditional outcome measures (numbers of cases tried, numbers of convictions or guilty pleas obtained) that are perceived as incomplete, with others that will indicate what has actually been achieved, have not yet proven fruitful. This is troublesome for prosecutors not only as they engage in community prosecution, but as they seek to justify their activities and requests for further funding to funding agencies.

*Lack of Available Standards for Measuring the Performance of Assistants/Deputies involved in Community Prosecution or Problem Solving*

Just as community prosecution outcomes cannot at this time be measured, so too the performance of individual prosecutors working in community prosecution cannot be assessed. This opens the door for problems on the job—how is the deputy prosecutor to know whether s/he is fulfilling job requirements/expectations? What kinds of supervision and oversight should be carried out for neighborhood prosecutors? Some deputies are “burning out” from trying to meet expectations not well enough defined or bounded for their work in the community, with police, and in case processing.

*Political Costs*

Community prosecution, like community policing, risks the political charge of being “soft on crime” and of prosecutors being “social workers” rather than “tough-minded” prosecutors. Individual prosecutors in our study faced these charges in campaigns for re-election, and had to develop their own credible answers for the voters (see Austin Case Study).

We suspect that other risks than these are involved in the shift towards a community prosecution strategy. The ultimate question, however, is whether they can be managed, and whether the benefits obtained from community prosecution outweigh potential damage associated with the risks. We have discussed the efforts of individual prosecutors in our study to address and overcome some of these risks, and it would be possible here to draw further examples from our cases to illustrate other responses. In respects, however, we believe such an exercise would trivialize concerns that are far more serious than a small number of mitigating responses might suggest. Our sample is limited and we will need considerably more experience than our four cases to understand the full dimensions of the risks, and the abilities of prosecutors to overcome them, through leadership or administrative means.

The risks we have identified not only suggest a further research agenda, they suggest as well topics for ongoing exchange and sharing of information among prosecutors.

Finally, we expect that as the model of a community prosecution strategy that we present in preliminary form here is further elaborated and developed, it will incorporate the responses and accommodations of prosecutors to many of the outstanding risks we have identified.

## B. KEY FINDINGS: THE NATURE AND DEGREE OF CHANGE IN PROSECUTION STRATEGIES

We repeat here our central finding: the prosecutors we studied are *moving rapidly toward* a new strategy of prosecution—community prosecution. No office we studied has achieved a complete transformation to the new prosecution strategy: the data show changes (that is, departures from the traditional model) that we would describe as ranging from limited to moderate in the individual strategies of the prosecutors in our sites. Nevertheless, change is proceeding rapidly, and there are a number of indications that in some form a community prosecution strategy will be institutionalized in prosecutors' offices in the future.

We list briefly here the findings that have been presented in greater detail in the preceding sections:

### 1. *What changes are occurring in prosecutorial strategies?*

- Prosecutors are *redefining their mission*—from reactively processing cases presented to them, to working in partnerships with other criminal justice agencies and the community to address the problems and priorities of citizens in their communities;
- The *new goals of prosecution* include preventing and reducing disorder and crime, restoring victims and communities to more effective and healthier functioning, and empowering citizens.

### 2. *In what form does community prosecution exist as an operational strategy? How is it implemented?*

- Prosecutors' offices are changing to include greater numbers of nonlawyers, even at the executive staff level;
- Recruitment standards reflect a greater emphasis on commitment to and experience in working in community-oriented initiatives, and problem solving;
- While prosecution remains the core capacity of prosecutors, it is increasingly becoming one tool that is used along with other tactics in prosecutors' broader attempts to solve problems within specific geographical areas or neighborhoods;
- Prosecutors are developing and implementing a wide range of tactics that: refine their core capabilities so as to enhance the prosecution of violent and repeat offenders; involve setting standards for selective prosecution of offenders and offenses in line with neighborhood priorities; rely on civil law and the use of civil initiatives as well as criminal law and criminal sanctions; include diversion and alternatives to prosecution, sentencing, and incarceration such as mediation, treatment, community service, and restitution to victims;

- In problem solving, and increasingly in case processing, prosecutors are developing accountability at the neighborhood level;
- At first, prosecutors relied heavily on police for establishing relationships with community members, groups, etc., and for learning about and understanding citizens' concerns and priorities; however, as prosecutors move further into community prosecution, they establish their own direct linkages with citizens and this channel through the police is less necessary;
- Prosecutors are assuming a leadership role in building coalitions and leading initiatives that bring together citizens, businesses, government agencies, and other criminal justice agencies within the local community, for the purpose of reducing and preventing crime and increasing safety.

3. *Are these prosecutorial strategies congruent with community policing?*

- To the extent that our sample is representative, police and prosecutors are structuring new patterns of relating to each other, and working together;
- According to police and prosecutors alike, case processing in police departments seems to be substantially improved by the assignment of prosecutors to police patrol facilities. Particular elements from the traditional model, such as liaison officers and training of officers by prosecutors, seem to help as well, but they are most effective when inter-organizational (police-prosecutor) relationships are carefully tended to, especially by the District Attorney or County Prosecutor;
- Exposure to community and citizen groups has a powerful impact on prosecutors – an impact not dissimilar to that experienced by police. In all four sites, prosecutors could see first hand what police had long known about public safety and crime issues on the streets. Prosecutors responded by joining with police and moving to solve neighborhood and community problems, including disorder, bringing their own “tool kit” to do so;
- Prosecutors assist police departments in a variety of ways: they provide “cover” on politically sensitive issues, they serve as “conveners,” and they can be supportive of attempts to shift to community policing.

4. *How can we measure the effectiveness of community prosecution in dealing with specific problems?*

- Traditional measures of arrest and conviction, especially for selected crimes in selected neighborhoods, will continue to be used;
- Outcomes of problem solving will be best measured through several different types of measures applied together, including the “degree to which identified neighborhood social and physical problems are abated” through traditional measures, civil sanctions, and negotiated agreements in lieu of prosecution;

- Prosecutors in the study identified the following as possible additional measures:
  1. Improved perceptions of safety by citizens, indicated through their responses and their actions;
  2. Increased involvement of citizens in crime prevention and reduction activities;
  3. An improvement in case management procedures by police;
  4. An improvement in the ability of citizens and neighborhoods to problem solve.

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**PROSECUTION IN THE COMMUNITY:  
A STUDY OF EMERGENT STRATEGIES**

**APPENDIX A:**

**TRAVIS COUNTY (AUSTIN), TEXAS  
CASE STUDY**

Catherine Coles  
With George Kelling on Police

Program in Criminal Justice Policy and Management  
of the Malcolm Wiener Center for Social Policy  
John F. Kennedy School of Government  
Harvard University

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## INTRODUCTION

Many of the concepts of community prosecution have been implemented by my office through a constellation of programs to which we refer in the aggregate as Community Justice in Austin. The goal of community justice is to engage the entire community in the effort to rebuild social capital by reweaving the fabric of community. Interventions necessitated by crime and related social dysfunctions can become important opportunities for the rebuilding process. The specific design of new institutions results from analyzing the root of the particular problem to be solved....

Community is the source of both comfort and values, and . . . the traditional role of the prosecutor has been to clarify and enforce the community's values. Crime is the result of the erosion of the value-teaching institutions of the community, such as home, family, neighborhood, church, and school. It is a great irony that just as the absence of community causes crime, so the presence of community both prevents and heals the wounds of crime.

The prosecutor increasingly has a dual responsibility, not just as a lawyer, but also as a participant in the healing process....<sup>1</sup>

Ronald Earle is one of the longest serving district attorneys currently in office in the United States. First elected in 1976, he did not face a contender to re-election until 1996. Yet the 1996 contest proved to be more than a re-election campaign for Earle: in effect, it served as a referendum on his mission of prosecution, his role in the community, and his organization and management of the district attorney's office.

As district attorney over two decades, Earle transformed the Travis County District Attorney's Office (TCDAO) from a small office of about ten attorneys, to one employing 157 staff in 1996 (including 57 assistant district attorneys), with a felony trial division, highly developed units in Special Prosecutions (to address public integrity and fraud cases) and Family Justice (including coordinated investigation and prosecution of child-and family-related matters), and several diversion and treatment programs offering counseling and rehabilitative services in lieu of prosecution for first time non-violent offenders. Assuming a leadership role within the community from early on as district attorney, Earle has shaped much of criminal justice planning and established many of the integrated initiatives among public and private agencies in Travis County and the City of Austin that operate today. For example, a Community Justice Council and Community Justice Task Force oversee all criminal justice operations in the county, bringing elected officials, appointed professionals, and private citizens together in a broad-based collaborative effort.

Underlying Earle's achievements within the district attorney's office and the community, as well as his sense of mission as prosecutor, is a commitment to two separate, yet related, goals. First, he has sought to fashion criminal justice processes—including prosecution—around the victim rather than the offender (that is, helping to restore the health and well-being of the victim, with punishment of the offender a secondary objective). Second, adopting the principles of restorative justice, Earle has attempted to develop criminal justice processes that will restore and promote the health and functioning of the community (particularly through the use of restitution and rehabilitation of offenders). Earle refers to his efforts in this area, by which he has created a set of structures and

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<sup>1</sup> Ronald Earle, in Catherine Coles and Ronald Earle, "The Evolution of Problem-Oriented Prosecution," unpub. manuscript, Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, Harvard University, January 1997.

processes, as “community justice in Austin.” Both of these goals have been pursued alongside the vigorous prosecution of offenders. To all of these purposes, Earle has brought to bear his experience working in judicial reform, as a municipal judge, in the state legislature, and all within the context of a Texas heritage: “What we need in Texas now is a new posse, gathered from the community and made up of victims, churches, civic and nonprofit organizations, and local professionals from both public and private sectors, to directly confront our offenders.... We can unrelentingly bother and pressure them, one day at a time, to change.”<sup>2</sup>

This is the record of objectives and achievements that Earle had to place before the public and the media during 1996—for validation or repudiation in the November election.

## BACKGROUND

### *Austin and Travis County*

The capital of the Republic of Texas and the fifth largest city in the state, with a 1990 population of 465,622, Austin lies in the Hill Country of central Texas. It is located in Travis County (with a population of 576,407), 192 miles to the south of Dallas, and 162 miles to the northwest of Houston. It is part of a metropolitan statistical area of 781,572. The city of Austin covers 225.4 square miles (compared to Travis County with 989.0), and has a population that is 61.7 percent white (65.1 percent for Travis County), 23.0 percent Hispanic (21.1 percent for the county), 11.9 percent African American (10.6 county), and 3.4 percent Asian and “other” (3.3 county). The poverty rate in 1990 was 17.93 in the city, and 15.98 for Travis County.

Austin was founded in the 1830s. Discovered by a group of explorers sent to locate a site for the capital of the new Republic of Texas, it lies along the Colorado River, in the midst of hills and flowering trees. It was decided upon as the state capital in 1872, after a series of battles between those favoring Austin and Houston. The population grew slowly, due to the lack of accessibility, easy means of transportation, and eventually electricity: the area’s fortunes were long controlled by periodic droughts and flooding of the river. Finally, during the 1930s the Texas legislature established the Lower Colorado River Authority, headquartered in Austin, which oversaw the construction of key dams on the Colorado. In the next decade, the construction of new dams provided electricity and flood control on the river and, at the same time, the capacity to support a considerably larger population.<sup>3</sup> From this point on Austin continued to expand. Today the city is dominated by state government and the University of Texas. With firms producing electronic equipment, and industries in computer hardware and software, it has become one of the largest high-tech manufacturing centers in the country.

Austin has a council-manager form of government: the City Council has seven members (elected at large), including the mayor. Current mayor Bruce Todd has been in office since 1991; he is a former county commissioner. The city manager is appointed by the City Council, and is responsible for managing all city employees, and the administration of city affairs. The Commissioners’ Court (with four commissioners, one elected from each precinct) is the chief policy-making and

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<sup>2</sup> Ronnie Earle, “Texas needs a ‘new posse’ to tackle crime,” *Austin American-Statesman*, April 10, 1993.

<sup>3</sup> See Anthony M. Orum, *Power, Money, and the People: The Making of Modern Austin* (Austin, Texas: Texas Monthly Press, 1987).

administrative organ of Travis County. The county judge, elected countywide, is the presiding officer of the Commissioners' Court. The Court determines fees for county services, the tax rate, and distributes collected revenues among different departments, including the district attorney. The current county judge is Bill Aleshire, a Democrat and former county tax assessor who has served as a professional public administrator for over twenty years.

#### *Criminal Justice Processes in the County*

Jurisdiction over the prosecution of crimes and misdemeanors in Travis County is divided among the district attorney, the county attorney, and the city attorney. In general, the District Attorney's Office prosecutes felonies, while the County Attorney's Office and City Attorney's Office prosecute misdemeanors and ordinance violations. The District Attorney's Office prosecutes all felonies, and misdemeanors of a constitutional nature (involving official misconduct, as determined by state statute) in four county-wide district trial courts. These state district courts have original jurisdiction in felony criminal and juvenile matters.

The county attorney prosecutes A and B misdemeanors in the county courts (which have exclusive jurisdiction over misdemeanors with fines greater than \$500, and/or a jail sentence) and C misdemeanors in the Justice of the Peace Courts (which have jurisdiction over misdemeanors in the county with fines under \$500); he also serves as the attorney for the county, and the Commissioners' Court. The city attorney handles Class C misdemeanors in the Municipal Courts (which have jurisdiction over criminal misdemeanors, within the city, with fines less than \$500, and exclusive jurisdiction over municipal ordinance violations with fines up to \$2000). The City Attorney's Office provides a legal staff for the city; and advises the City Council in legal matters.

The Travis County District Attorney's Office receives cases from the Austin Police Department and the Sheriff's Department, as well as from other police jurisdictions operating within the county: the Texas Department of Public Safety, the University of Texas Police Department, and approximately twenty other law enforcement agencies.

A comprehensive criminal justice planning process for Travis County was initiated during the second half of 1996 when the County Commissioners decided to allocate responsibility for strategic planning to the Community Justice Council. The Council established a Steering Committee for Strategic Planning, comprised of the Executive Manager of Justice and Public Safety for the county, a representative of Health and Human Services for the City and County, a representative of the Community Justice Task Force, and a team of leaders from law enforcement, prosecution and the courts, corrections and probation, victim services and juvenile justice. The Committee's first act was to conduct a survey of committees and stakeholder agencies for the purpose of coordinating all existing criminal justice efforts and attempts at developing, and securing sources of funding for, new programs. Each team is developing objectives, strategies to meet needs, and outcomes to evaluate performance. The process is being coordinated with social service planning efforts in order to facilitate coordination with the justice system. The final document is due out in June 1997.

## RETROSPECTIVE ON DISTRICT ATTORNEY RONALD EARLE

### *Early Years in Public Service*

Only a year and a half out of law school, having worked briefly for Texas Governor John Connally, Ronnie Earle entered public service in 1969 by taking the bench as a municipal court judge in Austin. For three and a half years, he presided over cases involving traffic offenses, public intoxication, prostitution, gambling, and public order offenses. For two and a half years of this time, he served as associate (night) judge. During this time, the activism going on in the streets and on campus made its way into courtrooms—Black Panthers, SDS, other radical organizations, Earle got to know them all, as well as police officers. He was frequently cast in the role of mediator between conflicting groups. For example, in the aftermath of the Kent State shootings when mass rallies took place on the University of Texas campus, Earle worked with students to prevent violence from breaking out between them and the police. During this time, Earle also worked closely with a teen jury (developed by his predecessor) that he administered in the courtroom: student ‘peers’ would hear the facts (and ask good questions: “how’d you get the car?” “did your parents know you had it?” “were you going to see your girlfriend?”); deliberate; and come up with appropriate punishment—which would include service on future juries. Judge Earle helped to create innovative punishments (cleaning up on “Rat Patrol” on Saturday mornings in slum areas; environmental cleanup operations; working in the state mental hospital, retirement and nursing homes). This was his first experience with what Earle would later call “appropriate punishment” for offenders.

In August 1972, he left the Municipal Court to serve as chief counsel of the Texas Judicial Council, a state government agency charged with collecting data such as numbers of cases tried, and verdicts, from the courts. The Judicial Council was headed by a justice of the Texas Supreme Court, Judge Tom Reavley (who later would sit as a federal judge on the Fifth Circuit Court of Appeals). The Council had received a grant to support a Task Force for Court Improvement (headed by Texas Supreme Court Chief Justice Robert Calvert) to recommend changes in the court structure in Texas, and Earle directed the activities of this task force. He lobbied for passage of a new judiciary article of the state constitution, and organized a series of court-improvement conferences around the state. Although he loved the writing and research, Earle missed the street: “I go from cops, and prostitutes, and taxi drivers, and dope addicts, and criminal lawyers and all that, one day, to tinkling crystal and fine china the next day [at the Supreme Court] . . . and it was just like, ‘What am I doing here?’”

In July 1973, Earle ran for a position in the state legislature that had been vacated by the resignation of the local state senator. Elected then, and re-elected in 1974, Earle served for a total of three years. It was his interest in judicial reform that initially motivated Earle to run for legislative office. The legislature had called itself into session as a constitutional convention (the first since the 1876 constitution was written), to meet in the spring of 1974. Earle participated in this session, and in the attempts to revise the constitution to reflect stronger centralization of authority in state and local government. The attempt would ultimately fail: too many interests were threatened, and the proposed document did not pass the convention. While in the legislature, Earle also became interested in prison reform: the governor appointed him to serve as his ex-officio liaison with the joint House-Senate Committee on Prison Reform; he also helped organize an inmate rehabilitation program to train and find jobs for recently released offenders. At the same time, struggling with a salary of \$400 a month as legislator, Earle was forced to seek other income, and formed his own law firm. He practiced mostly in criminal defense, along with some domestic relations and personal injury work.

But Earle did not like defense work, and sorely missed law enforcement and the bench. He considered running for a judgeship, but none was available. Instead, the district attorney's job was open: his friends in the police department started encouraging him to run. For the first time in its history, the Austin Police Association endorsed a political candidate—Earle. (Later, Earle would laugh about this early support: "I didn't know at the time that cops are often dissatisfied with the D.A., they always want somebody else to run for DA, they're always courting some other lawyer to be the D.A.") The sitting district attorney was Democrat Bob Smith, a career prosecutor who in 1972 had prosecuted the speaker of the Texas House, another member of the legislature, and a couple of lobbyists in the "Sharpstown Scandal," a watershed in Texas politics and the biggest "housecleaning" in the history of the state legislature. Smith had been in office eight years, and would not run for re-election: having served as county attorney, attorney general, and district attorney, he took the next step up to run for district judge. Earle's opposition for office would be Ned Granger, the elected county attorney, and Ron Weddington, a local criminal defense lawyer. Acknowledging his lack of experience as an assistant district attorney, Earle developed a "short platform" emphasizing his qualifications for office: "a virgin mind and a keen sense of justice." He knew what he wanted to achieve—justice—and was open-minded about how to reach it. Although the election was hotly contested, Earle won with 53 percent of the vote.

### *Taking Office*

When he took office in 1977, Earle recalls that the Travis County District Attorney's Office was an organization with ten or eleven assistant district attorneys, about three secretaries, "no copy machine, no computer anywhere around," and no real administrative structure. There were two divisions—a Grand Jury Division (with one or two attorneys) and a Trial Division (with everyone else in it). Assistant district attorneys trying felonies were paid less than assistant county attorneys trying misdemeanor cases, because the county attorney was well connected politically with the Commissioners Court, while District Attorney Smith had ignored the commissioners. Earle "started fighting the Commissioners Court the first day over salaries." Outside the office, Earle was viewed from the perspective of the courts as relatively unknown and inexperienced. To counter this perception, his first act was to hire as first assistant, Phil Nelson, "the single most respected former prosecutor," then working as a criminal defense lawyer in town, and widely known and admired as a scholar of the law. As Earle tells it, "That put everybody at ease immediately. Well I couldn't be too crazy, because I hired Phil. A lawyer's lawyer."

But even with Nelson on board, the District Attorney's Office provided no honeymoon for Earle. Almost as soon as he took office, he was faced with prosecuting bail bondsman Frank Smith, who through his license commandeered the services (many of them illegal and violent) of the offenders for whom he paid bail. Involved in organized crime, Smith was one of the most feared individuals in the community. Earle's strategy was first to go after Smith's license: he organized a bail bond board that had never met, wrote new bylaws for the board and pushed through their adoption (in the face of resistance from public officials who were afraid of Smith, and in spite of death threats received by Earle and his family), and finally was able to strip Smith of his bail bond license. Smith was jailed, a full investigation of his activities carried out, and Earle then prosecuted him as an habitual offender.

On the heels of this case, the office conducted three capital murder prosecutions (two cases tried by Earle himself); an investigation of corruption in the State Police Narcotics Division, the Governor's Office of Migrant Affairs (GOMA), and the State Insurance Board; and also prosecuted a justice of

the Texas Supreme Court for perjury. Because of the special nature of many of these cases and the demands placed on the office in investigating and prosecuting them, during his first year Earle went after a grant to create a Special Crimes Division in the District Attorney's Office (for large, complex cases, such as the Insurance Board investigation); then in 1978, he sought additional funding for a Public Integrity Unit to oversee cases involving public figures (including the GOMA case, and investigations of other state offices). Underlying these actions was Earle's sense that the public had lost confidence in the ability of government to do its job: "An incident involving a corrupt government official or employee is . . . an opportunity to strengthen the confidence of the people in the institution of democracy by demonstrating that the law works."

At the same time that Earle was investigating and prosecuting these high profile cases, he was becoming increasingly aware of the degree to which prosecution alone did not seem to meet the needs of victims, and of the growing sense of powerlessness of private citizens to do anything about crime. Ultimately his responses to these two realizations would lead to the development of a mission for the district attorney that would carry him well into the 1990s—a mission that would lead not only to the creation of new structures and processes inside the district attorney's office, but in the wider community.

*As Travis County Prosecutor: A Developing Mission in the Office and in the Community*

#### Helping Victims Heal

From his early years in office, Earle has placed attending to the concerns of victims high among his priorities as a prosecutor:

I came to this office from the legislature, where you have constituencies who like what you do, and I could not make victims happy the way I had made state employees or some other constituency happy.... And so I kept trying to figure out how we can heal them, because that's what they want. The verdict is not going to make them happy, because the verdict by itself is not enough to heal the wound.

As district attorney, Earle soon came to believe that to achieve justice, the traditional mission of the prosecutor, "the process has to be healing for the victim . . . . And with the victim that has to do with 'Does anybody understand how I feel?'" In 1979, he created a Victim's Assistance Program for the Travis County District Attorney's Office—the first in any prosecutor's office in Texas.<sup>4</sup> While victim counselors worked with victims, and helped assistant district attorneys learn to deal with the victims, Earle also encouraged his attorneys to form genuine relationships with the victims, not to "build walls" to keep victims at a distance. Countering the attorneys' comment that "it's my case, not the victim's case," Earle disagreed—he saw them as lawyers for the victims. In 1986, Earle wrote legislation (the Victims' Bill of Rights) which mandated prosecutors' victim assistance programs throughout the state.

During the mid-1980's, when reported incidents of child abuse began to rise dramatically, the need for additional attention and special expertise in dealing with such vulnerable victims became apparent to Earle. Within the office, he created a new Child Abuse Unit, but the sheer numbers of cases (most of them involving incest) burned assistant district attorneys out rapidly, and many of

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<sup>4</sup>This followed the Austin Police Department's actions in setting up a Victim Services Division.

Earle's district attorneys were resistant to working in the unit. Earle began to look for solutions outside of prosecution. In the community he became involved with the Pebble Project, a non-profit initiative that focused on incest, and eventually helped to found the Institute for Community Family Treatment, a treatment program for incest in families. When problems developed in running the Institute, Earle was asked if the District Attorney's Office would take on the administration of it. He agreed. Renamed the Family Development Center, it became for a time the responsibility of the TCDAO's director of Victim Assistance; finally it was moved back out of the office to be taken over by a community-based group, Parents Anonymous.

Earle did not lose his concern for child abuse, however. He and his wife, Twila Hugley Earle, a trained counselor, attended seminars and conferences on child abuse and neglect, and based upon the model developed in Huntsville, Alabama, developed a plan for creating a Children's Advocacy Center in Austin (again, the first in Texas; see below for description). The death of a two year-old boy in 1991 at the hands of an abusive stepfather pointed out the problem of lack of coordination between police and child protective services in the investigation of child abuse cases: Earle then led efforts to combine detectives and social workers with prosecutors in the creation of a collaborative Child Protection Team (CPT). Following Austin's lead, the Texas legislature later made such collaboration mandatory. The CPT brought together, in one geographical location, representatives of the Children's Advocacy Center, police and Sheriff's Department, caseworkers from the Texas Department of Protective and Regulatory Services, the Austin Children's Hospital, and the TCDAO, to investigate and handle intake for cases of child abuse and neglect.

Finally, within the office again, Earle changed the name of the Child Abuse Unit to the Family Justice Division: the rationale was that the same families involved so often with police and Child Protective Services in cases of abuse also had children involved with juvenile authorities and the courts. Earle thought it made sense that actions to protect children, and to prosecute children, be brought together in a single unit in which efforts could be made to protect, monitor, and correct children and address the problems of entire families in a more comprehensive fashion. Together, the Child Protection Team, the Children's Advocacy Center, and the Family Justice Division have contributed significantly to the success rate of the District Attorney's Office in investigating and prosecuting child abuse cases. They have also brought a substantial concentration of public and private resources to bear on issues of child welfare in the community.

#### Building Community Justice in Austin

Through his years in office as district attorney, working with victims and with others in the community, Earle also became convinced that he had to engage citizens themselves in helping to create a safer community.

...[P]eople feel powerless to do anything about crime, except to get angry.... Powerlessness increases the fear of crime...and anger is a source of energy that is wasted when it fuels fear. Tapping this source of energy and turning it into fuel for change forms the basis of my office's efforts to bring together citizens, including crime victims, with the entities of the criminal justice system to plan the community's response to crime. If the public is to be empowered to participate in its own system of protection, then it must be part of a planning process.

With this growing realization, Earle wrote and secured passage of a section of the (Texas) Criminal Justice Reform Act of 1989, providing for the creation of *Community Justice Councils* at the county level to oversee a multi-dimensional planning process addressing public safety. With this legislation

in effect, Earle and his top advisors then worked to set up a Travis County Community Justice Council, and a number of related bodies that in operation would empower neighborhoods and citizens themselves to create and maintain a safe community. The overall structure of the Community Justice Council and related committees is illustrated in Appendix A. At the head of this structure is the Council itself, chaired by District Attorney Earle and made up of ten elected officials (in addition to the district attorney, the county attorney, sheriff, representatives of the County Commissioner's Court and the Austin City Council, local delegates to the state legislature, the presiding district judge, a County Court judge, and a trustee of the Austin Independent School District). A key responsibility of the Council is to engage in a coordinated planning process along with representatives of law enforcement, education, social services (including victim advocates) and community corrections. The Council is responsible for preparing the Community Justice Plan, and for providing continuing policy guidance in planning and the development of community corrections facilities and programs. Technical expertise and support are provided to the Council by the *Community Justice Task Force*, comprised of fifteen appointed officials and representatives of non-governmental criminal justice stakeholders.<sup>5</sup>

The public is included in the planning process through the *Neighborhood Protection Action Committee (NPAC)*: each member of the Community Justice Council and Community Justice Task Force appoints one lay citizen or neighborhood activist to NPAC. All NPAC members receive formal training (developed by the Council coordinator and Task Force representatives) to assist them in their role in the planning process. The purpose of the NPAC is to provide grassroots citizen input in planning, to address the role of neighborhoods in responding to criminal behavior, and to seek answers as to how the community can respond positively to the impact of criminal activity. NPAC works to support model programs for neighborhoods affecting youth at risk, to establish linkages with neighborhood organizations and crime watch groups for collaboration in crime prevention efforts, to support programs (particularly treatment and support systems) to reduce recidivism, to promote community policing, and to develop intergovernmental contacts and impact state and municipal legislative policies that affect criminal justice.

A set of special purpose *Community Justice Action Groups* provides technical and professional expertise to the Council through a multi-disciplinary, inter-agency approach in several specific areas. For example, the Committee on Offenders with Mental Impairments meets monthly to improve services and the quality of care for individuals with mental retardation, developmental disabilities, and mental illness as they come in contact with criminal justice agencies and processes. The Substance Abuse Working Group was the driving force behind the establishment of a drug diversion court for Travis County, which began operating in August 1993. The group is continuing to study the development of a comprehensive service delivery network for substance abuse offenders in the county.

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<sup>5</sup>Members include the Chief of the Austin Police Department, the regional director of the Texas Department of Human Services, the Chief Juvenile Probation Officer, the Austin Independent School District Superintendent, the Department of Public Safety regional supervisor, the regional director of the Texas Department of Mental Health and Mental Retardation, a substance abuse treatment professional, the local or regional representative of the Pardons and Paroles Division of the Texas Department of Criminal Justice, a representative of the Texas Employment Commission, a representative of the Texas Rehabilitation Commission, a criminal defense attorney, a court administrator, a representative of a community service organization, a representative of an organization actively involved in issues related to defendants' rights, and a victim's rights advocate.

One significant result of the Council planning process is the *Community Justice Center*, a 1000 bed community corrections ("state jail") facility intended to house local, non-violent offenders who have committed fourth degree felonies such as theft and minor drug violations. The idea for the Center grew out of discussions about jail and prison overcrowding and the futility of sending such offenders far away to prison only to have them return worse than before. A 1993 statute created the state jail system and provided for the construction of centers in various counties: Travis County's Community Justice Center opened in February 1997. The Community Justice Center is innovative in two senses: first, comprehensive services are focused on individual and family needs; second, it provides a significant and far-reaching effort to build a safety net after release.

In response to rising juvenile crime rates, representatives of city, county and state governments conducted a joint audit of all agencies in Travis County involved in the juvenile justice system. When results pointed to the need for greater coordination and collaboration among the agencies, the auditors recommended a concept similar to the Community Justice Council planning process for the juvenile area. Today a two-tiered structure operates, consisting of a *Juvenile Agency Coordinating Committee (JACC)*, made up of elected officials, which sets policy,<sup>6</sup> and a *Management Coordination Team (MCT)*, whose members represent various county agencies and who provide advice and support to the JACC.<sup>7</sup> Around the time of the creation of the JACC, an analysis of the continually escalating recidivism rate among juvenile offenders revealed that no significant sanctions were being imposed for the first, often second and even third arrests: in fact, youthful offenders were not even required to go to court. In response, Earle and the JACC created the First Offender Program, which mandated that juvenile first offenders, even petty misdemeanants, appear before a judge. Truancy was also recognized as a key issue, since many of the crimes committed by juveniles occurred during school hours, when youngsters were supposed to be in class. To address the truancy problem, the District Attorney's Office joined in a collaborative effort with the five Travis County Constables' offices and the Austin Independent School District to create the Absent Student Assistance Program (ASAP) to identify and prosecute truant juveniles and their parents. An assistant district attorney prosecutes truancy cases assigned to justice of the peace courts and assists the court in identifying sanctions and programs that will support and facilitate the juvenile's participation in the educational system. The assumption underlying ASAP's operation is that a youngster's truancy often is an indicator of deep-rooted problems in the family system: intervention in that system through truancy prosecution can prevent future problems, including more serious crime.

Finally, "in an effort to return the individual citizen to her historical role as the dominant actor of criminal justice," in 1996 District Attorney Earle, cooperating with Austin's Health and Human Services Department, formed the first *Neighborhood Conference Committees (NCC)*, based upon a model developed in El Paso County in 1979. The Austin Police Department, the Juvenile Court, area school districts, and above all, citizens, are also partners in this collaboration. The coordinator of the NCC program is Eric Olson, of the city's Health and Human Services Department. Through the operation of Committees formed within zip code areas, juvenile misdemeanants who are first

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<sup>6</sup> The Juvenile Agency Coordinating Committee is made up of the district attorney, the sheriff, the chief of police, a member of the Juvenile Board (a district judge hearing juvenile cases), a representative of the Austin City Council, a representative of the Commissioner's Court, and a trustee of the Austin Independent School District.

<sup>7</sup> The Management Coordination Team is made up of management staff members of the entities on the Juvenile Agency Coordinating Committee in addition to the Chief Juvenile Probation Officer, the Executive Manager of Justice and Public Safety for the county, and a member of the Austin/ Travis County Health and Human Services Department.

offenders may have their cases deferred from adjudication in the Juvenile Court to be heard by a panel of three trained volunteers from the offender's neighborhood.<sup>8</sup> Each Committee has a coordinator (the only salaried position connected with the committees) who organizes its activities and along with personnel from agencies involved, screens, orients and trains citizen volunteers to serve on the panels.

The NCC panel meets with the offender and his/her parents (separately, and then bringing them together) at a school or other locality in the neighborhood, in an initial session lasting at least two to three hours. The panel members assess sanctions appropriate for the juvenile and his or her family, and develop a four to six month contract for the offender, involving restitution for the victim, restoration of the loss to the neighborhood, and other components intended to strengthen the juvenile's ties with adults in the neighborhood, such as mentoring and counseling. The goal of the diversion is not only to resolve the alleged wrongful act, but to make the juvenile accountable for the offending behavior, to make him or her aware of how the offense has injured and otherwise affected individuals, to impress upon the juvenile that the community is concerned about his or her action, and to develop community resources and provide opportunity for citizen participation.

The first NCC began operating in the Bedichek Middle School area, in South Austin, early in 1996. As of early April 1997, 101 conferences had been held (from February 1996); 32 people had served as volunteers, with 23 currently active; 40 contracts had been completed (from 5/96); 4 juveniles had been re-arrested, for a 10% recidivism rate. Some on the original Committee had left due to other responsibilities; new volunteers were being added and trained; and additional training and assessment sessions for those already in the program were also being held. But the program has been spreading rapidly, as more and more neighborhoods are asking to form their own Conference Committees (see below, Update). Citizens in many areas say they like the idea of doing something about problems of youth in their own communities; and, they find the process of working with their neighbors on panels satisfying and rewarding ("the tough, punishment-oriented people are tempered by others," "we try to work together, and to be proactive"). They are candid about the need to involve all ethnic and cultural groups within a neighborhood, "or else the NCC could end up with volunteers being white, and offenders Hispanic or African-American."

In Pflugerville, in northeast Travis County, forming a Neighborhood Conference Committee (which began operating in March 1997) was the primary motivation for creating a local Community Justice Council. Now that the NCC is up and running, community members are attempting to identify other issues and problems upon which to focus their joint efforts.<sup>9</sup> Residents of Dove Springs and Central East Austin are currently forming Committees as well.

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<sup>8</sup> Committee members are qualified as volunteers by and under the authority of the Travis County Juvenile Court Department.

<sup>9</sup> See Appendix D, Travis County Neighborhood Conference Committees, Review, for status and funding of the various conference committees.

## THE TRAVIS COUNTY DISTRICT ATTORNEY'S OFFICE IN 1996

Through twenty years in office, the development of this two-pronged mission has led District Attorney Earle to assume an active role as a community leader. Although Earle has tried a number of cases (many more in the early stages of his tenure as district attorney), increasingly he has turned to other activities, leaving the prosecution of cases with his attorneys. As Earle explains,

I see my job as never hiring anybody who's not twice as good a lawyer as I am, giving them good pay, everything they need to try cases, and making sure we get the cases tried. My job is to do what only the elected district attorney can do. Nobody else can meet with other elected officials; nobody else can go to the Commissioner's Court and to the legislature and get budgetary increases. Nobody else can get the law changed.

If Earle is not directly involved in trying cases, his mission has nonetheless shaped the organization and overall functioning of the TCDAO.

### *Organizational Structure of the TCDAO*

The Travis County District Attorney's Office employs a total staff of 157, including 57 assistant district attorneys, 7 victim/witness counselors, 17 investigators (including those in the Special Prosecution Unit), and the remainder support staff of various types. The organizational structure is relatively flat, with a first assistant district attorney overseeing day to day operations of the office, as conducted through the following major divisions: Grand Jury Intake Division; Trial Division; Family Justice Division; Appellate Division; a Special Prosecution Unit; Investigations; Administration Division; and Victim/Witness Division. The directors of these divisions, along with the first assistant, comprise the executive staff. Along with the chiefs of the four trial teams in the Trial Division, they meet weekly with the district attorney.

### Grand Jury Intake Division

In Texas, most felony cases must be indicted by a Grand Jury before prosecution. Felonies generally come into the District Attorney's Office via the Grand Jury Intake Division; however, major crimes and narcotics cases, cases moving through the Special Prosecution Division, and child abuse and sex crimes cases are reviewed, presented to the Grand Jury, and prosecuted vertically within separate units. Assistant district attorneys in the Grand Jury Intake Division screen and prepare cases for presentation to the Grand Jury, which either indicts ("true bills") the cases, or "no bills" them. Lawyers assigned to the unit also provide advice to police regarding particular cases, and to members of the public who contact the District Attorney's Office. During 1996, 6779 cases were reviewed by Grand Jury Intake: of these, 5615 were indicted (see below, Case Statistics). Following review, particularly complicated or sensitive cases may be presented to the Grand Jury by the director of the division herself. Once cases are indicted, they are forwarded to the Travis County District Court Administrator, who assigns them randomly to one of four district courts.

Prior to cases being presented to the Grand Jury for indictment, certain cases are reviewed by the *Appropriate Punishment Team (APT)*. Although housed in the District Attorney's Office, the APT also includes representatives of Pre-Trial Services, Community Corrections and Supervision, the

Sheriff's Office, Austin Police Department, and the District Clerk. This process is designed specifically to formulate appropriate sentence recommendations for and rapidly dispose of cases involving jailed defendants who have committed nonviolent offenses. A smaller subgroup of the APT also reviews felony cases involving defendants not in jail, and makes recommendations for pleas. The APT attempts to design sentencing recommendations that emphasize alternative, community-based sanctions aimed at reducing future criminal behavior. A typical plea offer might include: a period of incarceration, restitution to the victim and rehabilitation services. Defendants have two weeks to consider the APT plea offer: approximately 1/3 of plea offers are accepted by defendants (and judges virtually always accept the recommendation for sentencing if the plea is agreed upon); the remainder are presented to the Grand Jury by APT assistant district attorneys, at which time the APT recommendation expires. At this point the assistant district attorney assigned to handle the prosecution of the case is responsible for any further plea offers.

Cases involving possession of small amounts of felony controlled substances may also be diverted to the county's diversion drug court, *SHORT (System of Healthy Options for Release and Treatment)* modeled on the Dade County, Florida, program. The chief of the Grand Jury Intake Division identifies eligible offenders: referred cases are diverted from prosecution in the felony district courts, and transferred instead to SHORT, a twelve month drug diversion and treatment program, where offenders appear frequently before a presiding magistrate who receives reports on their progress through the required program of individual and group counseling, urine testing, and support services. Upon successful completion of the program, an offender's drug possession charge is dismissed. Two assistant district attorneys staff the drug court one evening per week, serving for a two month rotation into the drug court, while continuing to carry out their normal responsibilities in the office during the day. A preliminary evaluation of the drug court released in January 1996 concluded that participation in the program appeared to reduce significantly subsequent involvement in crime by those who successfully completed the program.

The *Hot Check Unit* reviews and processes felonies involving thefts by check, attempting to obtain restitution for victims by contacting offenders rather than preparing cases for indictment where possible. During 1996 approximately \$1,072,437 were disbursed as restitution to victims through the Division.

#### Trial Division

The majority of indicted felony cases are prosecuted through the Trial Division. One trial team is assigned to each of the four felony district courts hearing cases in Travis County: each team is staffed by a trial team leader and three other attorneys, a secretary, and a commissioned investigator. Each team reviews newly indicted and docketed cases, develops plea recommendations and offers, and then prosecutes cases. Teams try cases during twenty-four scheduled jury weeks per year.

The *Major Crimes and Narcotics Unit* vertically prosecutes high profile cases, receiving the cases during the investigation stage, presenting them to the Grand Jury for indictment, and then proceeding to trial. Attorneys in the unit also write appellate briefs as necessary for the cases. The unit is also responsible for the prosecution of civil forfeitures, most of which arise out of drug cases that are simultaneously being prosecuted by the unit.

#### Family Justice Division

The Family Justice Division is a special unit outside of the Grand Jury Intake and Trial Division: any matters involving children and families, including child abuse, death, civil and criminal neglect, and juvenile prosecutions are handled here. Director Rosemary Lehmborg took over the division in

1988: at that time, two criminal, two civil and one and one-half juvenile prosecutors were located in the division; now seventeen attorneys handle criminal and civil child abuse and juvenile prosecutions. Earle considers this division one of the most important in the office, and along with Lehmborg, has been directly involved in developing its size and increasing its functions over the years.

There are several component sections of the Family Justice Division:

Two attorneys from the Division are assigned to the *Child Protection Team (CPT)*. The chief prosecutor of the CPT is housed with the police, Sheriff's deputies, State Children's Protective Services caseworkers, and victim counselors. This attorney assists CPS caseworkers in producing civil petitions to remove children from abusive households and provides legal assistance to the law enforcement officers who are investigating criminal child abuse cases. The chief prosecutor also chairs the *Child Death Review Committee*, an interagency committee that reviews the death of any child in the county, to oversee the exchange of information among the agencies, determine the cause of death and try to prevent other children from dying. A second CPT prosecutor from the division is housed at the *Children's Advocacy Center*. This lawyer provides legal assistance in preparing and videotaping interviews with child victims at the Center and presents criminal child abuse cases to the Grand Jury. Four attorneys from the division are assigned to the litigation of criminal child abuse cases in the felony district courts.

In the *Civil Child Abuse* group, three attorneys from the Division represent State Children's Protective Services after petitions are filed removing children from abusive households. These petitions may seek court-ordered services for the family or termination of parental rights.

Seven assistant district attorneys in the *Juvenile Unit* prosecute juvenile offenders between the ages of ten and seventeen in the Juvenile Court, located at the Gardner-Betts Juvenile Justice facility. Cases involve all misdemeanors except Class C (the least serious, which lie within the jurisdiction of the county and city Attorneys, and are processed respectively in the Justice of the Peace or Municipal Courts), and all felonies—that is, everything from shoplifting to capital murder. Attorneys may also seek to have juvenile offenders “certified” for trial as adults. An *Auto-Theft Prevention* assistant district attorney position is funded by a state grant (60-70% of auto theft in the county is by juveniles): the attorney filling the position not only prosecutes cases by working closely with the Austin Police Department auto theft unit, but speaks regularly in local training sessions and meetings regarding auto theft.

A *Gang Activity Prosecutor* prosecutes juvenile gang members who have committed gang-related offenses, and attempts to have juveniles certified as adults when the most serious offenses have been committed. This assistant district attorney also works closely with the Gang Task Force, made up of police and probation officers.

Two other programs—*SHOCAP* (Serious Habitual Offender Comprehensive Action Program) and *Impact Court*—have operated at various times. SHOCAP targets the most serious juvenile offenders, providing counseling and support services for parents and juveniles (who have at least three felony referrals and one adjudication). Juvenile prosecutors did not consider it to be operating successfully during 1996: many of those cases referred to SHOCAP had already been sentenced for more serious offenses by the time staffing was completed for SHOCAP. The Impact Court, originally set up to clear the backlog in child abuse cases, is no longer functioning as a separate court. Instead, visiting judges are available to augment the four regular District Courts to avoid

future backlogs.

#### Appellate Division

Four assistant district attorneys comprise the Appellate Division which handle all appellate matters, from writing legal briefs to arguing them in the appellate courts. The division also provides advice and research on a short notice basis to trial teams and other divisions. With the first assistant and the district attorney, the Division formulates office policy in response to developing case law from the United States Supreme Court and the Texas Court of Criminal Appeals.

#### Special Prosecution Division

The Special Prosecution Division, with eleven assistant district attorneys, handles procedures from intake through trial and appeals for specialized cases that may require special expertise to investigate and often are complex and time-consuming. The division has its own investigators and accountants who work up cases before indictment; APD officers and Sheriff's deputies also work directly with some units. Many cases do not proceed to trial, but are settled through plea agreements. Investigations and prosecutions are conducted within five separate Units: the State Public Integrity Unit (which receives state funding to prosecute cases involving State government); the Local White Collar Crime Unit; the Insurance Fraud Unit; the Motor Fuels Tax Fraud Unit (which works with the State Comptroller's Office to prosecute and seek restitution for violations); and the Lottery Unit.

#### Investigations Division

The Director/Chief Investigator of the Investigations Division supervises a staff of seventeen other investigators, all commissioned law enforcement officers: four are assigned to work with the four trial teams; five to the Family Justice Division (two to criminal cases; one to civil prosecutions, and two to juvenile prosecutions, one of whom deals with auto theft); seven to the Special Prosecution Division; and one to Grand Jury. Investigations begin with Grand Jury Intake, or when a complaint or information is received from a variety of sources, such as the Public Integrity Unit. The director is responsible for training his staff, setting policies (or implementing relevant policy as decided by Earle and communicated to members of the executive committee), assigning cases, and generally overseeing problems and activities in the division. The primary job of investigators as they see it is taking probable cause and "moving to beyond a reasonable doubt," refining cases so that they will be ready for trial.

#### Administrative Division

The Director of the Administrative Division has responsibility not only for providing support services for legal operations of the TCDAO through her oversight of personnel, but for the development and management of budgets, and case record and information management systems. She has been involved over the past two years in helping to develop a new countywide integrated information management system for criminal justice agencies.

#### Victim/Witness Division

The Victim/Witness Division consists of six counselors assigned to work with victims of violent crime and their family members in the Juvenile and District Courts. The division reviews all files that involve victims and enters case information into the automated victim tracking system that contains rudimentary demographics, counselor notes, contacts and services provided. Information can be accessed through victim or defendant name or DA case number, and only by victim counselors, but information pertinent to the case is shared with the prosecution to provide greater understanding of the victim and the circumstances of victimization. A letter is sent to all victims or the victim's family, providing the name and phone number of the counselor; this is followed up with

a telephone call. (An attempt is made to call the victims within ten days.) Victim information sheets and victim impact statements are then filled out and placed in case files so that they are available at a later time to prosecutors, judges, and parole officers. From this point on, counselors act as advocates (advisors) for victims during all stages of the criminal prosecution, accompanying them to meetings, linking them with needed services in the community, referring them for financial aid, attending trial with them, helping to communicate their wishes to the prosecutor handling the case if necessary, and generally educating them about the criminal justice processes. In high profile cases, two counselors might be assigned, one to work with the victim and another to assist the prosecutor.

Counselors in the division perform a number of additional services. Within the office, the victim counselor role has been “reframed” to provide greater assistance to attorneys: counselors observe meetings between attorneys and victims and then consult with the attorneys to help them understand how better to work with a victim (including when to leave him or her alone); they also provide information on mental health issues, including the dynamics of families and crime. They offer support as needed throughout the office—sometimes directly to the attorneys themselves. Counselors are also trained and available to conduct jury de-briefings as requested. Letters are sent informing jurors that they may call victim counselors if they are in need of assistance.

All victim/witness counselors are involved in activities in the community related to reducing violence and assisting victims. Several have worked with the Family Violence Task Force, in existence since 1990. One counselor worked with the director of victim advocates in the County Attorney’s Office to develop Project Options, a program to address the needs of female victims, especially those experiencing spousal abuse, by providing them with information about family violence, characteristics and effects, services and support groups available, and various options including criminal justice prosecution. All domestic violence victims who initially choose not to proceed with prosecuting an offender must complete this course. In fact, assistant district attorneys on trial teams report that few if any women who are victims of domestic violence refuse to prosecute once they have completed this course.

### *Administrative Processes*

#### Prosecutorial Leadership

Over the many years that he has spent in office, two trends are apparent in Earle’s management style—one cyclical in nature, the other linear. A meaningful and accurate description of Earle’s leadership and management of the Travis County District Attorney’s Office during 1996 cannot be provided without locating this year within the context of these two broader trends.

As part of the first, Earle has led the office through several distinct cycles, each comprised of a series of phases in which (1) an intense period of “hands on” leadership and management, when he was pushing hard to “sell” new ideas and new values to personnel at all levels within the TCDAO and move them in a new direction, was followed by (2) a period of working intensively with his staff to help them internalize and assimilate these values and ideas, and finally (3) a period when Earle could step back, assume a supervisory role (which reflected no lessening of his commitment), and delegate responsibility in this new area to staff who were fully capable of moving forward on their own. The 1996 year during which data were gathered on the District Attorney’s Office fell into one of these later, supervisory phases.

Earle and his senior staff recount that during his overall tenure in office, at least three of these

cycles have occurred, and they are on the cusp of a fourth. The first was rooted in changes Earle introduced to center office operations, including case processing, around victims rather than offenders; a second cycle grew out of Earle's attempts to initiate new responsibilities for mentoring of less experienced staff by senior, more experienced attorneys, to develop measures for assessing staff performance at all levels, and to implement evaluations; and a third reflected his interest in the creation of significant linkages between the TCDAO and the community, and his commitment to restorative justice—pushing assistant district attorneys themselves to think and work toward inter-agency collaborative efforts, and programmatic initiatives in diversion, appropriate punishment, and sentencing alternatives. During the first and second phase of each cycle, Earle lost assistant district attorneys who were not prepared to change, to alter their sense of mission, to adjust to new ways of working. Often their departure was painful to Earle—he believes he lost some good attorneys, and good people. Yet Earle stands by the principles and values that he sought to introduce at each stage: to move forward, he needed to reach a “critical mass” in terms of staff who supported his approach to the business of prosecution.

As part of the second linear trend that has characterized Earle's management and leadership style, by 1996 he had groomed and grown to depend upon a small group of senior staff—especially the directors of the Family Justice Division (Rosemary Lehmborg) and Grand Jury Intake Division (LaRu Woody), who had been in his office for much of his tenure—to carry out much of the day to day management of the office. In addition, these two individuals had taken on the very substantial task of involvement in community-oriented activities requiring representation of the office at an executive level, so that Earle himself was no longer bearing this burden alone. In fact, virtually all executive staff in the TCDAO have assumed responsibilities on behalf of the office in the community, although none to the same degree as Lehmborg and Woody. Earle meets with his executive staff, including the first assistant and division heads within the office, on a weekly basis. Apart from these meetings, informal communication with core advisors—especially the directors of the Family Justice and Grand Jury Divisions—is frequent. But in practice, individual members of this group and others on the executive staff have worked with Earle for so many years that they operate “in sync” easily and without the need to be in constant communication.

Underlying the development of his approach to management and leadership, Earle credits the Demming philosophy of “total quality management” with teaching him the value of a decentralized participatory strategy

...so that we engage as many people as possible in the operation of the enterprise, the enterprise being the running of the District Attorney's Office. And this is...in many ways the secret of much of the success that we have enjoyed.... I can't do it all... If I give it to somebody else... the fewer instructions that I give them generally the better, they do a much better job.

### Creating a Culture

If Earle focuses on the wider community outside the office, he also brings this concept to bear within the District Attorney's Office. In many senses, the TCDAO is its own community. The sense of mission that Earle espouses has made its way to the rank and file: line prosecutors and executive staff alike acknowledge the importance of both trial work and diversion/deferred prosecution/community-oriented initiatives and programs to the overall mission of the office, and see "no conflict in the community-oriented programs" even for trial attorneys, and "no resentment against 'community work attorneys.'" In part this may result from the rotations that occur every six to nine months in the office, through which many assistant district attorneys are moved to different positions and divisions within the office where responsibilities and job requirements were diverse. Rumors fly and apprehensions increase every time a rotation approaches: some assistant district attorneys reported anxiety over the possibility of being posted in the Juvenile Unit or Appellate Division. Yet many attorneys in the Trial Division have previously served considerable time in the Family Justice Division, or in Grand Jury Intake where they worked closely with police and had extensive contacts with victims, or as part of a diversion team effort, and have brought the perspectives they developed through that experience to bear on their current trial activities. One Trial Team chief retains both the reputation of being particularly sensitive and competent in, and a commitment to, prosecutions involving child abuse or juvenile prosecution that he developed during service in the Family Justice Division—when called upon he still tries the occasional case in this area.

Although assistant district attorneys who work primarily as prosecutors or in Grand Jury Intake admittedly spend most of their time on case preparation or trial related matters, a majority do become involved in some type of community activity: an Hispanic assistant district attorney visits high schools to speak with Hispanic students; the chief of the Juvenile Unit serves on the Governor's Juvenile Justice Task Force to study new juvenile laws; others attend neighborhood meetings. Most attorneys report that the office encourages, though does not require, community involvement. All attorneys interviewed recounted feeling that their own contributions to the functioning of the office—trial work or otherwise—were valued and appreciated by Earle and executive staff.

Some restructuring of the organization appears to have created constructive tensions among staff, especially where differing interests and priorities characterize the work of attorneys in a single division, or even among different divisions. For example, the Family Justice Division includes attorneys who prosecute juveniles, as well as those responsible for civil actions involving abuse and neglect. Juveniles whose behavior is sufficiently violent that their parents refuse to take them in and they cannot be placed in foster care may be prosecuted by the Juvenile Unit. Frequently they are released from the Gardner-Betts detention facility because space is needed for more serious cases—and end up in the hands of CPS and attorneys in the Civil Unit. Tension exists; but the attorneys involved are talking to each other about the problems—just as do police and prosecutors, or service providers and prosecutors, who work on interagency teams.

Finally, attorneys who have come into the office from serving in other jurisdictions report that a "greater ethos of accommodation and compromise" characterizes relations among the staff within the TCDAO, and greater discretion is permitted line attorneys in their work.

### Personnel

In 1996, 157 employees worked in the TCDAO: 57 assistant district attorneys, the remainder support staff, investigators and accountants, and victim witness counselors. Attorneys are usually hired only after they have had prior experience in a city or county attorney's office, or another district attorney's office. All employees are employed "at will" by the district attorney.

Performance evaluations are conducted yearly. In recognition of the fact that many attorneys are young professionals, the performance review system attempts to "encourage an individual's on-going reflection on legal practice and to offer a framework in which the person receives recognition for excellent performance and obtains support for growth and development. Recognizing that staff in the District Attorney's Office are part of an interdependent community, the review system seeks "to elicit the norms of our working community and to enhance communication about the standards, values, and goals representing and reflecting those norms." Each attorney completes one form for himself/herself and one for each subordinate supervised. The evaluation covers professional legal performance, job-specific items, and items addressing general functions within the working community (including interaction with victims, teamwork, commitment/loyalty, working with outside agencies and individuals, and leadership) with a numeric rating as well as written comments to be provided. In addition, a "professional development plan" is prepared during conferences at the time of evaluation to identify areas of growth to be targeted in the future.

Ongoing professional education is supported by the office through extensive use of continuing legal education seminars sponsored by the State Bar of Texas and other legal organizations, as well as regular in-house CLE presentations on issues of particular interest to the office. In addition, the office organization is structured so that inexperienced attorneys are assigned to work with more experienced attorneys, and it is part of the job responsibilities of experienced attorneys to oversee and coach the less experienced.

### Technological Capacity

Earle was the initiating force behind the Travis County's current Integrated Justice System (IJS) collaboration. "More than ten years ago he organized a meeting of all criminal justice agency administrators in the county to discuss the possibility of linking all the various information management systems so that data could be easily shared. Because of advancing technology and increased cooperation among the various elected and appointed officials, the planning for this integrated system concept began in earnest in 1994. Scheduled for the first phase of implementation during 1997, IJS will replace the many stand-alone, archaic justice systems in use throughout the county. Currently district attorney office staff must search for such information as criminal histories, incident reports, probation and restitution status and case settings on a variety of separate automated systems. These systems do not "talk" to each other and as a result the same data are collected and entered many times (and often incorrectly) in the various justice agencies. Rather than spend time and resources on updating its outdated IBM System 36 case tracking system, TCDAO is actively working on the selection and implementation of IJS.

### Use of the Media

Most media contacts are handled by Earle himself, or the first assistant district attorney, who has a journalism background. The first assistant district attorney writes press releases (with assistance from Earle's aide), and Earle writes columns, opinions and editorials frequently for local papers. Office policy states that chiefs of divisions may also make comments to the press; attorneys involved in trying specific cases may make statements regarding what has occurred in open court or appears as a matter of public record.

### *Major Activities and Tactics*

#### Case Processing

Earle has been able to devote a large proportion of his efforts to work outside the TCDAO because he has found competent division directors to oversee the case processing (including diversion aspects, and working with victims) and administrative functions of the office. In addition, First Assistant Steve McCleery has been in his current position since 1983: in earlier years he worked administratively to establish greater accountability in the office, making senior staff responsible for other attorneys and support staff, and developing professionalism and competency among all attorneys. To stay in touch with the Trial Division, he continues to maintain a caseload. He took an active role in expanding the Special Prosecution Division, and was lead prosecutor in the Kay Bailey Hutchison case. Throughout, he has brought a quiet, unflappable, yet meticulous style to the day to day operations. Both he and Trial Division Director Buddy Meyer share Earle's philosophy about the importance of working in the community, but recognize that they have a job to do inside the office that complements what Earle is doing outside.

*Case Statistics:* the following table presents data available on case processing by the TCDAO from 1992 through 1996:

	1992	1993	1994	1995	1996
<u>Total New Cases</u>	N/A	6556	7131	6693	6779
<u>Opened For Review</u>					
<u>Cases filed:</u>					
# Indictments	5819	5991	6704	5792	5615
# Informations	740	717	625	444	382
# Motions to Revoke	2804	2825	3373	3765	4192
<b>TOTALS</b>	<b>9363</b>	<b>9533</b>	<b>10,702</b>	<b>10,001</b>	<b>10,189</b>
<u>Jury Trials</u>					
# Trials	88	107	101	97	100
# Guilty Verdicts	69	81	79	83	74
# Not Guilty	11	14	13	14	17
# Hung Juries	7	14	7	6	9
# Mistrials	1	2	8	0	0

*The "Process" in Case Processing* - Earle's mission—a commitment to helping victims heal as a cornerstone of community justice—permeates the case processing system in two fundamental senses. First, cases and the processing of cases are victim-centered, rather than defendant centered. Assistant district attorneys are encouraged to conduct vigorous prosecutions, but also to work with

the victim and victim witness counselor closely during trials. While not all assistant district attorneys keep Earle's notion of a trial as "healing process for the victim" at the highly conscious level that Earle himself does, it is not far below the surface. Many assistant district attorneys report that they "could never have done" a number of cases without the help of victim counselors, who "made competent witnesses out of destroyed people." (And they "need more of victim counselors' time!") Beyond improving their cases, however, virtually all trial attorneys are themselves committed to working with victims. For example, domestic violence cases, which in many prosecutors' offices are handled through specialized units, are tried in the TCDAO by the four trial teams whose members have been thoroughly sensitized to victim issues in this area. In one domestic violence trial observed in its entirety, prosecutors and the victim counselor worked together in all facets of the trial: assistant district attorneys and the counselor were equally involved (in fact, worked as a team) in assuring the victim of concern for her safety, in being solicitous of her wishes with regard to sentencing recommendations, and taking her through the entire process of the trial.

Second, the community justice aspect of Earle's mission is apparent through the incorporation of numerous opportunities for determining "appropriate punishment" for an offender, as part of the normal processing of cases. The Appropriate Punishment Team, the SHORT (Diversion Drug Court), Neighborhood Conference Committees, and mediation opportunities discussed below are examples of such programs. The availability of the Community Justice Center (and its programs) to the APT for consideration in recommendations for pleas is a big step in incorporating community justice into the office's operations.

*General Policies and Guidelines* governing pleas and other aspects of case processing are provided in writing to all attorneys, a small number of which pertain to particular divisions. For the most part, however, practices are set within divisions and by trial teams, with discretion accorded individual attorneys so long as outcomes do not deviate markedly from the established policies.

#### The Legislative Agenda

Within the last few years, District Attorney Earle has assigned a particular assistant district attorney in his office who has an interest in legislation to monitor legislative sessions and develop new legislation. He now performs this task regularly, being released periodically from his duties as a trial attorney to attend legislative sessions, get to know people on various legislative committees, and provide information to them on prosecution issues. He also trains prosecutors on changes in the penal code. As part of his work in rewriting sections of the penal code and other legislation, the assistant district attorney has sought ideas from attorneys working in the APT and other diversion and community-oriented programs, and through attending meetings of the Community Justice Council.

Since 1992, the office has been involved in several projects dealing with the Texas Legislature. In 1991, the Legislature passed a bill to repeal the entire Penal Code, and created a Punishment Standards Commission to write a new code to replace it. In 1992, the TCDAO was contacted by the Commission to assist in drafting certain parts of the law. The office assembled teams of three to four lawyers each to handle various requests, and submitted drafts of chapters involving bribery and corrupt influence, official misconduct and abuse of office, tampering with a governmental record, gambling offenses, weapons offenses, and various other statutes. Several attorneys from the office testified as resource witnesses to explain the drafts before the Commission, and before various committees of the State Legislature that examined the final draft of the Penal Code Bill that incorporated many changes recommended by the TCDAO. The final version of the bill that was

passed became the “new” Penal Code in 1993, containing many of the changes originally drafted (or slight variations) by the office.

In 1995, the office assisted in “cleaning up” the new Penal Code, and making related changes to the Code of Criminal Procedure. That same year, the office assisted in drafting portions of a new bill that substantially reformed the juvenile justice system. Other legislative efforts by the office involved drafting a proposal to allow multiple evidentiary search warrants to be executed (and educating key members of the Legislature about it). Close monitoring of sex offender laws was also conducted.

#### Problem Solving, Collaborative Ventures, and Special Programs

Problem solving lies at the heart of virtually all operations within the TCDAO, from case processing to programs involving collaboration with other criminal justice agencies and organizations within the community. In many cases, what begins as a special program initiated by District Attorney Earle and bolstered by the efforts of his office in the early stages eventually passes to the responsibility and control of another agency, or the community. Here, only a few examples are provided.

*Juvenile Victim/Offender Mediation (VOM) and the Atonement and Restitution Mediation (ARM) Program* - In 1990, the Dispute Resolution Center of Travis County began a victim/offender mediation program at the Juvenile Court. The goal of the program is to recognize the victim’s sense of loss and other feelings through a mediation session that empowers the victim and gives the offender a chance to accept the responsibility for his or her actions. Trained mediators conduct the sessions, which are held in safe locations (such as the Juvenile Court Building). Probation officers monitor written agreements until the closure of a case against the juvenile. Failure to comply may result in forwarding of the case to the Juvenile Prosecution Unit of the TCDAO for formal proceedings. The program has grown to such an extent that of the roughly twenty cases mediated each month, “ninety-eight percent result in an agreement between victims and juvenile perpetrators. Victims and offenders often leave the mediations hugging . . .”<sup>10</sup>

Because the juvenile mediation program was so successful, the TCDAO and the Travis County Dispute Resolution Center began to consider whether a similar program might be feasible for adult offenders and victims. The structure for a pilot project, known as the Atonement Restitution Meeting (ARM) Program was initiated in 1996. The goals of the program would be to provide victims with an opportunity to resolve concerns associated with the crime and ongoing criminal justice proceedings, to provide offenders the opportunity to comprehend the impact of their crime on particular victims and encourage them to take responsibility for their actions, and to resolve outstanding issues of restitution where possible. Prosecutors and victim/witness counselors would choose appropriate cases for referral to the program; sessions were to be held prior to the completion of plea negotiations, similar to those held for juveniles in the VOM program. The ARM Program has not reached the level of use that the juvenile mediation program has enjoyed. Innovations such as ARM that provide no sentencing benefit to defendants and which cause more work for defense attorneys are slower to gain acceptance. The TCDAO is in the process of evaluating new ways to promote acceptance and use of the ARM Program as part of case disposition.

*Children’s Advocacy Center* – District Attorney Earle and Juvenile Justice Division Director Rosemary Lehmberg developed Austin’s Children’s Advocacy Center, bringing together local

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<sup>10</sup> Pamela Colloff, “Mediation: A Welcome Relief from Litigation,” *On Patrol*, Summer, 1996, p. 36.

policing agencies, City Hospital, and the Department of Protective and Regulatory Services to address the problems of abused children being “re-victimized” as cases were investigated and prosecuted, and improve the response of criminal justice agencies to child abuse. Located in a house on the east side of Austin (purchased and restored with private funds), in a neighborhood from which many victims come, the center provides a warm and welcoming milieu for children and their families to go for evaluation, crisis intervention, evidence gathering, and counseling. Investigations begin here, with counselors, social workers, and assistant district attorney, police, and medical facilities (including a pediatrician who contracts to do examinations) on the spot. The center treats all children (victims of violent crime, sexual abuse, and neglect), both victims and siblings, up to the age of seventeen, and provides follow-up counseling and services. The center is a member of the Child Protection Team.

Although Earle’s efforts were central to founding the Children’s Advocacy Center, he and Lehmborg had no intention of making it an appendage of the TCDAO. The current director, Sandra Martin, was the Director of the Victim/Witness Division in the TCDAO when the center was created. She has provided an ongoing sense of continuity for the center during the period in which it has become firmly established. Responsibility for financial support and operations of the center has been turned over largely to the community, with substantial contributions from business and foundations. Earle remains a nonvoting member of the board of directors, with Lehmborg his designee on the board.

*Safety of Children issue:* Midway during the study, in 1996, a two year old child was killed in Travis County by another child—an eleven year old girl. Earle decided to turn the tragedy into another opportunity to improve the safety of children. He convened a group of individuals from within the TCDAO (specifically from the Family Justice Division), and the larger community (among them the local president of the Child Care Council, the director of the Children’s Advocacy Center, a representative from the State Children’s Protective Services) to discuss what collaboration among government agencies and neighborhood associations might be started to raise community awareness, and to assess the safety of homes in which children were placed for day care. Efforts in this regard are ongoing, as various similar efforts coalesce around the goal of raising consciousness of the responsibility of individual citizens for the well being of children.

## THE AUSTIN POLICE DEPARTMENT AND THE TCDAO

The Austin Police Department (APD) has a reputation for having moved solidly in the direction of community policing. Former Chief Betsy Watson is well known as a proponent of community policing from her early days, having succeeded Lee Brown (one of the pioneers in community policing) as Chief of Police in Houston. Watson, who led APD during most of the study period, left early in 1997 to join the national COPS Office, to consult with other police departments as they implemented community/problem-solving policing.

As chief in Austin, Watson moved to decentralize authority and flatten the APD. She assigned lieutenants to geographical responsibilities with one being in charge of each of the four districts. She also focused on providing extensive management training for these lieutenants. Technically they reported to captains; however, that was as much nominal as real, for Watson meant the lieutenants to have major responsibility for their areas. Although Watson attempted to eliminate many lieutenant positions, she was defeated in those moves by the police union. It must be understood that in Austin, every rank, save chief, is included in the union – a circumstance that can give any organizationally savvy mid or top manager who is opposed to the leadership of a particular chief an

unusual but powerful platform from which to be obstructive. Reports from both within and outside the APD suggest that this was a major problem for Watson.<sup>11</sup> Additionally, two plans were drawn up to decentralize detectives and assign them to the districts; however, opposition to such plans were so great that they were put aside. Moreover, Watson also began to shift from problem solving, to problem solving within a community-policing model. She created a Community Policing Division called Crime NET to operate citywide. Officers originally were to be assigned to this division from each of the four districts and given specific crime problems on which to work. But officers generally were reluctant to participate fully when they were still operating out of their own districts. Consequently, Crime NET teams were created in each of the four districts (and funded from grants).

In sum, the shift to community policing is progressing in Austin and, despite Watson's departure, most in the department assume that current trends will persist.

Ferretting out the impact of District Attorney Earle's programs on the APD is somewhat more complicated than figuring out the impact of prosecutors on police in the other three cities in this sample. This is due primarily to Earle's lengthy tenure in Austin. Most police personnel have little or no idea about patterns of relationships between police and prosecutors other than those established by Earle, except through professional communication with police from other jurisdictions. Therefore, despite many joint programs described below, Austin police picture a largely traditional police/prosecution relationship: that is, most cases are handled independently and sequentially – from police to prosecutor – with little feedback provided to police about how cases are handled or what outcomes occur. For many in the department this is a deeply resented relationship. One exchange in a focus group gives the flavor of this resentment:

Informant 1 – “The cops’ viewpoint and what we see is a wholesale disposing of cases in the most expeditious manner without any thought, is justice being served? They’re [prosecutors and judges] just disposing of cases, not serving justice.”

Informant 2 – “Right!”

Informant 3 – “Their purpose is clear the docket, not the streets.”

Informant 2 – “Right, right!”

Informant 1 – “Not clear the streets – that’s great.” (complimenting informant’s 3 turn of the phrase).

The “big gripe” about Earle’s office from the police, aside from the above, is the belief that it overemphasizes special programs in order to deal with particular problems:

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<sup>11</sup> This should not be interpreted as an anti-union bias in this case. Kelling, the author of this section, has consulted extensively with police unions and testified on their behalf in numerous wage disputes. While it is arguable whether “superior officer” unions are appropriate as bargaining units, I (Kelling) have little doubt that bargaining units that include *all* ranks and bargain about rules and regulations – which all police unions do – are inherently prejudiced. Mid and top managers in such circumstances are in an obvious conflict of interest – being managers and leaders on the one hand, but being in, and sometimes leading, rank and file organizations.

We seem to be constantly developing programs for this or that. I mean we have a problem so the first thing you do is to create a committee or study group and the next thing you know we have a program. And we do that in different ways and we and we dilute so many of our resources and I'm not sure that... we don't have the cart before the horse. If we had a more efficient day to day team way of doing business, would that not solve the other problems?

While police acknowledge that representatives of the prosecutor's office attend community meetings, they are bothered that the trial prosecutors do not. Finally, they see the assignment of cases in the prosecutor's office as a "roll of the dice," without any case or geographical logic.

Five elements of Earle's strategy reach into the APD:

- An assistant district attorney is assigned full time to the Child Abuse Division of the APD (at the offices of the Child Protection Team);
- An assistant district attorney is assigned half days at APD in the Criminal Investigation Division;
- Police are involved in Neighborhood Conference Committees, whose purpose is to handle juveniles diverted from juvenile court;
- Police are involved in interagency coordination;
- A police liaison position exists at the TCDAO, with responsibility for serving on the Appropriate Punishment Team, training of police officers, and case pre-screening.

The purpose of assigning a prosecutor to the Child Abuse Division on a regular and ongoing basis is to strengthen the development of cases of child abuse. Two assumptions frame this collaboration: first, that child abuse is an extraordinarily serious problem deserving special handling; and second, that having a prosecutor assigned to pre-screen cases and consult with detectives in the development of cases is an obvious way of strengthening cases. Little dispute seems to attend these two assumptions. Police solidly support such assumptions and see no "down sides" to having a prosecutor in the division. The presence of an assistant district attorney leaves "no doubt about what the district attorney is looking for." Prosecutors are seen as educating officers as they collaborate: "When officers write out a search warrant with an A.D.A., they learn a whole lot."

Likewise, a prosecutor is assigned to work in the Criminal Investigation Division. Here too, a prosecutor is available to detectives regularly, including being on call twenty-four hours a day for special cases like murder. Similar assumptions frame this effort: serious cases are best handled collaboratively, and overall case processing is strengthened by the learning experiences that officers obtain in such a relationship. Some reporters note that a few "old line" detectives object to the presence of a prosecutor, but they also say that most of the objectors are "preparing for retirement in eighteen months and just don't want to go to the bother of preparing cases properly," wanting to "stop at probable cause" rather than prepare a really solid case. It was also noted that of the 120 or so detectives, over 100 have been reared during Austin's community policing era and have a different attitude toward both the business of policing and the prosecutor's office. Most investigators report appreciating it when an A.D.A. is willing to discuss a case with them, and to ask "is there something more you got?" or "is there something more you can get?" and, if not, then

apprising them that "we will have to plead." This process is viewed as more efficient and improves the quality of cases, by educating officers about how to go beyond mere probable cause, and providing officers with a more "whole" experience – that is familiarizing them with the underlying rationale of prosecutors, involving them in the decision-making process, and informing them about outcomes of cases. As noted above, however, many in the department believe that this prosecutorial presence in the police department is "too little, too late," Some of the more cynical detectives viewed this as happening only during the recent election and expect that it will vanish again after the election is over.

As part of the process of implementing community policing, twenty-one new "street detectives" have been trained and assigned to districts and twenty-one more will be in the near future. This attempt to decentralize criminal investigation has as its purpose strengthening the original investigation conducted by patrol officers. It is an outgrowth of an earlier program of "facilitators"--four detectives who would go to crime scenes and assist police officers in the conduct of preliminary investigations. The street detectives will be uniformed, but significantly, one goal of this effort is to bring to line police officers the legal thinking of prosecutors *through* the street detectives who have received special training by prosecutors. The attempt, apparently, is to reduce the redundancy that has characterized criminal investigations in the past: a patrol officer would conduct a preliminary investigation; the case would be forwarded to the detective bureau for assignment to a detective; the detective would then conduct a preliminary investigation that would largely replicate work already done by the original patrol officer. Again, the focus is on going beyond probable cause in the preliminary investigation and preparing a case that is ready for the grand jury – as one officer put it, "to build prosecution into everything we do."

As part of a comprehensive attempt to deal with juvenile delinquency in the county, APD officers also work with the TCDAO in contributing to the operation of Neighborhood Conference Committees, and the Juvenile Agency Coordinating Committee (JACC). The JACC aims at developing a comprehensive plan for the entire county (as against only city agencies and the district attorney) for delinquency prevention. To date, most police have found this to be a frustrating experience: they acknowledge that most of the problem youths are from the city and commit crimes in the city, but police believe that unless preventive action is taken early by all agencies in the area city youths will become a county problem regardless of where they live. The impression gained is that police are going along with this effort, although it is seen as frustrating and not very promising.

The final cluster of police-prosecutor activities is located in the office of the liaison officer – a police officer who is designated as a special liaison to the prosecutor's office. The first responsibility of the liaison officer is with the Appropriate Punishment Team (APT). Another activity of the liaison officer includes compiling neighborhood impact statements.

The APD is going through a period of change. With Chief Watson's resignation, acting chief Bruce Mills is in office (in mid-1997). The department is confronting a scandal: an influential captain has been accused by federal authorities of colluding with several officers to cover up a sex crime by one of the officers. (This scandal was made public on one of the days Kelling spent in Austin. Not surprisingly, it preoccupied some of the police with whom Kelling met.) Mills has initiated an internal investigation as well. Nonetheless, staff of the APD seem broadly supportive of the mutual police-prosecutor efforts. They view the presence of prosecutors in the APD as leading to greater police efficiency and the development of quality cases. Several attempts are underway to bring the impact of this presence to line officers in their conduct of criminal investigations. Apart from the inevitable disagreement among police and prosecutors about a few particular cases, the only "down

side” that police could conceive of was the possibility of collusion among police and prosecutors; however, police believed that a strong enough line existed between police and prosecutors that only minimal risks of collusion existed. Moreover, police believed that so much was to be gained from the relationship that such minimal risks had to be taken.

Since the Austin police chief is appointed by and accountable to the city manager – with the approval of the City Council – we anticipate that the general directions of the Austin Police Department will continue. This direction is clearly towards community policing. Indeed, a new chief, not involved in the rancorous struggles with the police union, might have more room to maneuver than did the former chief.

#### A REFERENDUM ON TWENTY YEARS OF PROSECUTION: THE 1996 ELECTION

Although from the very beginning Earle stressed the role of district attorney outside the office, involving leadership within the community and working with groups representing various constituencies, he did not face an opponent in any election after the 1976 primary until 1996. Then, in the March Democratic primary, he was challenged by criminal defense lawyers David Schulman and Joe James Sawyer, both of whom were running their first campaigns. Each criticized Earle as a prosecutor who lacked the courtroom skills necessary to instill confidence in his assistant district attorneys. Earle beat them soundly and moved on.

Earle’s Republican opponent in the November election was Shane Phelps, a thirty-nine year old ex-Marine and former assistant attorney general. Phelps went to the voters with a consistent “back to basics” message to counter Earle’s performance as district attorney: “Tough-on-crime does work. The role of the district attorney is not that of a social worker . . . .”<sup>12</sup> Endorsed by the Austin Police Association, which had supported Earle in 1976, Phelps waged a campaign well funded by Republicans who had resented Earle’s attempted prosecution of U.S. Senator Kay Bailey Hutchison in 1994. (Hutchison was eventually acquitted.) The “race for the most powerful local prosecutor’s job in Texas” was also the most expensive in Travis County history, and attracted “big political players”—Republican Governor George Bush supported Phelps, while Lieutenant Governor Bob Bullock contributed to Earle’s campaign.

The media found clear cut differences between the candidates, primarily associated with Earle’s competence, and his long record of involvement in community justice initiatives, his creation of numerous non-traditional programs for offenders and interest in alternative sentencing, and his lack of direct involvement in trying cases—all antithetical to his contender’s “prosecutor as tough litigator” approach. Earle and his wife, Twila Hugley Earle (his primary political advisor) made a conscious decision to attempt to wage an “education” campaign that went “below the surface:” they would attempt to inform citizens in the community not only about Earle’s accomplishments over his twenty years in office, but the principles underlying his “community justice” approach to issues of crime and public safety. They would take the high moral ground, avoiding negative criticism of the opponents, and instead concentrating on overcoming the “tough prosecutor” versus “community work” dichotomy by explaining how and why community initiatives were important to prosecution.

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<sup>12</sup> Dave Harmon, “Phelps wins Austin police group’s backing,” *Austin American-Statesman*, October 12, 1996; Dave Harmon, “Earle retains Travis DA post,” *Austin American-Statesman*, November 6, 1996, p. 1.

In particular they emphasized juvenile welfare and programs directed at juveniles.

Perhaps because of the nature of the campaign strategy he and his wife developed, Earle did not hire a formal campaign manager for many months into the campaign. Finally, during the summer of 1996, Earle met Sandra Castellanos through a mutual friend. With a background in business and motivational training, Castellanos's previous political experience was limited: she had worked with only one politician before—Texas Governor Ann Richards. Yet Earle found in her someone he could trust—who would not distort his message to the public or his values, who would not engage in mud-slinging—and hired her to manage his campaign. To it, Castellanos brought a steadying influence, helping Earle to develop concrete answers to counter Phelps' attacks, and finding ways to emphasize his strengths (his agenda, integrity, and ongoing professional development). Earle the thinker and "philosopher," who would muse openly and toss complex ideas around in casual conversation, had to be brought down to earth in his appearances with the public and the press. Castellanos worked to transform his expositions into short, positive statements; "No new ideas" and "no re-weaving of the community" were allowed until after the campaign! But Earle the individual, concerned about victims and the community, was still very much apparent.

While the campaign was being waged in newspapers and on television, with charges being made by Shane Phelps regarding the Office's mishandling of past cases, business still had to go on in the District Attorney's Office. Although facing uncertainty over whether their jobs, and the programs they had invested in establishing, would be there after the election, senior staff worked to prevent the campaign from interfering with daily operations and priorities. Yet some were also concerned that Earle's support from within the "office community" was not as strong as it might have been: over the years Earle's closest advisors on the executive staff had assumed day to day management of the office in order to free him to pursue an active agenda as community leader—on the Community Justice Council(s), setting up Neighborhood Conference Committees, working with CAN and other inter-agency efforts. The concern now was whether this arrangement had contributed to Earle becoming somewhat isolated from the Trial Division, leaving him at a disadvantage in the campaign because he was losing detailed knowledge of trial matters and the strengths of the Trial Division to draw upon and formulate immediate responses in public exchanges, even though as district attorney he was ultimately responsible for the trials that took place through his office. In the face of criticism of the office's performance in particular cases, Earle was always highly supportive of his assistant district attorneys, shouldering any blame himself. Nevertheless, some senior advisors were concerned that the lack of personal contact between Earle and his trial attorneys had left the prosecutors feeling that he did not value their work as much as he did efforts outside the office in the community. This appeared to be less of a problem for those assistant district attorneys who, in addition to their trial work, took on other responsibilities (such as developing legislation, serving as liaison to schools and neighborhood groups, becoming involved in domestic violence or other types of education, or participating on community task forces), and who reported strong encouragement for their efforts from both inside the office and the community.

In spite of a bruising year, Earle won the election, defeating Phelps with a clear mandate: the vote was Earl 55%, Phelps 45%. Earle has interpreted this mandate not only as encouragement to continue his work within the community at large; he also has returned to the District Attorney's Office itself with a sense that his mission as a prosecutor has been validated and can be further spread within the ranks and divisions, and on the lines.

*After the Election: Returning to a New Phase of Planning in the District Attorney's Office*

Following the election, Earle once again turned his attention to the office itself, and initiated a new process of strategic planning. This comprehensive exercise is aimed at examining the roles and functions actually performed by the assistant district attorneys in the TCDAO—in particular those senior staff who are currently performing “double duty,” continuing to supervise their own division staff, while having taken on a full load of community duties. They, like Earle himself, have internalized the concept of community justice, and their daily responsibilities reflect this agenda. For them, the problem has become one of sheer overwork. Addressing this issue is one priority for the strategic planning exercise: it extends further to a consideration of the current office structure, designation of levels of staffing, allocation of staff resources in relation to the new responsibilities in the community that many other staff have increasingly assumed, and questions of whether to create a new community prosecution division or spread out community prosecution functions around the office, and whether to ask the county for (funding for) a number of new attorney and non-attorney positions as well as new resources to support the growth of initiatives in the community. (Appendix C Part 2 provides some explanation of an attempt at reformulating these matters in budgetary terms with a proposal for a new community prosecution initiative.) The basic question at issue is “what is the most cost-effective use of the time of any prosecutor, for the public?”

Within the office also, Earle and senior staff are preparing for another intensive phase of working with personnel to further extend and expand the involvement of assistant district attorneys at lower levels into community-oriented activities.

#### *Ongoing Developments in the Community*

Although District Attorney Earle has again turned much of his attention to the office, his efforts in the community have not slowed. In particular the idea and realization of Neighborhood Conference Committees are spreading across the county. The director of the TCDAO Victim/Witness Division, herself a resident of Pflugerville, has become head of the Community Justice Council there, and has been a key figure in developing the local Neighborhood Conference Committee. Recognizing that NCCs represent, in effect, a form of community court, Earle is considering expanding the concept by renaming them and creating parallel structures for adult offenders, so that both adult and juvenile “community courts” would operate.

Finally, The TCDAO has begun using civil lawsuits to attack two major contributors to neighborhood destabilization which are not being adequately addressed by the criminal courts: criminal street gangs and property owners who allow criminals to infest their property. This program seeks to build a proactive partnership with the gang, narcotics, vice and nuisance abatement units of the Austin Police Department: its goal is to return control of neighborhoods to established, law-abiding residents. Using information gathered from patrol reports, surveillance, and police intelligence, the program identifies “hot spots”—areas with increased, sustained drug, gang, and vice problems. Police and assistant district attorneys meet to formulate a plan of attack for each hot spot. For affected properties, zero-tolerance housing and fire code enforcement, combined with a face to face meeting with the property owner, is usually enough to bring the location under control. For more severe cases, typical of gang turf and chronic absentee landlord drug locations, civil lawsuits are filed. These lawsuits arise from the Texas nuisance abatement statutes that authorize the court to enjoin property owners from allowing their property to be used for unlawful purposes on pain of forfeiting a substantial bond or, in the worst case, having the property boarded up for a year.

A related strategy is used against gangs. Because the gangs seldom own the property that they

frequent, the gang itself is declared a public nuisance. The TCDAO goes to court to obtain an injunction prohibiting gang members from taking any action in public to enforce their control over the location. Aggressive street patrol work by police, combined with the use of these injunctions, allows gang members to be removed from their turf and jailed for short periods for contempt of court when they violate the injunctions.

#### POSTSCRIPT: 1997-98 UPDATE

During 1997, District Attorney Earle and his staff began planning a new community prosecution program, for which additional county funds would have to be sought. The next year they submitted a budget proposal to the County, based upon a functional analysis conducted to determine what various staff members who had been working extensively in community-oriented efforts were doing, and how much time they were spending in addition to the functions they were performing in their regular jobs—as first assistant, head of the Family Justice Division, and in other positions. Final calculations showed that their time and efforts equaled those of two full-time lawyers, plus a community justice program manager, a secretary and a paralegal (see Appendix C Part 2). Earle recounts that “the Commissioners Court actually congratulated us, and made a big deal out of how much work we put into that presentation to show them so graphically what we were talking about.” But the County legislature gave the District Attorney’s Office funding for only one position—a community justice program manager. For this position, Earle hired Darla Gay, a police officer with extensive experience in problem solving and community-oriented policing. Underscoring the value he placed on this project, he assigned his own secretary to work with her. Earle continued to move ahead with numerous other new programs, utilizing existing staff; so far he has not been able to obtain funding for new community prosecutors, except for a position that may be funded by Weed and Seed.

But in the area of strategic planning, a process has begun in the District Attorney’s Office that may literally change the culture of the office. District Attorney Earle and his new First Assistant Rosemary Lehmberg, have opened the process and the debate, up to the entire office. As Lehmberg and Earle describe it: “We started with a small group of prosecutors, a cross section, having a conversation. It grew into a weekly meeting. Since this affected so many peoples’ lives, they just started showing up. And one deputy prosecutor...started generating proposals and charts...” The debate moved on, addressing what changes should be implemented across the board; how neighborhood accountability, and greater attention to the concerns of citizens, could be built into the current system. And it moved from the possibility of assigning a violent crime prosecutor and property crimes prosecutor to each court, to vertical prosecution, “the whole concept of vertical prosecution, and the benefits that it might provide versus the scheduling of cases that would be difficult where you’ve got one prosecutor handling it all the way through.”

Earle and Lehmberg also got prosecutors thinking about whether bureaus might be developed in the Office—one for violent crime, another for property crimes, because “we spend a lot of time dealing with violent crime...but nobody gives a damn about home burglaries and auto theft and graffiti, and lower level offenses.... So the idea was, if you give a prosecutor just burglaries and disorder offenses, that they’re going to do a better job and pay more attention to that category of offense.” Lehmberg explains, “we were trying...to include everybody in these conversations, because we would get better information that way, and also it gives everybody an idea of what we’re thinking about.” A meeting in early 1998, attended by about forty lawyers, ended with an “inventory,” at which participants said, “we’d like to explore vertical prosecution; we do not want to be in a pool,

we want to be assigned to a court (because there is chaos otherwise); they said, almost to a person, the Family Justice Division piece isn't broken yet, so don't fix it. We need to try those cases, and give special attention to them, and yes, they wear people out, but we can work on that."

The process continues. Neither bureaus nor vertical prosecution have been established, but they are still being considered. Lawyers in the Grand Jury Intake Division have been assigned to screen cases for individual courts. With the new police chief (Stanley Knee), and changes in policing, District Attorney Earle wants to explore having "a prosecutor as part of a COMSTAT team. So we're talking about a total neighborhood empowerment proposition here. So you're not just doing cops and prosecutors, you're doing cops, prosecutor, and neighborhood empowerment."<sup>13</sup>

As part of this process, District Attorney Earle has learned that those attorneys in his office who are moving most rapidly ahead into community prosecution are facing pressure from their peers. The level of anxiety in the office is high: as Rosemary Lehmberg notes, prosecutors "are scared to talk about how neat this stuff is; they don't want to get rejected by their peers, right? So we're going to start that process of sending as many people as we can to these conferences, more often, different people, and bring some folks down here just to talk about normal old, 'how to do you handle your cases?'" Summing up what he has learned about facilitating a "culture change" in the office, Earle says

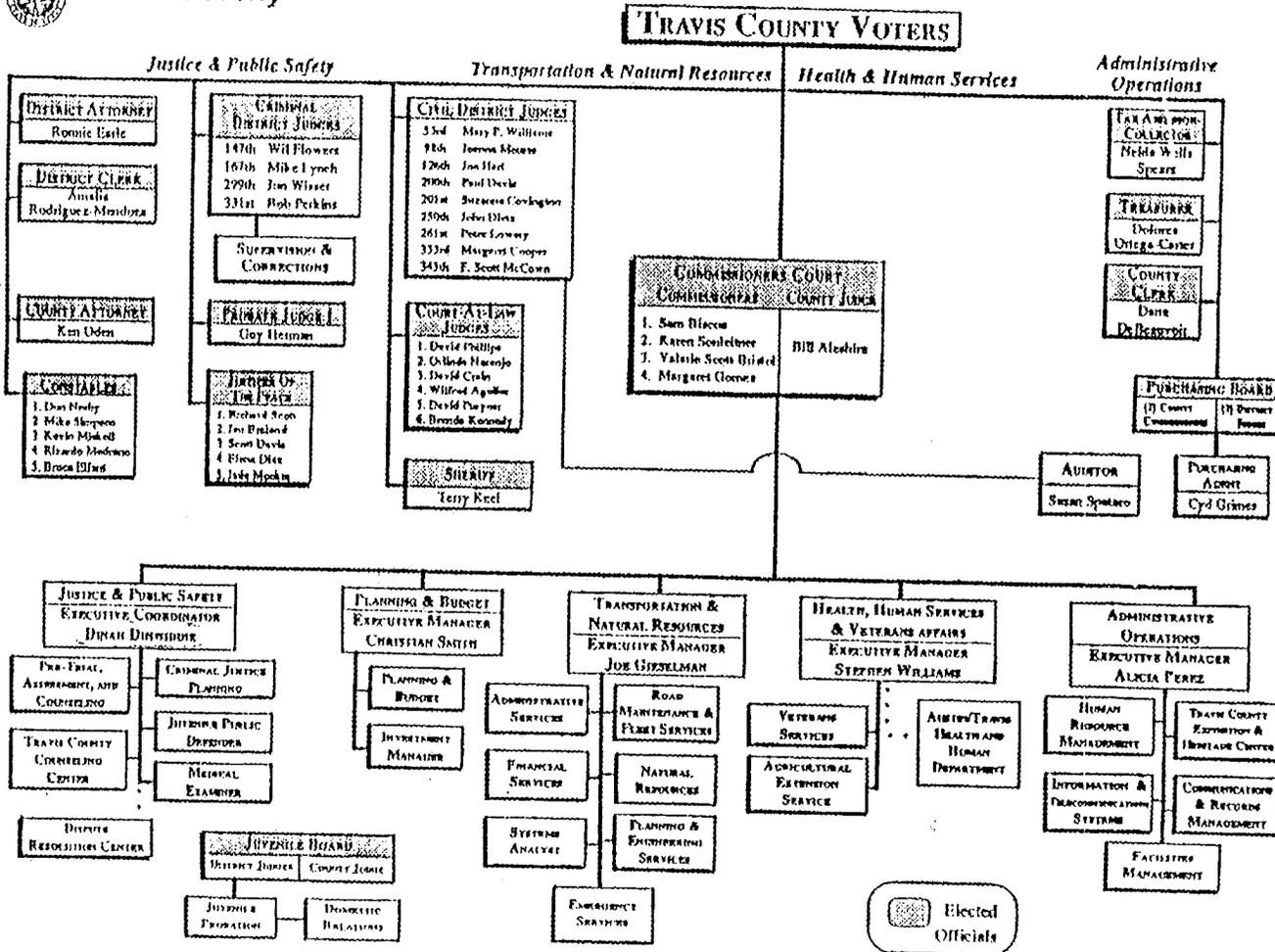
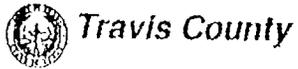
... this issue of culture change is ubiquitous—everybody is facing the same issues.... I've got an idea of how to do this...there are really three parts to it: include everybody in the conversation...everybody come in and give us your two cents worth.... Secondly is to bring in people from other places who speak the language. Third (and this is the most important piece...) is bring people from the community into the office, into the courts, as cheering sections.

In addition, District Attorney Earle has not ceased his own high level of activity in the local community. In 1998, he is attempting to plan for the creation of a new community court—which has received support from the mayor, the city manager's office, and local businesses in the downtown area. The process is causing a major public debate concerning quality of life issues and the proposed location of expanded services for substance abusers and the poor, to be provided in the city center.

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<sup>13</sup> See Travis County District Attorney's Office Work in Progress: Strategic Plan. Blueprint for Community Justice. Unpub. document, draft, 1998.

**APPENDIX A:**  
**CRIMINAL JUSTICE IN TRAVIS COUNTY -**  
**- AGENCY RELATIONSHIPS**



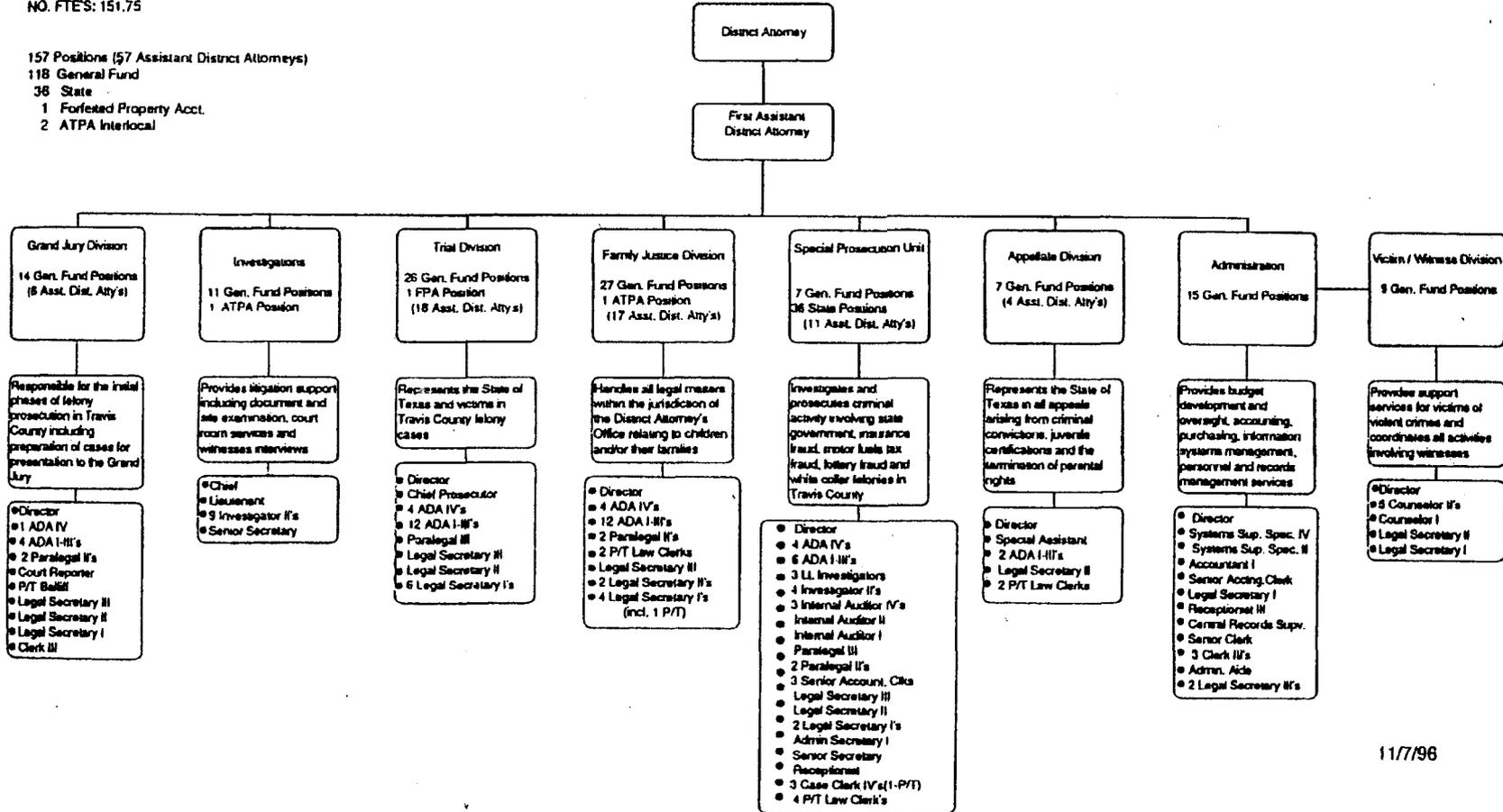
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**APPENDIX B:**  
**TRAVIS COUNTY PROSECUTOR'S OFFICE -**  
**-ORGANIZATIONAL STRUCTURE**

## TRAVIS COUNTY DISTRICT ATTORNEY'S OFFICE

FUND/DEPT#: 001-23  
 DIV# OR PGM#: 10/20/30/83/88/91/92  
 NO. FULL-TIME POSITIONS: 146  
 NO. PART-TIME POSITIONS: 11  
 NO. FTE'S: 151.75

157 Positions (57 Assistant District Attorneys)  
 118 General Fund  
 38 State  
     1 Forfeited Property Acct.  
     2 ATPA Interlocal



11/7/96

**APPENDIX C:**

**PART 1 –  
TRAVIS COUNTY DISTRICT ATTORNEY'S OFFICE  
BUDGET, 1996**

**PART 2 –  
TRAVIS COUNTY DISTRICT ATTORNEY'S OFFICE  
FY 1998 BUDGET SUBMISSION (BUDGET REQUEST SUMMARY)  
COMMUNITY PROSECUTION INITIATIVE**

**PART 1 –  
TRAVIS COUNTY DISTRICT ATTORNEY'S OFFICE  
BUDGET, 1996**

**TRAVIS COUNTY DISTRICT ATTORNEY'S OFFICE  
FY96 BUDGET**

Travis County General Fund Allocation: **\$5,908,308**

Personnel: \$5,260,449

Operating: \$581,380

Capital: \$66,479

Auto Theft Grant: **\$93,210**

Gang Intervention Grant: **\$53,773**

(5th year of grant: 20% of attorney  
position paid by grant, 80% Juvenile  
Court budget)

State Appropriations: **\$1,676,193**

General State Unit: \$160,000

Insurance Unit: \$828,010

Motor Fuels Unit: \$688,183

Lottery Contract: **\$250,000**

Additional funding is available for support of District Attorney's Office functions from two discretionary accounts: Forfeited Property Account and District Attorney Processing Sight Order Account (Hot Check Fees),

## TRAVIS COUNTY DISTRICT ATTORNEY

## FY 96 ESTIMATED ALLOCATION BY DIVISION

DESCRIPTION	FY '96 TOTAL BUDGET	ADMINISTRATION DIVISION	GRAND JURY DIVISION	FAMILY JUSTICE DIVISION	TRIAL DIVISION	VICTIM WITNESS DIVISION	APPELLATE DIVISION	SPECIAL PROSECUTION (a)
Salary & Benefits	\$ 5,260,449 100%	\$ 315,627 6%	\$ 894,276 17%	\$ 1,420,322 27%	\$ 1,525,530 29%	\$ 315,627 6%	\$ 420,836 8%	\$ 368,231 7%
Operating Costs	\$ 581,380 100%	\$ 11,628 2%	\$ 110,462 19%	\$ 162,786 28%	\$ 255,807 44%	\$ 17,441 3%	\$ 11,628 2%	\$ 11,628 2%
TOTAL BUDGET (Excludes Capital)	\$ 5,841,829	\$ 327,255	\$ 1,004,738	\$ 1,583,108	\$ 1,781,337 \$ 33,660 (b)	\$ 333,068	\$ 432,464	\$ 379,859
				\$ 53,773 (c)				
				\$ 93,210 (d)				
				\$ 1,730,091	\$ 1,814,997			

(a) Does not include state funded units of special prosecution division.

(b) Forfeited Property Account Funds

(c) Gang Intervention Grant-20% Grant / 80% General Fund

(d) Auto Theft Grant-100% Grant

**PART 2 –  
TRAVIS COUNTY DISTRICT ATTORNEY'S OFFICE  
FY 1998 BUDGET SUBMISSION (BUDGET REQUEST SUMMARY)  
COMMUNITY PROSECUTION INITIATIVE**

Priority # 2 Dept/Div # 23/10/20  
 HTE Level 102 Fund # 001  
 Total Cost \$264,274 Request Name Community Prosecution

**FY 1998 BUDGET SUBMISSION  
 BUDGET REQUEST SUMMARY**

**TYPE OF REQUEST: (Check One)**

Strategic Initiative  Maintenance of Current Effort \_\_\_\_\_  
 Performance Improvement \_\_\_\_\_ Redirection of Service Provided \_\_\_\_\_

**I. Description:**

The Travis County District Attorney's Office seeks support, through the allocation of additional resources, in achieving its mission. The mission of the District Attorney's Office is to see that justice is done by providing the highest quality legal representation for the public and for individual victims of crime and by supporting the community's efforts to strengthen itself and solve problems. Historically, funding has been provided to see that the first prong of the mission is adequately met, "providing the highest quality legal representation." However, it is critical that attention now be given to the on-going efforts of the criminal justice system to support "the community's efforts to strengthen itself and solve problems." To this end the office is proposing the formation of a community prosecution program within the District Attorney's Office. A team consisting of two lawyers, a program manager, a paralegal and two secretaries would work to maintain existing community programs within the office, enhance and expand those programs, develop new programs and coordinate initiatives with other justice agencies.

**II. Statement of Problem/Background/History Leading to the Request:**

Prosecution efforts across the nation have grown to involve more than simply trying criminal offenses before a jury. District attorneys offices are called upon to perform a myriad of functions outside their traditional roles, ranging from assisting law enforcement in investigations, supporting community policing efforts, staffing special caseloads in juvenile and other courts, and screening defendants for program appropriateness. Travis County has traditionally been on the cutting edge of efforts to improve the pursuit of justice, but resources have historically been allotted only for those areas providing direct traditional prosecution. While prosecution needs continue to expand, the Travis County District Attorney's Office recognizes the need to support traditional efforts with resources directed toward engaging the community in its own protection. In the recent past, development and maintenance of community programs have been added to the responsibilities of

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existing staff or have not been addressed. This increased burden on existing personnel and systems has resulted in stymied programs, over-extended staff members, and programs which are limited by resources to only limited areas of the community. The District Attorney's Office feels that it is vital that these programs must be applied to all of Travis County.

Travis County has been selected by the U.S. Department of Justice as one of seven sites nationwide to model community justice, a concept that the District Attorney's Office pioneered. While Travis County can be proud of the national recognition that this honor bestows, it is a direct result of the added burden being carried by the current staff which highlights the need to support programming in this area. In order to sustain community justice programming, resource support must be forthcoming. Community justice initiatives are being simultaneously developed in other agencies including the Criminal Justice Planning Department, the Travis County Sheriff's Office and the Austin Police Department. The District Attorney's Office has met with these and other agencies to coordinate requests for financial support and to avoid duplication of services. The Community Justice Task Force's strategic planning committee has provided a forum to develop those connections.

Based upon discussions with other agencies involved in community justice initiatives, a review of current staffing, and in anticipation of future growth of community prosecution initiatives, it will be necessary to increase staffing levels at the District Attorney's Office. The Community Prosecution component of the District Attorney's Office will include:

**Attorney III:** Responsible for suits involving civil remedies to address criminal behavior such as:

- Nuisance abatement
- Injunctions against gangs and gang members
- Suits regarding the seizure and forfeiture of property in relation to criminal cases, and,
- Other civil actions targeting criminal behavior.

**Attorney III:** Responsible for supervising and providing legal support and expanding community prosecution and community justice initiatives:

- Community Justice Center Collaborations
- Drug Court
- ASAP
- Neighborhood Conference Committees
- Community Courts
- Thrive by Five

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**Program Manager:** Responsible for program maintenance and development

- Plan and implement community prosecution initiatives
- Plan and implement interagency and interdepartmental collaboration to achieve community justice goals
- Develop methods to make optimum use of existing attorney and staff resources for community prosecution initiatives
- Develop evaluation programs; conduct surveys
- Seek alternative funding sources

**Paralegal II:** Assist attorneys in preparation of law suits,

- Prepare cases for forfeiture suits
- Assist community prosecution lawyer in program analysis.

**(2) Legal Secretary II:** Provide secretarial support for attorneys and program manager

- Type legal documents
- Locate files
- Track information
- File documents
- Enter data into information system

The proposed staffing component can be achieved by hiring of additional personnel and by reassignment of existing positions. It is anticipated that the secretary and the paralegal positions currently assigned to APT could be designated to be community prosecution positions, because many of the functions now being performed by APT, such as coordination of sanctions with the Community Justice Center, will be assumed by the community prosecution initiative.

**III. Justification for Request. See "Elements of a Complete Budget Request" on page 20 of the Budget Manual for types of information to include.**

Within the last five years, the duties and responsibilities of existing staff have expanded greatly. In addition to traditional duties directed solely toward presenting felony criminal offenses in district court, the staff of the District Attorney's Office has found itself assuming responsibility for a number of programming initiatives. These initiatives will be discussed individually for ease of analysis. The importance of coordinating these efforts both within the District Attorney's Office and with other justice agencies, victims groups, and service providers is tantamount to effectively supporting the community's efforts to strengthen itself and solve problems.

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Work with the following initiatives is either currently not being performed or is being addressed by individuals who have added these duties to existing full-time responsibilities:

#### **Civil Prosecution Initiative**

The Travis County District Attorney's Office in its determination to aggressively combat criminal activity on every level requests funding to support its efforts to use civil sanctions to address criminal behavior. These civil sanctions have been legislatively expanded in recent years to provide a wide array of remedies to address criminal behavior.

These remedies—primarily lawsuits for civil injunctions—are completely new tools for prosecutors, in that they are recently-enacted by the legislature and beyond the traditional duty of prosecutors to prosecute criminal cases. The new statutory remedies provide excellent means to control criminal activities at certain locations and are specifically aimed at the control of criminal street gangs. Because these civil remedies are new, however, there are no resources currently in the District Attorney's Office to utilize them.

The District Attorney's Office is currently working with members of the Austin Police Department Gang Unit, the S.A.F.E. team, the APD Narcotics Unit and other law enforcement agencies to file civil lawsuits to intervene in criminal activities. A civil prosecution lawyer would develop, prepare, file and prosecute nuisance abatement lawsuits in an effort to close houses and other locations where criminal activity regularly occurs. This lawyer would be responsible for developing, preparing, filing and prosecuting civil injunctions against specific gangs and gang members in order to control the presence of gangs and gang activity in certain locations. The civil sanctions attorney would prepare, file and prosecute forfeiture of seized property lawsuits in which property is seized in connection with a criminal case.

Essential to the success of this initiative are a program manager to plan and coordinate activities within the District Attorney's Office and a prosecutor designated to provide legal advice.

#### **Community Justice Center Coordination**

The opening of the Travis County Community Justice Center in February of 1997 highlighted the need for coordination between the facility, service providers and prosecution efforts. As a result of conversations with the Director of the Criminal Justice Planning Department and the Warden of the Community Justice Center, it is clear that the District Attorney's prosecution efforts must continue to complement the efforts of the Center in order to achieve the goals of the creation of the facility. An expert in program development would assure that the coordination of effort

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could be systematically developed and maintained. This long-term approach to collaboration would make strides toward the attainment of the goals envisioned in the creation of the Community Justice Center. Specific organizational tasks would include training of prosecutors, treatment providers, and corrections personnel; developing and monitoring sanction guidelines which would best utilize the opportunities for appropriate punishment through the Community Justice Center; and the development of prosecution efforts to complement the efforts of the Community Justice Center.

The Criminal Justice Planning Department has submitted a request for a Victim Services Coordinator to be responsive to the needs created by the opening of the Community Justice Center. The District Attorney's Office is pleased to join the Criminal Justice Planning Department in this collaboration. It is this sort of team effort that the community justice initiatives will foster and promote. (See Criminal Justice Planning Expanded Package for more information)

#### **Absent Student Assistance Program (ASAP)**

The ASAP program has very quickly become a key crime prevention program for juveniles. By motivating truant students to return to the classroom, ASAP seeks to keep them off the streets, decrease criminal activity during school hours, and increase the likelihood of a successful, productive future for participating juveniles. The constables and schools refer the majority of their truancy matters to the Justice of the Peace Courts for enforcement.

The District Attorney's Office has participated in the implementation of ASAP from its inception. Because truancy directly impacts the work of the prosecutors at Juvenile Court, staff from the Family Justice Division have assisted with ASAP organizational issues and a juvenile prosecutor from the division has handled the truancy caseload in one justice precinct. With ASAP, the caseloads in the justice courts have increased significantly. This is expected to continue as the elementary schools begin participating in the program. Additional funds were approved last year for the County Attorney's Office to increase their ability to prosecute truancy cases in the justice courts. As soon as possible, the County Attorney will assume primary responsibility for truancy prosecutions in all justice courts. The District Attorney's Office will continue to participate in ASAP meetings, staff cases with prosecutors and J.P.'s for referral to Juvenile Court, and be available to assist with direct prosecution as needed. Currently, the Director of the Family Justice Division is working with the ASAP coordinator to develop additional community resources for the program.

Essential to the success of this initiative are a program manager to plan and coordinate activities within the District Attorney's Office and a prosecutor designated to provide legal advice.

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### **The Neighborhood Conference Committee**

This program, founded and supported by the District Attorney's Office, directs first time juvenile offenders to appear before panels of their neighbors who review their cases and direct them into sanctions which are reflective of the needs of both the offender and the neighborhood. Currently there are four active committees and at least four more in the planning stages. The goal is to expand to all parts of the county in the near future. The District Attorney's Office is directly involved in the planning and oversight of these committees. Staff from the Family Justice Division assist with the recruitment, screening and training of all new panel volunteers. They review the juvenile offenses for legal sufficiency and attend weekly roundtable meetings with the other partner agencies--Juvenile Court, Austin Police Department, and Austin/Travis County Health and Human Services--to determine whether cases will be directed to the neighborhood committees. Attorneys from the FJD serve as ongoing liaisons to the various neighborhood committees. Neighborhood Conference Committees are designed to directly engage the community in juvenile justice issues and provide low-risk juvenile offenders and their families with links back to the community they live in. The programs have been successful to date; the neighborhoods have more than enough volunteers who want to participate and the great majority of juveniles who have been referred for their offenses have stayed out of trouble. The District Attorney's participation in each committee is important. As the programs expand throughout the county, additional resources will be required to fully participate in this and other community prosecution initiatives.

Essential to the success of this initiative are a program manager to plan and coordinate activities with the District Attorney's Office and a prosecutor designated to provide legal advice.

### **Community Court**

In light of the resounding success of the Neighborhood Conference Committees in Travis County, the District Attorney's Office is developing a "community court". This community court would operate in much the same fashion as Neighborhood Conference Committees, but would deal with adult offenders. Low level, non-violent offenders would meet with community members to develop sanctions and reparation to the community. It is anticipated that these community court sanction hearings would be part of the punishment meted out by the district judges in sentencing offenders. A similar program is meeting with great success in Vermont. The full development and implementation of such a program would require substantial time and effort.

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Essential to the success of this initiative are a program manager to plan and coordinate activities with the District Attorney's Office and a prosecutor designated to provide legal advice.

#### **SHORT (Drug Court)**

The Travis County Drug Court has developed a national reputation for being a model drug diversion program. That reputation is the result of the hard work and collaboration of many individuals and agencies, not the least of which is the farsightedness of the Commissioners Court to provide funding and support for the program. Currently, the county provides a small stipend to two lawyers who attend Drug Court two nights per week. In addition to these lawyers, the actual administration of the prosecution efforts of the court fall to one assistant district attorney. These duties include: case screening, attending review committee meetings, lawyer training, policy development, liaison between the Drug Court and the District Attorney's Office, and review of cases for disposition. A great deal of staff support is expended on behalf of the Drug Court efforts in case tracking, docketing, documentation, and file preparation.

Essential to the success of this initiative are a program manager to plan and coordinate activities with the District Attorney's Office and a prosecutor designated to provide legal advice.

#### **Neighborhood Empowerment Initiatives**

These initiatives represent a series of efforts by the District Attorney's Office to engage the community in the criminal justice system. They include public speaking, presentations to neighborhood groups, attempts to replicate the functions of court watchers in which the neighbors come to court to monitor the progress and disposition of cases, and the development of neighborhood impact statements. Neighborhood impact statements are an attempt to systematize communications regarding the impact of crime in their neighborhoods to the court who will be punishing those committing crimes in their community. Neighborhood impact statements have been implemented only on selected targeted occasions. Criminal justice experts from Indianapolis, Indiana, report great success in their use of community impact statements. The information regarding the effects of criminal activity on the lives of citizens in the community has been very useful to the courts in determining appropriate sanctions for offenders. At last report, the Indianapolis District Attorney's Office employs seven staff persons in the development, distribution, and evaluation of their neighborhood impact statement program.

Essential to the success of this initiative are a program manager to plan and coordinate activities with the District Attorney's Office and a prosecutor to designate to provide legal advice.

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### **Thrive by Five**

This is a community based initiative with the broad goal of increasing the community's participation in child safety and early child development issues. The public and private partners in the initiative have developed an action plan to involve major segments of the community such as employers, neighborhood associations, clinics, schools and government agencies in making child safety and quality day care a top priority in Travis County.

The District Attorney's participation in this initiative was prompted by the recent deaths in Travis County of two children in unlicensed day care environments. The District Attorney convened representatives of the Austin Child Care Council, the Children's Advocacy Center, Austin/Travis County Health and Human Services, Children's Protective Services and the Family Justice Division to discuss prevention of such tragedies in the future. In the meetings that followed, the planning group developed strategies for increasing parent education throughout the county, using existing neighborhood organizations to raise public awareness of children's needs, formation of volunteer components to supplement the government's monitoring of day care facilities, and methods of helping employers meet the needs of their employees for better child care.

The planning phase of this initiative has been time consuming for the attorneys in the Family Justice Division who have participated. The implementation of the strategies will be a long term effort. The planning group has been unable to begin implementation primarily because no individual is available to oversee and coordinate the activities. The assistance of a program manager would allow the representatives to move forward with their plan.

### **Prosecutor and community interaction**

A central objective of community prosecution and one that is part of every initiative is greater involvement by prosecutors and other prosecution personnel in community activities. This involvement can take any number of forms, such as attendance by prosecutors at neighborhood meetings, greater involvement of prosecutors with the police in street level activities, direct involvement with community groups on specific issues, speeches and appearances at schools and civic groups, and so forth. This variety of efforts is in addition to the specific objectives described above and involves the participation of as many prosecutors and other personnel as possible, consistent with their other duties. Only by working directly in the communities with community members can prosecutors effectively assist them in developing strategies to improve safety and quality of life. This requires engagement on a number of levels and by as many personnel as possible.

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One of the primary functions of the staff members requested under this initiative will be to plan, implement, and coordinate the activities of all prosecutors and staff people in community prosecution efforts, whether they are related to the specific programs described above or in addition to them. There is a wealth of talent and energy available in the District Attorney's Office to engage the community in its efforts, but it must be planned and coordinated to be utilized.

We are requesting that funding for these positions begin November 1, 1997 rather than February 1, 1998. It is essential that ground is not lost with the community involvement that has begun. For these initiatives to be successful, the current level of volunteer energy must be increased and the momentum continued.

This request is directly related to the following goals in the District Attorney's Office Strategic Plan:

- Increase the community's involvement in the justice process
- Improve the administration of justice
- Improve the quality of case preparation
- Maintain victim focused prosecution

**V. How does this Budget Request meet the Budget Criteria? The Budget Criteria are located in the Appendix of the Budget Manual under "PBO Process for Reviewing FY 98 Budget Requests. Please be specific about which criteria it meets.**

#### **1. Reallocation**

The District Attorney's Office in conjunction with its strategic planning effort, has completed an analysis of existing programs within the office. In the course of that analysis, it has been determined that current conditions may indicate the option of adding to some of the services and efforts currently being provided by the Appropriate Punishment Team. When the Appropriate Punishment Team (APT) was first conceived and developed, Travis County was in the throes of a jail overcrowding crisis. APT was implemented, in part, to relieve the crowded conditions in the county jail. Since its initial conception, APT has undergone a gradual evolution. As the jail crowding problems eased, APT began to focus its energy on managing the new state jail felonies. The District Attorney's Office realizes the necessity of maximizing all resources, by shifting and realigning duties of some of the APT staff, better service to the community can be realized. The paralegal and legal secretary would assist the community prosecution team, reducing the need for additional funding for support personnel. These additional responsibilities will coincide with and enhance current duties of these employees, especially in the area of state jail prosecution and defendant tracking and program placement responsibilities.

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Further reallocation is not possible, however, because the remaining functions to be performed by this strategic initiative are new to the District Attorney's Office. The new duties envisioned under this initiative are considerable. All of the district attorney's prior responsibilities remain and have not lessened. Prior duties revolve around the investigation and prosecution of all felony cases in Travis County and the care and service to the victims of those crimes.

Any further reallocation of current resources to the community prosecution initiative would result in unacceptably low-level services in our existing statutorily mandated areas.

## **2. Performance Measures**

The Community Prosecution Program Manager will develop surveys to be used in conjunction with the initiatives. The results of the surveys conducted during the first quarter of the program implementations will be used as baselines for performance. In addition, workload measures will also be maintained.

## **4. The public safety**

On its way to becoming a big city, Austin and Travis County have developed big city crime patterns, particularly in violent juvenile crime and violent criminal street gangs. Travis County is fortunate that its crime rate has remained steady with the population growth and not greatly outpaced it, but the crime rate is comparable to other cities and is unacceptably high. Simply because our crime rate is similar to that experienced by many other cities does not mean that it is acceptable. Violent crime remains a serious threat and overall crime greatly erodes the quality of life.

This community prosecution initiative is aimed at reducing the incidence of crime by involving neighborhoods and citizens in ways that will deter crime and reduce recidivism.

The concepts of community prosecution and community policing are still relatively new and have not yet been fully implemented anywhere in the United States. However, one of the most extensive efforts has been implemented in Suffolk County, Massachusetts and is showing impressive results. As of February, 1997, no juvenile had been killed in Boston with a firearm in eighteen months and the homicide rate for those under age 24 had dropped by 71%. Reported incidents of violent crime decreased 14% between 1995 and 1996. Violent crime in public schools fell more than 20% between the 1994-95 and 1995-96 school years.

## **8. Workload increase**

Almost all of the tasks to be undertaken in the community prosecution initiative are

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new to the District Attorney's Office. The success of such community based programs has been proven in many other jurisdictions, and the District Attorney's Office has been successful on a limited basis with some programs here, but there have been no additional resources applied to these efforts in the past.

#### **9. Collaboration**

A key component of successful community prosecution is the coordination and collaboration with other agencies and with citizen's groups. One of the main functions of the personnel will be working in these collaborative efforts, as described above. See the Criminal Justice Planning Strategic initiatives.

#### **V. Revenue sources: (Attach a copy of the form that was submitted to the Auditor's Office)**

If requesting a new position(s), is space currently available? Yes \_\_\_ No X  
Maybe \_\_\_

If Yes, state the location and room number. If No or Maybe, contact Facilities Management as soon as possible, but no later than April 30.

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**APPENDIX D:**

**TRAVIS COUNTY**  
**NEIGHBORHOOD CONFERENCE COMMITTEES:**  
**REVIEW\***

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**\* IN 1998, TRAVIS COUNTY'S CRIMINAL JUSTICE PLANNING DEPARTMENT, JUSTICE AND PUBLIC SAFETY DIVISION, PRESENTED AN INITIAL DRAFT OF ITS FIRST YEAR (1996) EVALUATION OF THE BEDICHEK NEIGHBORHOOD CONFERENCE COMMITTEE. THIS REPORT FOCUSES ON THE PROCESS AND SOME OUTCOMES OF THE NCC, AND IN ITS FINAL FORM, PROMISES TO BE A VALUABLE RESOURCE FOR THOSE ATTEMPTING TO DEVELOP SUCH MEASURES IN OTHER CONTEXTS.**

04/23/97 10:22 512 473 8885

TRAVIS CO DA OFC

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**Travis County*****Neighborhood*****Conference****Review****Committees**

- Bedichek NCC (78745 zip code) held 101 conferences since 2/96
  - \* 32 people have served as volunteers, 23 presently active
  - \* 40 contracts have been completed since 5/96
    - 4 of those youth have been re-arrested (10% recidivism rate)
- East Austin NCC (lower half of 78702) held 9 conferences since 12/96
  - \* 13 volunteers
- Southeast Austin NCC (78744) held 11 conferences since 2/97
  - \* 12 volunteers
- Pflugerville NCC (PISD boundaries) held 9 conferences since 2/97
  - \* 24 volunteers

**Travis County total: 130 conferences**

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- Funding:
  - ⇒ Initial NCC grant from Governor's Office, Criminal Justice Division
  - ⇒ Other grant funds from Governor's Office and Texas Dept. of Protective & Regulatory Services (DPRS)
  - ⇒ Travis County Commissioner's Court
- Three new NCCs to start Spring/Summer 1997
- Three new NCCs to start FY 1997-98
- Ultimate Goal: NCC expanding to all parts of Travis County
- NCC Location Criteria:
  - ⇒ Need= number of first-time juvenile offenders
  - ⇒ Level of community organization/interest in NCC concept
  - ⇒ Geographical balance within the county

4/2/97

**PROSECUTION IN THE COMMUNITY:  
A STUDY OF EMERGENT STRATEGIES**

**APPENDIX B:**

**SUFFOLK COUNTY (BOSTON), MASSACHUSETTS  
CASE STUDY**

PROPERTY OF  
National Criminal Justice Reference Service (NCJRS)  
200, 8300  
BOSTON, MA 02118-8300

Catherine Coles  
With George Kelling on Police

Program in Criminal Justice Policy and Management  
of the Malcolm Wiener Center for Social Policy  
John F. Kennedy School of Government  
Harvard University

Prepared May 1997  
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## INTRODUCTION

Ralph Martin became District Attorney of Suffolk County at a time when the city of Boston was in crisis. Appointed initially by Governor William Weld to fill the remainder of departing District Attorney Newman Flanagan's term in 1992, he had previously been an assistant district attorney in Middlesex County under then-District Attorney Scott Harshbarger (later Attorney General of Massachusetts). As an assistant US Attorney in Boston, Martin had also led the investigation of the Boston Police in the Carol DiMaiti Stuart case, in which a man murdered his pregnant wife, wounded himself, and blamed the crimes on "a black man." An aggressive police response targeted African-American men, worsening already tense relations between police and the local African-American community. When Martin later became district attorney, one of his first tasks would be to gain the trust and cooperation of the Boston Police Department (BPD)—a department that was already facing a loss of confidence in its integrity, as well as its effectiveness in addressing crime problems.

Early in the 1990s, both agencies—the police and the prosecutor's office—struggled with a city dominated by escalating levels of street violence. In December 1990, the *Boston Herald* published a daily "body count;" an elderly African-American minister was killed by police in a botched drug bust; and gang members disrupted an enemy's funeral by shooting up the church where it was held. Juvenile violence was a serious concern: one officer serving with BPD's Violence Task Force lamented, "I'm a tough cop and I believe in arrest, but we just have to go beyond arresting these kids. It just isn't working. Things are getting worse and worse." Martin's goals as district attorney were to leverage new resources, creating a critical mass of agencies and resources working together to address these and other problems of crime and public safety, and to make his office more accessible and responsive to the needs of the community.

Collaborating with other agencies and the private sector, Martin worked hard to build a relationship with new Police Commissioner Paul Evans so that police and prosecutors would develop stronger ties at virtually all levels of their organizations. Through the PIPS (Prosecutors in Police Stations) program, assistant district attorneys worked out of offices located in police district stations, cooperating in investigations and assisting police at virtually all hours of the day and night. They met with victims and local community members, and acted as a liaison for the police to the District Attorney's Office for nearly every case arising within the area. Martin's attorneys also participated in the multi-agency Boston Gun Project effort that, by all accounts, was a crucial factor in the near elimination of gun-related juvenile homicides from 1995 to 1998. In a housing project devastated by gang and drug-related crime and physical decay—Franklin Hill—Martin's office administered a project in which his staff collaborated closely with the Boston Housing Authority, tenant groups, community organizations, law enforcement agencies, city agencies and civic groups to reduce gang and drug activity and revitalize the housing development. Martin and Attorney General Scott Harshbarger jointly supported the creation of several Safe Neighborhood Initiatives (SNIs), in which assistant district attorneys and assistant attorneys general would collaborate with police and citizens in neighborhood-based efforts to target problems that citizens identified as troublesome to their community—ranging from quality of life offenses to violent felonies. Prosecutors became involved in activities that included crime prevention and reduction, as well as prosecution. And through the Community Based Juvenile Justice Program, prosecutors lead roundtables composed of school personnel, police, juvenile probation officials, and representatives of the Departments of Youth Services and Social Services that target chronic juvenile offenders and those at risk for developing delinquent behavior in high schools and middle schools.

Within the District Attorney's Office itself, Martin and his senior staff have attempted to minimize the segmentation of the office into two-tracks, "community prosecution" versus "case processing," and to develop an ethos that community prosecution efforts, too, are significant. In 1997, when the position of Chief of District Courts was vacated, Martin merged the role with that of Director of Community Prosecution. The new Chief brought ideas from her community prosecution experience into many of the district courts, instituting a new case management system that gave assistant district attorneys an actual caseload, assigning cases to them earlier on, giving them a better support system for preparing cases, and helping them to think about the "bigger picture"—to notice clusters of crimes occurring at certain locations. Prosecutors also worked with citizens to obtain community impact statements for use in court, and were encouraged to think about what could be done for a defendant to prevent further offending in the community. Training for all new district court attorneys now includes an orientation to community prosecution initiatives, and seminars and workshops provide experience in problem solving and information concerning community-oriented initiatives to others throughout the office. Recruitment for community prosecution SNI and PIPS positions are competitive, and incentives are offered to encourage applicants. A small but growing number of SNI prosecutors, having spent one or two years in district court positions working closely with citizens and police to address crime and safety problems in specific neighborhoods, are taking these same skills and applying them as they move up into higher positions on superior court prosecution teams.

News reports in Boston now speak of "Our anticrime 'miracle':<sup>1</sup> no juvenile was killed in Boston with a firearm from July 1995 until December 1997, when one youth died. The homicide rate for those under age twenty-four dropped between 1995 and 1996 by 71%; by the end of 1997 the overall number of homicide victims fell to forty-three, of whom fifteen were age twenty-four and under. These rates of decline were far above the national average. Citywide, in 1996 Part One crimes reported to the Boston Police Department were down 14% from 1995, and 16% from 1994. Reported incidents of violent crime (homicide, rape, attempted rape, robbery, attempted robbery, and aggravated assault) decreased 4% from 1995, and 14% from 1994. Specifically, homicide was down in 1996 by 39%, robbery 4%, aggravated assault 5%, burglary and attempted burglary 24%, larceny and attempted larceny 18%, from 1995. Violent crime in public schools fell more than 20% between the 1994-95 and 1995-96 school year.<sup>2</sup>

If reports from citizens represent another measure of success for the actions of the District Attorney and the Boston Police, they are replete: citizens working with SNIs and community prosecution efforts report that in Chelsea, migrant workers are opening savings accounts in local banks rather than coming in to cash welfare checks, and increasing numbers of residents are choosing to stay in Chelsea rather than move out. In Roxbury, with SNI support, residents themselves mobilized to convince the city licensing board to roll back hours for a store that sold food and liquor all night long, drawing noisy crowds of hundreds that disrupted traffic and the peace late into the night, and threatened to bring violence back into the Grove Hall area. In East Boston, crime has dropped enough that the SNI has turned much of its attention to quality of life offenses—always a concern, but now occupying central stage.

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<sup>1</sup> Paul F. Evans and [James] Alan Fox, "Our anticrime 'miracle,'" *The Boston Globe*, February 18, 1997.

<sup>2</sup> "Youth Violence: A Community-Based Response." U.S. Department of Justice, Washington, D.C.

## BACKGROUND

*Boston and Suffolk County*

Boston is one of the oldest cities on the East Coast—the capital of Massachusetts Bay Colony from 1632, and the Commonwealth of Massachusetts in 1780. Above all, Bostonians identify with individual neighborhoods—the Back Bay or Beacon Hill where some of the wealthiest live; Charlestown, South Boston, Dorchester, West Roxbury and Jamaica Plain where Irish immigrants originally settled; the North End and East Boston populated heavily by Italians; Roxbury, the center of the city and home to many African Americans; Chinatown, near the financial heart of the city—as much as with the city itself. Many of these neighborhoods contain narrow, winding streets, and distinctive housing. The Green Line subway was the nation's first, having grown now to an excellent system of public transportation.

Today, the city of Boston covers forty-eight square miles, only a small part of the larger metropolitan area, with its ninety-two cities and towns (many old New England towns, such as Chelsea or Revere), 1,100 square mile area, and a 1990 population of 2,871,000. Culturally diverse, Boston's 1996 population of 558,394<sup>3</sup> included African American, Native American, Hispanic, and Asian residents who made up approximately 40% of the total.<sup>4</sup> This diversity is enhanced by the drawing power of more than forty colleges and universities (including medical centers and teaching hospitals) located within the metropolitan area. These educational centers bring faculty and students from around the country, and the world, and contribute to a youthful population in the local area.

Printing and publishing industries predominate in manufacturing; but the city is also a research and development center for the computer industry, and a financial center, with headquarters of many large insurance companies, banks, and mutual funds. Per capita income in 1989 was \$15,581. The average unemployment rate in 1996 was 4.5%, down from 9.0% in 1991. 1990 census figures indicated that 15% of families and nearly 19% of individuals were living below the poverty level: 31.1% of families below the poverty level were female-headed in 1989. In 1993-94, the drop-out rate for Boston's schools was approximately 7.5%.

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<sup>3</sup> Source: Massachusetts Department of Revenue, Division of Local Services, "At A Glance Report for Boston" (11/03/98).

<sup>4</sup> Source: Massachusetts Department of Housing and Community Development, Community Profiles, "Boston, Suffolk County."

*Jurisdiction of the District Attorney's Office and the Courts*

The Commonwealth of Massachusetts has a three-tiered court structure: at the trial court level, the district courts and municipal court of the City of Boston (BMC) have original jurisdiction (concurrent with the Superior Court) over all violations of ordinances, misdemeanors (except libels), and felonies punishable by imprisonment in the state prison for not more than five years. In Suffolk County, for the most part, misdemeanors are handled in the district courts while felonies are disposed of in the superior courts. District courts are dispersed in various locations throughout the city (having originated as police courts): Brighton, Charlestown, Chelsea, Dorchester, East Boston, Roxbury, South Boston, West Roxbury; the Boston Municipal Court (BMC) is located in the downtown courthouse. Cases are heard in the court for the district within which the offense was allegedly committed (or is otherwise punishable). Most trials in district court are "bench trials" conducted by a judge; jury trials (with juries of six) are available in the Jury Session at Roxbury, Dorchester, Chelsea, West Roxbury; and the Boston Municipal Court. Juveniles are arraigned in special sessions at each of the district courts; jury trials are held in the Boston Juvenile Court located in the Suffolk County Courthouse downtown.

The Superior Court in Suffolk County sits in the County Courthouse in six sessions. The Commonwealth also has an intermediate appellate court—the Appeals Court—while the court of last resort is the Supreme Judicial Court. The Suffolk County District Attorney's Office prosecutes misdemeanors and felonies in the district and superior courts, and handles appeals through the higher courts.

*Looking Back: The Development of a District Attorney Office*

Preceding District Attorney Martin, Newman Flanagan served as Suffolk County District Attorney from 1979 to 1992, and before that as an assistant district attorney from 1961 to 1978. District Attorney Garrett Byrne, who preceded Flanagan in office, was the first full-time district attorney in Suffolk County: even then, his assistants were only part time attorneys. Flanagan recalls that approximately thirty-three part time attorneys (who were also in private practice) worked as assistant district attorneys when he was an assistant in Byrne's office. Judges, too, were part time. Local district (police) courts were strongly tied then to neighborhoods: local drunks would be arrested in October, and sent to Deer Island for the winter, where they would be provided for in jail. During the 1960s, Boston's police prosecutors in the local district (police) courts were replaced by prosecutors from the District Attorney's Office. Flanagan recalls that a victim-witness program, funded by the National District Attorneys Association, was also initiated early in the 1970s during Byrne's administration. At that time, each assistant district attorney had "his" court—the major ones being Dorchester and Roxbury—where half a dozen assistant district attorneys and a victim-witness advocate might work together and venture out into local neighborhoods to speak. Law Enforcement Assistant Administration funds brought changes in the form of support for the development of a computer system in the District Attorney's Office, and implementation of a "case management" system, as well as an organized crime unit.

By the late 1970s, legislation directed at conflicts of interest for part-time prosecutors mandated that they serve in full time positions. The effect was to remove them from close contact with the community; victim-witness advocates provided a countervailing trend, emphasizing the community and victims' rights, as opposed to looking only at offenders' rights. Special units also were funded by LEAA, in which prosecutors and police worked together: arson, child abuse, fraud, and homicide

were among them. Working together in these units, assistant district attorneys and police got to know each other well.

When Flanagan ran for district attorney in 1978 he had prosecuted approximately 2500 cases, including many murders. He had taken a year off after serving as first assistant to Garrett Byrne: it was time to move “up or out.” He decided to run for district attorney—and would first have to face Byrne himself (who was 81 at the time) in the Democratic primary.<sup>5</sup> As district attorney, Flanagan recalls his toughest problem was keeping good, qualified assistants, who tended to leave the office after four or five years for private practice because salaries had not kept pace with the private sector (since the 1940s). Flanagan also notes that although he did not have significant press support as district attorney, he was able to overcome this through frequent appearances in the community—at schools, churches, and by networking with victim-witness advocates. He encouraged his assistant district attorneys to attend civic meetings in the community as another means of staying in touch. Finally, he initiated the asset forfeiture program and started to put ten percent of the returns into grants given out to the community.

Flanagan had been president of the National District Attorneys Association (NDAA) from 1982 when, in 1992, he was offered the position of Executive Director of NDAA and President of the American Prosecutors Research Institute (APRI). The proposed mix of “practitioner and academia” was attractive: Flanagan accepted, leaving his position as District Attorney of Suffolk County open for the remaining years of his term.

#### *Taking Office in 1992: Ralph Martin as District Attorney*

After growing up in Brooklyn, New York, Ralph Martin attended Brandeis University and Northeastern University Law School, graduating in 1978. He worked for a few years with a private law firm headed by Wayne Budd (later the U.S. Attorney in Boston) and Tom Reilly (the current Middlesex County District Attorney), primarily doing civil litigation. Then in 1983, he joined the Middlesex District Attorney’s Office, headed at the time by Scott Harshbarger (now the Attorney General of the Commonwealth of Massachusetts). This was his first experience as a prosecutor. After only two years, Martin was offered a job as an assistant U.S. Attorney by then-U.S. Attorney William Weld. Martin remained in the office for several years, finally leaving to enter private practice again with the private firm of Stern and Shapiro. In 1992, Governor Weld selected Martin from several candidates to fill the post of Suffolk County District Attorney, vacated by Newman Flanagan.

While in the U.S. Attorney’s Office, Martin handled the investigation of Boston Police officers involved in the case of Carol DiMaiti Stuart. Stuart was shot while in her car, in a Mission Hill neighborhood: her husband claimed that an African-American male had committed the crime. Police then focused on young black men in the largely minority neighborhood as they searched for the killer. Some time after, a family member went to the police with a statement that pointed the finger at Stuart. Allegations then spread about police pressuring of innocent citizens during the earlier investigation. Wayne Budd, who had replaced Weld as U.S. Attorney, asked Martin to lead the investigation into police actions: Martin concluded that several officers should be indicted for intimidation of witnesses, planting evidence, and violating the civil rights of several individuals

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<sup>5</sup> Suffolk County and Boston could be relied upon to go Democratic in an election: the primary was therefore the key race.

involved in the case.<sup>6</sup> Believing that convictions would be unlikely, Budd chose not to prosecute. But Martin's actions would not be forgiven easily by many officers in the Boston Police Department.

When Martin became district attorney, he moved to put his own stamp on the office by changing virtually the entire executive staff, keeping only former first assistant Paul Leary as executive assistant district attorney. He also reformulated many top positions, and to fill them, brought a number of attorneys who had worked with him in the Middlesex County District Attorney's Office into executive positions (Jack Cinquegrana as chief trial counsel; Elizabeth Keeley as deputy chief; Michael Bolden as district court chief; and Janet Fine as head of the Victim/Witness Assistance Program). Within thirty days, he let go approximately fifteen out of 105 attorneys, replacing them with new attorneys at the "rookie" level. Today, approximately fifty of the original 105 remain.

Martin's priority in the wider community was to increase the accessibility and responsiveness of the District Attorney's Office to the public. An important part of responding to the community meant creating better services for victims of crime within the office: in 1993, Martin created both a Domestic Violence Program and a Child Abuse Unit, and accorded victim/witness advocates professional status. As a person of color, he recognized the importance of creating an administration characterized by inclusion and pluralism, open to all. Out in the community, he did not at first contemplate working closely with other agencies in this effort—but as operational linkages grew over time, and their value became increasingly apparent, he committed himself to forging and maintaining these relationships in order to make the best possible use of resources and personnel.

The relationship with the Boston Police Department (BPD) was especially crucial. Martin began holding regular meetings with the Commissioner; District Attorney's Office executive staff met with command staff from the BPD to get to know them better and to talk about goals and priorities; and representatives from the District Attorney's Office Child Abuse and Domestic Violence Units began working closely with BPD units in these areas and holding joint training sessions. When an off-duty BPD detective was murdered, Martin became directly and intensively involved in the investigation that was conducted by the BPD homicide unit—the first time such action had ever been taken by a district attorney.

### *The 1994 Campaign*

In 1994, a substantial degree of skepticism greeted Martin's campaign for district attorney, for this "black Republican from Brooklyn going up against Gerry Malone, a white Irish Democrat from Somerville (a working class community adjacent to Boston), in a fiercely parochial city like Boston."<sup>7</sup> Gerard F. Malone also had a record as a prosecutor, having been chief of the district courts under Newman Flanagan. But Martin campaigned extensively throughout the county, in all neighborhoods, appealing to all constituencies. He "stumped" with Weld, emphasized his performance in office as district attorney, and continuously asked the voters who would fight crime best? When the election finally came, Martin captured Democratic strongholds like Winthrop, Dorchester, and Hyde Park, and neighborhoods that were predominately white as well as African-American. He clearly achieved his goal of becoming "credible in communities, regardless of their

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<sup>6</sup> See Don Aucoin, "Raising the stakes," *The Boston Globe Magazine*, May 19, 1996, p. 35, for an account of these events.

<sup>7</sup> Aucoin, "Raising the stakes."

ethnic make-up,” of bringing a certain “level of comfort that all will be represented, and no one will be omitted, as beneficiaries.” The election ended with Martin beating Malone by nearly twenty percentage points.

## THE SUFFOLK COUNTY DISTRICT ATTORNEY’S OFFICE IN 1996

### *The Mission of the District Attorney*

Ralph Martin’s highest priority as district attorney is to restore order and make communities safer for citizens—even in the most beleaguered areas, such as Dorchester and Franklin Hill—and by doing so, to reduce the cynicism that prevents people from investing in the city and causes them to move away and take business with them. Since taking office, Martin has increasingly come to see that as district attorney he can provide several distinct contributions to this process. First, he works closely with other criminal justice agencies and officials (in his words, the principals “are very respectful of each other, and all work together”). Second, as the foremost countywide elected leader Martin views himself as largely responsible for local criminal justice processes. Third, both community-oriented activities and skill as a prosecutor in the courtroom are important to the role of prosecutor as Martin defines it.

Martin’s formal statement of the role and mission of the district attorney, and the district attorney’s office, consists of the following:

The office’s constitutional function is to prosecute all criminal matters in the county’s district courts and in superior court. Prosecutors, investigators and victim witness advocates all play a role in this function of the office.

In recent year, the office has taken steps beyond the traditional courtroom boundaries and joined efforts aimed at directly addressing crime in the neighborhoods of Suffolk County. This effort, called community prosecution, has resulted in a variety of projects such as the Safe Neighborhood Initiatives in Dorchester, Roxbury, East Boston and Chelsea, the Community Based Juvenile Justice roundtables in high schools and middle schools throughout the county, the Franklin Hill Gang Prevention project and the Chinatown John Project.

In all of these efforts, prosecutors and other DA staff have developed working partnerships with police, probation officers, merchants, residents and school officials. These partnerships have helped coordinate an effective response to crime problems in and around targeted neighborhoods.

The office is dedicated to improving its performance in the courtroom and to increasing its involvement in community prosecution efforts.

### *Organizational Structure of the SCDAO*

Since taking office Martin has made a number of alterations in the structure of the Suffolk County District Attorney’s Office (SCDAO). At the executive level, one of the first was to elevate the director of the Victim/Witness Program to a position on the executive staff, an indication of Martin’s

recognition of the importance of victim witness advocates to all operations in the office. In 1993, he created a Domestic Violence Unit: today, Suffolk County is the only county in the state to have a full domestic violence unit in the superior court. During his first two years, Martin increased staffing in the district courts, adding to numbers of assistant district attorneys and victim/witness advocates. He also elevated the status of the Juvenile Unit: Martin was determined that it not serve as a "dumping ground" for less able attorneys, but an integral and valued section of the SCDAO. In 1995, Martin disbanded four specialized units—the Controlled Substances Unit, Asset Forfeitures, Organized Crime, and Economic Crimes—and merged them into a new Special Prosecution Unit (SPU). Then in early 1997, when the district court chief left the office, Martin appointed the director of community prosecution programs to head the district courts as well, thereby combining the positions of chief of the district courts and director of community prosecution. Other changes are described in the sections that follow.

By early 1997, the executive staff of the SCDAO included: the first assistant district attorney; the chief of operations; chief of the district court and community prosecution; chief trial counsel (responsible for the superior courts and special units); director of external affairs; chief of the Victim/Witness Program; director of community relations; a press secretary; and Martin's chief of staff (see Appendix A). The first assistant district attorney oversees all policy and financial matters, general day to day management of the office, and is involved in some community-based initiatives. Other executive staff members have responsibility for specific divisions or units as follows.

#### District Court Prosecution and Community Prosecution

The chief of the district courts and community prosecution oversees teams of assistant district attorneys who work out of dispersed offices located close to the district courts: at the downtown Boston Municipal Court; and in Brighton, Charlestown, Chelsea, Dorchester, East Boston, Roxbury, South Boston, and West Roxbury District Courts. District court teams range in size from a minimum of one assistant district attorney and one victim-witness advocate up to fifteen attorneys and several advocates: the largest are in Roxbury, Dorchester, and Boston Municipal Court. The district courts are clearing houses for the processing of cases by the SCDAO: screening of nearly all cases takes place at this level, conducted by assistant district attorneys. The supervisor of each district court team carries out most screening, although point prosecutors for particular specialized units may review cases for the unit (such as domestic violence or juvenile cases). Cases are either held for processing in the district courts, or sent for direct indictment up to the superior courts, as appropriate for the charge.

*The Dorchester District Court, Drug Court and Diversion Program* - Started by the Boston Coalition, a group of business and community leaders, the Drug Diversion Court accepts non-violent offenders with admitted substance abuse problems from the Dorchester District Court. Probation Officers identify offenders who may qualify for the program, and recommend them at the time of arraignment. An assistant district attorney reviews and handles cases one day a week. For those who agree to participate, the program begins with two weeks of orientation, followed by a forty-eight week program in which the client moves through three-month components that involve needs assessment, individual and group counseling, and job counseling and development of work-related skills. During the final weeks of the program, an attempt is made to prepare participants for release. Random urine drug tests are required throughout, and participants must not only attend all program activities, but also search for employment. Judicial review of clients occurs weekly, on Friday mornings. The *Metropolitan Day Report Center/ Intermediate Sanctions Project*, a collaboration between the SCDAO and the Crime and Justice Foundation, is also available in Dorchester, Roxbury

and West Roxbury Courts (with plans to extend it to others) as an alternative sentencing option for substance abuse offenders with a significant record of arraignments and/or periods of probation, and who are at risk of incarceration or are having difficulty on probation. The Center provides a combination of supervised activities, sanctions, and rehabilitation services (through treatment/counseling, education, and job development).

#### Superior Court Prosecution

The chief trial counsel oversees the Grand Jury, all superior court prosecutions, including the four felony trial teams, and the operation of all special units in the superior court. Up until the end of 1995 there was also a deputy chief trial counsel; however, District Attorney Martin combined these positions, thereby streamlining the operations of the superior court prosecution section.

*Grand Jury* - In Massachusetts, felony indictments must be brought ("true billed") by the Grand Jury. Four three-month Grand Jury sittings take place each year, beginning in January, April, July, and October. The Grand Jury sits five days during the first and third weeks of the month, and three days the second and fourth weeks. Statistics are compiled monthly on cases presented, by geographical area in the city. The director, an assistant district attorney, oversees the work of the Grand Jury: she presents rules, regulations, and applicable law, and sits in for all testimony. A paralegal assistant is responsible for administrative aspects of Grand Jury operations. Assistant district attorneys on the superior court trial teams receive felony cases that have moved up from the district courts, or that are directly indicted. Once a superior court number has been obtained, the assistant district attorney summons witnesses (police, victims, and other witnesses), and schedules a time at the Grand Jury for presentation of the case.

*Superior Court Teams* - During 1996, Martin added the position of superior court trial manager—a role that is still evolving. The trial manager reports to the chief trial counsel, and oversees the operations of all the trial teams: he monitors all trial sessions to ensure that they are running at full speed, assistant district attorneys are answering ready for trial, police officers are appearing as needed, and that district attorneys are working well with the judges. He also deals with attorneys regarding trial dispositions, and oversees the closing out of files following trials.

Four superior court trial teams handle cases from distinct geographical areas/district courts: Team I processes cases from Dorchester and South Boston; Team II from the BMC, East Boston and Chelsea; Team III from Roxbury and Brighton; and Team IV from West Roxbury and Charlestown). The four trial teams work in all six superior court sessions. Each team is headed by a trial team supervisor, who oversees day to day operations on cases (assigning and moving them through trial preparation) up to trial. Four to six assistant district attorneys, one to two victim-witness advocates, and an investigator are assigned to each team. Assistant district attorneys on the teams are assigned cases to work up for presentation to the Grand Jury: after a case is "true billed," the same assistant district attorney proceeds to trial. In 1995, Martin created a new position of senior trial attorney for each team: this is a coveted role, offering financial reward and recognition to a skilled attorney. Responsibilities for the senior trial attorney involve approving sentencing recommendations, second-chairing trials, and providing strategic legal advice and assistance to attorneys trying cases.

*Juvenile Unit* - The Juvenile Unit of the SCDAO is closely integrated with the Community Based Juvenile Justice Program (CBJJP). The chief of the Juvenile Unit supervises assistant district attorneys in district courts who are specially designated to handle juvenile cases (which are arraigned in separate sessions there), as well as two "priority prosecutors" assigned to the CBJJP (see below). The unit also has a full-time victim witness advocate, and an investigator. Priority prosecutors

handle cases in which juvenile offenders have committed violent offenses or a number of offenses within a short period of time, and are likely to pose a threat to schools, neighborhoods, and communities. Cases are concluded more rapidly than would normally occur, and because the same prosecutors handle all pending cases against a juvenile, they understand the offender's continuing impact on community life and are better informed to proceed with whatever cases move forward, even though some may be dismissed. These prosecutors also speak with school officials and community members who have been affected by the offender's acts, and communicate this information to the court.

All juvenile sexual assault cases are screened by the chief of the CBJJP, who then assigns cases to specially designated assistant district attorneys in the Juvenile Unit. A new chief of juvenile prosecution—a former Gang Unit prosecutor—has recently been appointed.

***Gang Unit*** - The Gang Unit in the SCDAO (originally started under District Attorney Flanagan) conducts investigations and prosecutions of gang-related violent activity, typically shootings and drug-related crime, primarily involving individuals in the seventeen to twenty-three age range (although cases have been pursued in which offenders were as old as thirty). Eight assistant district attorneys are assigned to the unit, including the chief, along with two victim-witness advocates and four investigators. Reports on solved and unsolved crimes come into the unit daily from police reports and case screenings. Record checks are conducted on victims, defendants, and witnesses. The Gang Unit chief decides whether cases should be directly indicted for handling in the superior court, or whether his staff should team up with a district court district attorney to target a case.

Gang attorneys share information and in other ways work closely with the Youth Violence Strike Force (BPD's anti-gang unit), the U.S. Attorney's Office (specifically the Bureau of Alcohol, Tobacco and Firearms), and area detectives assigned to various parts of the city. They also meet regularly with Safe Neighborhood Initiative assistant district attorneys, in part to avoid duplication of efforts and to keep the prosecutors in the district courts informed about the progress of specific cases so that they can respond to the questions of judges. Victim-witness advocates contact any juvenile who is shot, even if there is no arrest or filing, and devote considerable efforts to convincing fearful victims and witnesses to agree to participate in prosecutions.

Although the unit is heavily oriented toward investigation and prosecution, with attorneys carrying heavy caseloads, District Attorney Martin, First Assistant Gittens, and current Gang Unit chief Bob Tochka have recently met to discuss potential benefits (especially in the area of violence prevention) from the unit reaching out more directly to the community. To some degree victim witness advocates in the unit have been performing this function. Martin would like to see more involvement by assistant district attorneys. Assistant district attorneys have begun speaking in local high schools with Youth Violence Strike Force officers, bringing in prison guards to tell what it is like for incarcerated offenders. Future activities may involve district attorneys speaking in elementary schools in an attempt to contact younger children and introduce them to the District Attorney's Office.

***Special Prosecutions Unit (SPU)*** - The SPU handles four types of cases: economic crimes (including public integrity, and police corruption cases); narcotics; organized crime; and asset forfeiture. Seven assistant district attorneys (including a chief, and deputy chief) work in the unit, along with one investigator assigned directly to it; however, police investigators from Chelsea, Winthrop, Wellesley, and Boston work on investigations, as do state police in the CPAC (Crime

Prevention and Control) Division of the District Attorney's Office. The unit combines investigative, support (for other units in the SCDAO), and prosecution functions.

***Homicide Unit*** - The Homicide Unit handles investigations and prosecutes all homicides in the county. The homicide chief supervises a team of two senior trial attorneys, four additional assistant district attorneys, two investigators assigned directly to the unit, and two victim-witness advocates.

***Domestic Violence Unit*** - Created by District Attorney Martin in 1993, the SCDAO Domestic Violence Unit is the only one in the state to operate as a full unit in the superior court. The rationale for such a unit at the superior court level is that cases arraigned in the district courts are less likely to be dismissed by these lower court judges, and serious cases are more likely to be forwarded to the higher courts. The chief of the Domestic Violence Unit oversees a superior court staff of four assistant district attorneys, two victim-witness advocates, and one investigator. At the district court level, a domestic violence point prosecutor is present in Chelsea, BMC, Roxbury, and Dorchester. Either the supervisor of the district court team, or the point prosecutor, reviews domestic violence cases. In Roxbury District Court—representing an area of the city in which domestic violence is especially prevalent—the point prosecutor handles only domestic violence cases. Cases coming into the district courts may be processed there by the point prosecutor, or sent for handling by the appropriate felony trial team in the superior courts. The unit chief and her staff serve as a backup, taking those cases rejected by the superior court teams and pursuing them. A full range of services for domestic violence victims is available: advocates make contact with victims as soon as possible after a police report is filed, and offer referral assistance (for housing, counseling, and medical assistance), including services for children.

The Domestic Violence Unit chief and the supervisor of victim-witness domestic violence advocates provide training in domestic violence for all new assistant district attorneys, and conduct in-service training for all attorneys at the district court level. Some training is also carried out for superior court attorneys. They also conduct training at the police academy: domestic violence staff report that police report-writing has improved greatly, and better cases are being produced. They have also assisted Safe Neighborhood Initiative (SNI) staff in carrying out projects in the SNIs. Finally, domestic violence staff members (both attorneys and victim-witness advocates) are involved in a range of outreach activities in the community. As part of the Family Violence Project, a grant-funded program (the grant awarded to the SCDAO) located at the Roxbury District Court that supports a domestic violence prosecutor and victim-witness advocate, a new post-disposition contact procedure has been set up to follow up and assist certain victims after sentencing.

There are no written policies in existence for the Domestic Violence Unit: however, the approach taken by Martin and the unit chief is to prosecute even without the consent or agreement of the victim; and to pursue a victim as a witness whatever her, or his, response unless a legal reason or grave danger to the victim would preclude such a course. Martin has faced a certain amount of resistance to this policy from the bench—a situation that has not been resolved. Even though most domestic violence crimes are misdemeanors, staff are exploring new ways of indicting offenders for felony prosecutions in the superior courts and opportunities for sentence enhancement, especially where serious injury results, or the defendant has a long history of domestic violence or a long criminal record involving violent crimes.

***Child Abuse Unit and Children's Advocacy Center*** - Created in 1993, the Child Abuse Unit is a specialized program that brings a multidisciplinary and multi-agency (prosecutors, police, social

services, medical and mental health agencies) approach to meeting the needs of child victims of physical abuse, sexual abuse, and child witnesses to violence. The goals are to respond to the needs of child victims while facilitating prosecution of alleged offenders. Staff within the unit review all reported cases of sexual and physical abuse involving victims under the age of sixteen, or where older victims report sexual abuse as a child. If the decision is made to prosecute, the case will either be sent back to the district court (and assistance provided by the unit as necessary), or else to the Grand Jury for indictment and prosecution in superior court, as the charge warrants.

All operations of the unit are victim-centered: the unit chief reviews every case along with his staff, making a decision concerning whether to proceed with prosecution based not only upon the evidence, but the welfare of the victim. Child abuse cases are handled on a priority prosecution basis and moved as quickly as possible: an attempt is made to complete investigations and make prosecution decisions within thirty days of assignment. Interviews are conducted by interdisciplinary teams of trained assistant district attorneys, victim-witness counselors, detectives, Department of Social Services workers, therapists, and interviewers who evaluate cases to determine their viability for prosecution and collect information from victims in an environment and manner that will not traumatize them further. Interviews are taped for later use in Grand Jury proceedings: superior court cases are brought directly to the Grand Jury to prevent the child's involvement in district court proceedings.

Five assistant district attorneys in the unit conduct prosecutions in the superior courts; one victim-witness supervisor, three victim-witness advocates, one child interview specialist, and a coordinator of child victim services are also assigned to the unit, and victim witness and legal interns assist the staff. Advocates work with the victims and their families throughout the entire process. During 1995, the Child Abuse Unit received 660 referrals, averaging fifty-five cases per month.

A new Children's Advocacy Center has recently been opened, with intake services centralized at the Center: it is modeled after the Children's Advocacy Center in Austin (Travis County), Texas.

#### Appellate Division

The Appellate Division conducts appeals of all state felony cases that move through the state Appeals Court and the Supreme Judicial Court, briefing approximately 150 full appeals each year. In addition, assistant district attorneys in the division handle about thirty collateral attacks on convictions (such as motions for new trials), incidental work including stays of execution of sentencing pending appeal, single justice practice cases (interlocutory appeals), and public record/Freedom of Information Act cases in the civil courts.<sup>8</sup> The division, particularly its chief, also serves as legal counsel to the SCDAO: in part this role is carried out through a duty rotation among division staff requiring one attorney to be on call and available to other assistant district attorneys throughout the SCDAO regarding legal issues emanating from trials.

Sixteen assistant district attorneys work in the Appellate Division. The chief edits the work of all assistants; other senior assistants in the division (deputy chiefs) edit the work of less experienced attorneys, and also serve as mentors in developing the research and analysis capabilities of the newer attorneys. Along with the district courts, the Appellate Division provides entry level positions for new attorneys, yet requires somewhat different skills: experience as a law clerk, law review

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<sup>8</sup> The Massachusetts Attorney General's Office handles appeals of its own cases, and appeals from state courts that go to federal courts, such as habeas corpus petitions.

participation, and high academic standing in law school all appear to be predictors of successful work in the Appellate Division. New attorneys in the division are required to commit to serving two years before applying for a position elsewhere in the SCDAO—explicit recognition of the additional need for experience and expertise gained on the job itself.

The division chief (along with the chief trial counsel) conducts legal training for assistant district attorneys in the superior court, complete with prepared handbooks on specific legal issues. Sessions are held approximately every six weeks from September through June. The chief and her staff also write feature articles and prepare annotations of recent cases for the SCDAO quarterly legal newsletter that is circulated to all county judges and law enforcement officers, and district attorneys statewide.

#### Victim-Witness Program

In 1995, crime victims and witnesses were accorded expanded rights under the Massachusetts Victims Bill of Rights, M.G.L. Chapter 258B. Most of the new requirements were already covered by practices in the Suffolk County District Attorney's Office set in place following the creation of the unit in 1993, after District Attorney Martin took office. Victim-witness advocates today conduct a variety of mandated as well as additional services, providing information, support and assistance to crime victims, witnesses, and family members. District Attorney Martin has communicated his strong support for the unit and its activities throughout the SCDAO: the unit chief sits on the executive committee, and has had Martin's explicit endorsement for recruiting a staff of highly professional, competent advocates.

The chief of the Victim-Witness Program supervises a staff of thirty-five advocates who are assigned to the four superior court teams, the district court teams, and the Homicide, Child Abuse, Gang, and Domestic Violence Units. Nine senior level advocates serve as advocate supervisors who oversee the work of advocates in particular courts and specialized units. Among the major responsibilities of advocates are providing crisis intervention and emotional support; offering planning and assistance for safety and protection, including applying for restraining orders; making referrals for medical, legal and financial assistance, and for counseling and social service needs; informing victims about legal processes and the status of criminal cases; providing assistance with restitution, witness fees, and filing Victim of Violent Crime Compensation claims; arranging for victims to confer with an assistant district attorney before pre-trial hearings about their confidential records, before trial, before the submission by the assistant district attorney of a sentencing recommendation, and before a case is dismissed.

Victim-witness advocates are involved in outreach linkages with other criminal justice and community agencies, serving on boards, coalitions, committees and working groups. Through these linkages, staff have developed stronger referral networks and been able to educate others in the community about crime victimization and criminal justice processes. Advocates have played a central role in developing and implementing the Safe Neighborhood Initiatives in East Boston and Chelsea, conducting community outreach to businesses and residents, providing victim witness services through court processes, and helping to run youth programs. Advocates have also provided consultation and training to assistant district attorneys in the office, and regularly speak at regional and national conferences.

#### External Affairs and Community Relations

In addition to his press secretary, District Attorney Martin has designated two other non-attorney staff members to facilitate communications and interactions between the SCDAO and the

community, and to engage in program development, drafting of legislation, and other activities “outside the courts” that assist Martin in carrying out his mission and achieving his objectives for the office. Some of their work involves communication with the public through the media; but more often the activities they plan and carry out (and for which they seek grant funding, in many cases) create plenty of opportunities for direct contact between prosecutors and private citizens.

*Director of External Relations* Jim Borghesani at one time acted as press secretary for the office; he serves now as a policy advisor with special responsibility for new developments in prosecution. As the job has developed, he writes grant proposals and manages a number of grants; works as a legislative liaison with the State House, drafting proposed legislation, monitoring its progress through the legislature, and arranging testimony before the various committees; acts as an “advance” person for District Attorney Martin at community meetings; and assists in planning and carrying out various programs and events sponsored by the SCDAO but held in the community. For a time he served as point person for community prosecution programs (a function later passed to the chief of district courts and community prosecution), and remains closely involved in the development of the Chelsea Safe Neighborhood Initiative. Borghesani also continues to handle press-related matters beyond day to day briefings—and has facilitated coverage of office activities and programs in the local press and media, as well as on a national scope.

Coming from an extensive background in human services (including child protective services) and criminal justice, *Director of Community Relations* Deborah McDonagh develops a broad range of outreach programs and activities directed at various groups within the community. Many of these programs serve an educative function—teaching citizens about the basic operations and services offered by the District Attorney’s Office, and advising them as to how they can have more direct access and input; others address particular problems of crime and public safety in specific neighborhoods or populations. McDonagh is often involved in attempting to bring the professional and business communities into collaborative relationships with the SCDAO. When Martin first took office, McDonagh arranged for him to speak personally to every neighborhood association and crime watch group in the city, for a time occupying him for three or four nights a week. She has managed the return of a portion of forfeiture funds (ten percent—totaling \$28,000 last year) to the community through small competitive grants—often given to teens or adolescents. She has also worked to develop a Legal Lives program to be taught by prosecutors to fifth grade students—for which negotiations are still ongoing with the Boston Public Schools; coordinated the summer DARE program; and she has facilitated Martin’s work with the Boston Coalition on Children, Youth and Families (specifically, to form a children’s safety network in the community). She also supervises grants, such as the Franklin Hill Comprehensive Gang Initiative, funded by a BJA grant (see below).

### *Administrative Processes*

#### Prosecutorial Leadership

District Attorney Martin presides over the largest prosecuting office in New England, with 125 attorneys and 140 support staff; the office handles approximately 50,000 cases a year in Boston, Chelsea, Revere and Winthrop. Martin delegates oversight of day-to-day operations in the office to his first assistant, and executive staff, who also assist him in strategic planning and policy development. Although he rarely tries a case now, he is anything but remote from grass roots operations. He consults regularly with chief trial counsel Elizabeth Keeley on cases of interest moving through the superior court; and with district court chief Marcy Cass regarding district court cases and issues. Line prosecutors and other staff from several different divisions and units report

being able to reach Martin directly; he participates in training sessions for new prosecutors, and attends meetings of district court supervisors.

Martin relies on a core group within the office both to advise him, and to manage day to day operations. Many of these individuals are on his executive staff. Some bring diverse backgrounds to their work: for example, First Assistant Bob Gittens, former chairman of the State Parole Board and deputy chief legal counsel for Michael Dukakis, comes with considerable experience in government, and has developed links with individuals and institutions in the community that are useful to Martin as he seeks to build coalitions.

Martin's work outside the office, in the community, is extensive. At the level of corporate leadership in the private sector, he has been active in the Boston Coalition, serving on two task forces. He maintains close working relationships with other criminal justice leaders, among them the U.S. Attorney, attorney general, and the BPD police commissioner, as well as with Mayor Thomas Menino and other city government officials. These relationships have provided a foundation for the numerous collaborations in which various private groups and government agencies in Boston have participated successfully to improve the quality of life and reduce crime in the city—among them the Safe Neighborhood Initiatives, the Boston Gun Project, Operation Cease Fire, the Franklin Hill Gang Prevention Project, and numerous others. Martin also makes himself accessible to private citizens in neighborhoods, meeting regularly with citizen groups as part of Safe Neighborhood Initiative activities, students in local schools, and neighborhood associations. In line with his goal of integrating community-oriented prosecution activities with case processing functions in the office, Martin expects his executive staff to move out of the office and meet with community leaders and groups as well, as required for the particular programs and functions they supervise. Almost all have assumed this responsibility as part of their normal duties.

#### Creating a Culture

The culture of the District Attorney's Office is in a state of transition: the sense of mission that Martin sets out for himself is gradually penetrating the office, down to the line trial attorney level. As might be expected, certain sections and units show evidence of accepting this mission more thoroughly than others.

From heads of trial teams in the superior and district courts on down, assistant district attorneys report that they are working to create an environment that is safe for citizens. There are many different and distinctive ways in which staff members in the office contribute to achieving this goal, and for the most part they recognize each other's contributions. Trial team leaders naturally assert that "conducting high quality prosecutions" ("the meat and potatoes of prosecution," "we take the dangerous members out of the community") is a valued part of the process. Martin himself places a high premium on developing and maintaining trial skills. Senior trial attorney positions in the office are the epitome of excellence in this area, although many chiefs of specialized units appear to share this competency, coming from the ranks of senior trial attorneys. Superior court attorneys believe they receive more respect from police officers than do district court prosecutors at least in part because they have longer experience as trial attorneys ("the police look at a new district court prosecutor, and think 'I was here before you came, and I'll be here long after you're gone,'"). Assistant district attorneys who work in the Safe Neighborhood Initiatives do not dispute this view entirely: their credibility with police and local citizens is enhanced by carrying out successful prosecutions, and grows over time as they gain more experience working with police.

At the same time, trial attorneys recognize the importance accorded community-based prosecution efforts in the office, and see it as justified (“I can do more by working proactively than by dealing with a crime that already happened;” “getting people involved in the community is really hard, and you can’t get witnesses or try a case without them;” “it really matters that an assistant D.A. just doesn’t go home every night and not know what’s going on in the neighborhood”). But more than a few attorneys in the superior court teams see “community prosecution” as mostly a quality of life program that is appropriate to the district courts, for the “peace of mind” of particular neighborhoods.

The biggest obstacle for prosecutors, and their greatest frustration, seems to be that the community doesn’t always cooperate fully and come forth to assist in cases that prosecutors are working hard to resolve successfully (“we’re just supposed to be able to do it,” “we’re just supposed to serve them without their help”). Education of citizens is one way prosecutors suggest getting around this—several teach in the “Prosecutor for a Day” program (Legal Lives). Prosecutors working in community-based initiatives did not feel so bleak about this problem, since they receive excellent cooperation from local citizens.

#### Personnel

The SCDAO maintains a listing of available candidates for assistant district attorney positions so that an opening can usually be filled without undue delay. Applicants are numerous, and many executive staff conduct preliminary interviews with potential candidates. Newly hired assistant district attorneys are usually assigned first to either the district courts (specifically, a larger court where there are opportunities for mentoring by supervisors), or the Appellate Division. The district court chief, and director of training (a position created formally by Martin in 1996), oversee training for new attorneys: an intensive five day training session is provided, with components taught by various members of the executive staff and others in the office. (New assistant attorneys general have also been attending.) Contents of the last session included an overview of Massachusetts criminal law and procedure, procedures followed in case processing, various trial skills, the victim witness program and services, community prosecution programs, dealing with the media, and updates on several areas of law. Following this training, the director of training makes herself available to all attorneys who wish to consult with her on issues that come up during their work in the courts—even on an emergency basis. Training for the superior court prosecution positions is overseen by the chief trial counsel, and organized by the Appellate Division chief. The office also offers seminars and continuing legal education opportunities on a regular basis as needed. During 1996, a special session was offered on the handling of records for rape victims, following state court decisions that required changes in procedures for prosecutors.

The size of the SCDAO and number of senior and executive positions available offer greater prospects for advancement and opportunities for career prosecutors than might be the case in smaller offices. Evaluations are conducted yearly, involving assessment of specific skills as needed for the division or position (such as trial skills), and offering an opportunity for extensive commentary by the supervisor on each individual attorney.

Two newsletters are produced in the office: *Vox Prosequitur* contains updates of new legislation and case law and is circulated throughout the state to district attorneys and law enforcement professionals. *Full Court Press* is directed toward the SCDAO staff, with a message from District Attorney Martin, and articles of interest on staff members, new programs, and developments involving the office in the community.

### Technological Capacity

All employees have windows-based personal computers: they are linked to a network that permits the exchange of internal e-mail; and have access to PROMIS, a system-wide case tracking program.

### The Media

Press secretary Carmen Fields handles press calls, day to day briefings and communications with the press regarding ongoing cases, and arraignments. Assistant district attorneys are required to call her before speaking to the press if they receive a press inquiry, unless there has been a disposition in a case. The first assistant, chief trial counsel, and District Attorney Martin all take calls from the media, and respond directly to them. Fields also prepares occasional articles for local newspapers, and Martin himself writes a monthly column, "From the Desk of . . .," that appears in smaller, local papers, and has gained considerable favorable attention from neighborhood groups and private citizens. Director of external affairs Jim Borghesani also has considerable dealings with the press, but less for purposes of briefings on cases than on policy matters and crisis management. Martin sees his own relationship with the press as positive—but "sometimes the press makes things look too easy; it doesn't recognize how hard it has been to do some of the things we've done."

### *Major Activities and Tactics*

#### Case Processing, Statistics, and Plea Guidelines

As noted above, the SCDAO handles about 50,000 cases per year, including both misdemeanors and felonies. The district courts process most of these cases. The following table provides data on total numbers of felony cases handled by the SCDAO from 1991 through 1996, through the superior courts.

#### *Superior Court Case Filings and Dispositions: Pleas, Dismissals and Convictions*

Year	Total Cases Filed*	Pleas**	Dismissals**	Convictions (Total)***	Trials**- Convictions (by trial)****
1991	1686	1099 66.3%	10.4%	73.3%	265 15.7% 166 Guilty (63%)****
1992	1419	924 65.1%	11.7%	74.8%	252 17.7% 168 Guilty (67%)
1993	1341	881 65.6%	10.4%	73.6%	238 17.7% 140 Guilty (59%)
1994	1334	868 65.0%	9.8%	72.6%	221 16.5% 127 Guilty (57%)
1995	1384	965 69.7%	10.1%	77.2%	199 14.3% 125 Guilty (63%)
1996	1353	930 68.7%	10.1%	76.4%	207 15.2% 117 Guilty (58%)

\* Total cases reflects number of defendants, not number of charges.

\*\* All percentages not in parentheses are based upon total cases.

\*\*\* Includes pleas.

\*\*\*\*Percentage of trials

As part of case processing, during his tenure in office District Attorney Martin has moved steadily toward greater use of direct indictments by the Grand Jury rather than probable cause hearings, believing this to be the most efficient means of ensuring that charges are brought when needed, and that it represents a good means of citizen input. Vertical prosecution is the primary means of dealing with most cases that reach the superior courts, either because of the direct indictment process, or treatment of cases within special units.

Case processing is integrated with community prosecution and efforts at comprehensive problem solving as part of the Safe Neighborhood Initiatives and the PIPS program (see below), in which assistant district attorneys are responsible for prosecuting cases that are of particular importance to citizens in local neighborhoods, at least some of which might not receive such attention otherwise; and in special inter-agency initiatives and collaborative efforts (such as the Gang Initiative).

No formal written policies govern plea negotiations and agreements: each assistant district attorney has discretion over these matters within the general parameters set out by the Martin and the chief trial counsel, with senior trial attorneys guiding the decisions of trial team members. The chief trial counsel must approve every *nolle prosequi*; the chief of the district courts has similar authority over the actions of her assistant district attorneys. Policies are communicated and discussed at meetings of senior trial attorneys and supervisors from superior court teams held every five weeks, and at district court supervisors meetings held regularly.

#### The Legislative Agenda and Accomplishments

Martin's major contributions to legislation have included the Brett-Martin Gun Law (passed in December 1995) that he co-authored, requiring that any juvenile convicted of illegal possession of a firearm be committed to a secure Department of Youth Services facility for a minimum of six months;<sup>9</sup> and the Juvenile Reform Act of 1996 that took effect on October 1, providing tougher sanctions for youth violence. Martin assisted in writing this law, and lobbied for its passage. Under the Act, juveniles fourteen and over charged with murder must be tried in adult court; the *de novo* system is eliminated; and juveniles charged with rape, arson, attempted murder or other violent crimes can be classified as "youthful offenders" and subjected to adult sentences.<sup>10</sup>

#### Problem Solving and Collaborative Ventures

District Attorney Martin is constantly building new problem-solving capacities into the operations of the District Attorney's Office, and directing his staff to participate in problem-solving efforts with other agencies, whether it be through newly created programs such as the Safe Neighborhood Initiatives, the Gang Task Force, or smaller but no less significant changes within the district courts. In some of these efforts Martin has taken the lead; in others, he has been willing to work as a team member, bringing whatever resources he can muster from the District Attorney's Office and using his own influence to leverage additional resources within the community. Whatever the immediate goals of each initiative, collaborative efforts to reach them appear—at least in some cases—to be facilitating the development of a capacity for problem solving that can be directed toward other problems. Four specific programs are discussed here.

*The Community Based Juvenile Justice Program and Juvenile Prosecutions* - Section 212 of the General Laws of Massachusetts, enacted in 1994, mandates the District Attorney's Office to

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<sup>9</sup> See Mass. Gen. L. ch. 119, Secs. 58, 68 (1999).

<sup>10</sup> See Mass. Gen. L. ch. 119, Secs. 54, 58, 74 (1999).

establish a Community Based Juvenile Justice Program (CBJJP), “in order to coordinate efforts of the criminal justice system in addressing juvenile violence.” The law provides for cooperation among schools, local law enforcement representatives, probation and court representatives, and social services and youth services departments where appropriate. Prior to the passage of this law, Martin had convened an advisory group to consider adapting the Middlesex County model for a CBJJP; he then established a CBJJP in Suffolk County in 1995. Today, the CBJJP chief, herself an experienced sexual assault prosecutor and former psychiatric social worker, oversees a program aimed at reducing juvenile crime, increasing school and community safety, and identifying and developing innovative strategies for juveniles at risk for developing delinquent behavior.

In six high schools—Dorchester, Revere, Chelsea, English (in Jamaica Plain), Jeremiah Burke (in Roxbury), and Hyde Park, some paired with middle schools—roundtables operate in which CBJJP staff from the SCDAO meet regularly with school personnel, police, probation officers, and staff from state social and youth service agencies to identify and discuss violent and chronic juvenile offenders. Roundtables are chaired by CBJJP staff or assistant district attorneys in the Juvenile Division: the presence of an attorney at these meetings allows schools to raise legal issues which they need to have clarified (such as confidentiality issues regarding the release of information on juveniles). The CBJJP project administrator, hired by the SCDAO, prepares and keeps current confidential lists of juveniles who are being monitored. At each meeting, participants discuss juvenile offenders who are court-involved, as well as youth who are perceived at risk for developing delinquent behavior. Interventions might include: indictment as a youthful offender; priority prosecution by the SCDAO; recommitment to the Department of Youth Services (where there is a violation of conditional release); revocation of probation; requests for a court to impose specific conditions; and referral for services in school or community based agencies. The project administrator records steps to be taken for each individual and the agency responsible for follow-up planning; she also assists in locating community service providers. Approximately 400 youths were discussed at CBJJP roundtables in 1996.

Each roundtable reflects the particular community that it serves, as well as the needs of the individual school. Since Boston schools operate under an open enrollment policy, with students attending particular schools based upon choice rather than area of residence, a student may live in one part of the city and attend school in another. This fact poses an extra hurdle for CBJJP roundtables to overcome, since it necessitates a high degree of coordination among agencies citywide for successful service planning. Although confidentiality issues have at times proved difficult for participating agencies seeking to build trust and share information, their representatives report significant progress. And beyond individual cases, they point to a number of accomplishments. Transit police have worked with school principals to increase safety in train stations through which large numbers of juveniles pass on their way to and from schools. To address violent episodes in schools in a rapid and effective manner, CBJJP staff have joined with the Youth Violence Strike Force and Community Disorders Units of the BPD, assisting with prosecution aspects of interventions and providing consultation to staff, parents, and advocacy groups. The idea is that incidents in school have high visibility, and by moving quickly to prosecute, the school is sending a message that the behavior will not be tolerated. In one instance a juvenile was seen stealing calculators from a classroom: other students were intimidated by the defendant, however, and initially would not cooperate. School and SCDAO staff moved in quickly, worked to secure cooperation from witnesses, and the case was successfully prosecuted. School staff report feeling less “burned out” because of their participation in CBJJP—in part because they feel the burdens and responsibilities are shared, they know who to call with concerns, and they are reassured that someone will respond.

The CBJJP is also involved with SafeFutures, a diversion project funded by OJJDP, with a day report center for young teenage males in the Blue Hill Avenue corridor who have committed nonviolent first offenses. CBJJP roundtables have worked cooperatively as well with Safe Neighborhood Initiatives in the Grove Hall area of Roxbury, and in East Boston (see below).

***The Franklin Hill Gang Prevention Project*** - The Franklin Hill Gang Prevention Project was funded by a Bureau of Justice Assistance federal grant awarded to the District Attorney's Office. SCDAO was the only district attorney's office in the country to receive this grant. Through the project, Boston became a demonstration site for a comprehensive gang initiative that included: (1) an organized law enforcement component to arrest established gang members responsible for drug dealing, associated criminal activity, and violence in and around the Franklin Hill housing development; and (2) a prevention component, through which a wide range of services were established to assist local residents in developing the capacity to prevent and resist crime and improve their quality of life. The District Attorney's Office played a major role in both components, which involved several other participating agencies as well. All participants adopted a problem-solving approach, and in all aspects of the project worked closely with residents in the housing development.

To identify and address criminal problems existing in Franklin Hill, the District Attorney's Office established a multi-jurisdictional task force to conduct proactive investigations and develop a plan of action. A database containing information on gang members and criminal offenders active in the area was compiled; sweeps were planned and implemented (with cases handled on a "priority prosecution" basis); parking areas were cleared of unregistered and stolen vehicles; and police visibility increased substantially. Criminal activity decreased rapidly, as did violent incidents; at the same time, peaceful social activities increased as residents began to use public spaces more heavily.

Prevention efforts were carried out through the Franklin Hill Gang Prevention Coalition, made up of local, city, state and federal criminal justice agencies, health and service providers, and community groups, and organized by the District Attorney's Office. Participating agencies used the SARA model (scanning, analysis, response, assessment) to identify, assess, and then develop means for addressing gang-related problems. The Coalition conducted an extensive needs assessment with residents, and then helped to put in place a range of activities and services, from social, sports and mentoring activities for youth, to beautification and landscaping projects, food banks, educational classes, drug prevention workshops, a fatherhood program for young court-involved men, job fairs, and a neighborhood justice network created to train building captains and set up crime watch groups. Assisting in many prevention activities was a prevention coordinator hired by the District Attorney's Office.

By 1997, the project was being taken over by the Boston Housing Authority, although the District Attorney's Office would remain a coalition member.

***Gang Violence and Guns (The Boston Gun Project)*** - Along with the Boston Police Department (specifically, the Anti-Gang Violence Unit), the Attorney General's Office, the U.S. Attorney's Office, the Bureau of Alcohol, Tobacco and Firearms, Boston Community Centers, the Departments of Parole, Probation, and Public Health, the Boston School Department, and researchers from the Kennedy School of Government at Harvard University, the Suffolk County District Attorney's Office has participated since 1995 in a project aimed at reducing serious violence among youthful offenders in Boston. Research conducted by a working group showed that most young

homicide victims and offenders in the city were members of gangs, and were "high-rate criminal offenders."<sup>11</sup> With this finding, representatives of the agencies devised a strategy to target gang-related violence: they would not tolerate further violence involving gangs and guns. Calling gang members in for a face to face meeting, federal and state prosecutors and criminal justice officials who had joined in the project issued a stern warning. The message was this: if violence broke out, the juveniles were told, they would be arrested for any and all of the smallest infractions (a strategy possible because of the criminal records of many of the youth who, with the help of probation and parole officers, could be picked up for any violation of conditions of their release). The idea was to promote "voluntary compliance" by gang members. In March 1996, the first "Cease Fire action" against a gang began; a few weeks later, gang members were again convened, and the group of officials explained just what they had done and why. Gang members were stunned: in Dorchester, one had been arrested for carrying a bullet in his pocket, the prosecution expedited, and he received a sentence of nineteen years. The results have been dramatic—no killings of juveniles under age seventeen by guns occurred from July 1995 until December 1997.<sup>12</sup>

*The Drug-Free Workplace Program* - A Task Force of the Boston Coalition, headed by District Attorney Martin, the Drug-Free Workplace Program has been funded by grants from the SCDAO, the Department of Public Health, National Drugs DON'T Work, and the community. Originally small businesses that participated in the program could apply for grants to develop and establish their own drug-free workplace policies, and were eligible to attend intensive seminars designed to assist them in this effort. Companies from the West End, South End, Back Bay, Roxbury, Downtown, South Boston, Charlestown and Dorchester applied. Procedures have changed so that companies now can join the program for a \$150 fee, plus \$1 per employee per year, for which they receive training and ongoing support.

## COMMUNITY-BASED PROSECUTION

### *Moving Prosecutors into the Community*

Through a variety of problem-solving initiatives and new programs, District Attorney Martin has attempted to develop more direct linkages between the SCDAO and local communities, and greater prosecutorial responsiveness and accountability to specific neighborhoods and their priorities. In addition to the Community Based Juvenile Justice Program and the Franklin Hill Project, Martin has facilitated the creation of several Safe Neighborhood Initiatives, a new "Prosecutors in Police Stations (PIPS)" program, and empowered his senior staff to introduce changes in how district court prosecutions are conducted so that prosecutors develop greater familiarity with local neighborhoods.

Boston has a distinct advantage over many other jurisdictions seeking to initiate community-oriented prosecution programs: its decentralized district courts are already present in neighborhoods, and in a number of locations have close ties to a local community. District Attorney Martin has explicitly used these courts as avenues for moving his prosecutors out of their offices and into the community.

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<sup>11</sup> David M. Kennedy, Anne M. Piehl, Anthony A. Braga, "Youth Gun Violence in Boston: Gun Markets, Serious Youth Offenders, and a Use Reduction Strategy," *Law and Contemporary Problems* 59, 1 (Winter, 1996).

<sup>12</sup> See David M. Kennedy, "Pulling Levers: Chronic Offenders, High-Crime Settings, and a Theory of Prevention," *Valparaiso University Law Review* 31, 2 (1997).

They are also avenues for channeling the expertise that resides in special units—child abuse, domestic violence, gangs—into local neighborhoods.

#### Four Safe Neighborhood Initiatives (SNIs)

Safe Neighborhood Initiatives began as a partnership among community residents, the Attorney General of Massachusetts, the District Attorney for Suffolk County (Boston), the Boston Police Department, and the Mayor's Office of Neighborhood Services, with the creation of the first SNI—in Dorchester—in February 1993. The underlying assumption was that law enforcement alone could not eradicate problems of escalating urban violence; rather, a broad-based coordinated effort was necessary, drawing upon community groups, business, social services, the medical community, as well as prosecutors and police. At its inception, the SNI strategy was to be guided by three core principles: coordinated law enforcement, neighborhood revitalization, and prevention and treatment. The ultimate goal was to bring together law enforcement, human service initiatives and community residents in a coordinated way that would "effectively assist in revitalizing a neighborhood suffering from a variety of social problems (crime, unemployment, and inadequate access to education and health care services)."<sup>13</sup> The community would take an active role in assisting law enforcement, and through a "steady stream of input" would help to define priorities for community policing, and strategies for neighborhood revitalization.

SNIs in various stages of operation are functioning today in and around Boston—in Brockton (Plymouth County, MA), Chelsea (MA), East Boston, Grove Hall (the Roxbury section of Boston), and in the planning stages in Lynn (Essex County, MA), and Taunton. This case study reports on four SNIs: Chelsea, Dorchester, East Boston, and Grove Hall. Each SNI targets a designated geographical area, selected on the basis of several criteria: a desire by residents to improve their quality of life; the presence of social service initiatives and crime watch groups; receptivity and commitment of a senior police official; and high rates of urban crime and unemployment. Most SNIs contain ethnically diverse populations. Educational levels are generally low; school drop-out rates relatively high; infant mortality rates high; and opportunities for employment, access to health care services, and adequate housing low as well. Crime rates are generally high, as is fear of crime.

Selective prosecution is the core of SNI prosecution efforts, which include: a screening process to target chronic serious and violent offenders; assignment of experienced district and superior court prosecutors; vertical prosecution; prosecutor representation at all critical junctures of the case; and ongoing contact with the community. Both District Attorney Martin and Attorney General Harshbarger allocate staff to oversee and initiate many SNI efforts. Executive staff from both offices participate frequently in SNI activities in the community, attend SNI meetings, and attempt to disseminate information about the SNIs throughout their offices. At least one assistant district attorney and/or assistant attorney general is committed to each SNI: s/he attends all SNI meetings, screens and prosecutes cases arising out of the area in the district court, cooperates closely with police working out of the local district station, helps to plan law enforcement initiatives, meets regularly with crime watch groups and neighborhood associations, and spends a great deal of time in the target area learning about the community and public safety issues. Other prosecutors assigned to the SNI team act as liaison to the SNI in the superior court, handling prosecutions of cases that are directly indicted or else advance to the higher court.

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<sup>13</sup> Office of the Attorney General (MA), Safe Neighborhood Initiative Grant Application, April 1995:2.

The Boston and Chelsea Police Departments have both been supportive of SNI efforts: in addition to ongoing police cooperation from the local district station headed by a captain (or Deputy Superintendent, in Roxbury), a sergeant detective works with each SNI prosecution team; a police duty supervisor screens all arrests occurring in the SNI area; and special enforcement efforts are regularly carried out in SNI neighborhoods. BPD community service officers also work intensively with the SNI. Each SNI also has a non-lawyer coordinator who knows the area well, organizes many of the non-law enforcement efforts, and oversees SNI activities generally. This individual is key in keeping the SNI functioning on a day to day basis. Judges too have been approached and asked to support SNI efforts (although not all have agreed to do so): because lower level district courts are decentralized and located in local neighborhoods, district court judges have the opportunity to become intimately familiar with the problems of specific neighborhoods. And finally, human service programs and city services areas provide important resources for the SNIs.

The community component of each SNI is a citizens' Advisory Council, which provides a forum for area residents (including local businesses and service providers) to identify problems in the local community and communicate their concerns to prosecutors, police, participating governmental institutions (such as the Mayor's Office, and in some cases the U.S. Attorney's Office) and social service agencies. Advisory Councils have generally been set up through a selection process carried out by representatives of the Attorney General's Office and/or the District Attorney's Office, in consultation with local police in the target areas who suggest influential community members to sit initially on a Council. East Boston and Chelsea SNIs also have a Steering Committee, composed of police, prosecutors, and probation and corrections officers, who devise specific law enforcement efforts to address the concerns and problems raised in the Advisory Council or in some other fashion brought to their attention. In Dorchester and Grove Hall no separate, formal Steering Committee operates: instead, citizens work directly with police and other law enforcement personnel through the Advisory/Coordinating Council, and prosecutors coordinate on a continuing basis with policing agencies to develop and implement specific efforts to address citizen concerns.

SNIs have received financial backing from direct federal and state grants, and from funds supporting a variety of programs that feed into the SNI target areas (such as Weed and Seed in Grove Hall).<sup>14</sup> The principal partners involved (the Attorney General's Office, the Suffolk County District Attorney's Office, the police departments, probation, the City of Boston Mayor's Office, U.S. Attorney's Office) have all allocated personnel to the SNIs. Where grant and program funding is present, some evaluative data (primarily on process and outcome goals and objectives) are being collected. Funding continues to be an ongoing problem, however, as grants expire and new SNIs are starting up without external sources of discretionary funds.

*Dorchester SNI:* Both the Attorney General's Office (with one assistant attorney general assigned to the district court, and two to the superior court team) and the District Attorney's Office (with one assistant assigned to the superior court team) participate in Dorchester, the oldest and most developed SNI (1993), and a blueprint for later ones. The target zone includes particular residential and business areas of Field's Corner, Bowdoin Street, Four Corners and Geneva Avenue that make up the northern area of South Dorchester Planning District. The population in the SNI area is ethnically and racially mixed, with about one-third of residents born outside the United States, and includes substantial African-American, Asian, Latino, and Caucasian groups. Many of the economic, educational, and health problems noted above are present.

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<sup>14</sup> Funds come, for example, from the Edward J. Byrne Memorial Block Grant awarded to the Massachusetts Office of Public Safety by the U.S. Bureau of Justice Assistance.

Boston Police District C-11 serves the SNI area, which has a concentration of violent crime, including homicides (many related to drug trafficking) and youth gang incidents. Yet domestic disputes place a greater demand on police resources: about 1800 calls are answered each year. Captain Robert Dunford, commander of C-11, is intimately involved with the SNI, communicates on a daily basis with citizen participants, and is a strong supporter of SNI activities. BPD community services officers work particularly closely with the SNI, as does a Vietnamese Liaison employed by the police department.

Prosecutors have developed strong and close working relationships with police operating in the SNI, particularly with Drug Control Unit officers (who have been decentralized and assigned to district stations) and patrol officers, resulting in useful exchanges of information regarding repeat offenders and violations of stay-away orders, which have been used successfully to target drug dealing. Police have learned that when the SNI prosecutor promises to take some specific action, they can depend on her to follow through, whether it be on a specific case or a joint proactive effort. From 1993 through June 30, 1997, SNI prosecutors prosecuted 5428 cases (5193 in the district courts, and 235 in the superior courts). From April 1 to June 30, 1997, district court prosecutors screened 383 cases and prosecuted 518. Along with superior court prosecutors, they expedited prosecution of career criminals, major felonies, domestic violence, drug distribution and gang-related violence; and worked closely with probation officers to use probation surrenders to commit 23 serious offenders for lengthy periods of incarceration.<sup>15</sup> SNI prosecutors also participated in several police investigations, community meetings and outreach efforts (for example, a planning subcommittee to develop a plan for a reducing domestic violence), and cooperated with Operation Cease Fire and the Boston Gun Project.

One of the strongest elements in the SNI has been the involvement of several highly developed neighborhood associations and local social service providers, which have been able to raise money (each year they actively lobby the state legislature and state and local officials to ensure continued funding for the SNI), muster resources, implement programs and offer services, and strongly support police and prosecutors. Prevention and treatment programs are carried out through human service programs (some grant-funded projects) that partner with the SNI, including the Child Witness to Violence Project (which provides counseling to children who witness violence and their families; consultation to the community and police department; and training), the Holland Community Center (a safe haven), This Neighborhood Means Business (a center for adult education, business training and technical assistance, and other activities to further development of the local economy) and the Dorchester Youth Collaborative/Police Community Partnership (which seeks to prevent youth from joining gangs, and offers counseling, crisis intervention, mediation, and numerous activities for youth). Representatives from these groups form the core of the Advisory Council membership, along with local clergy, youth streetworkers, district and superior court prosecutors, a member of the executive staff from the Attorney General's Office and one or two of her staff, and the local community services officer from BPD. The Advisory Council serves as a forum for identifying and exploring new problems or needs in the community, and for mounting problem-solving efforts (through discussion, setting up of subcommittees and coordinating subsequent actions to be taken, bringing others from the community in to meet with the group).

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<sup>15</sup> Commonwealth of Massachusetts, Office of the Attorney General. Dorchester Safe Neighborhood Initiative Fourth Quarterly Progress Report, April 1, 1997-June 30, 1997, pp. 8-9. Submitted to the Executive Office of Public Safety, Division of Programs, July 15, 1997.

Overall, crime (including drug and gang activity in particular) has decreased substantially in the SNI target area, prosecutors believe they have been more effective as part of the SNI collaboration with police and citizens, and participating citizens have come to expect a continued close working relationship with both police and prosecutors as well as the higher level of responsiveness that has developed on the part of law enforcement agencies and city and state officials to local priorities and demands.

*East Boston SNI:* The East Boston SNI (EBSNI) is located in the Maverick-Central Square area, a transportation hub and commercial center near Logan Airport, the site of several housing projects, residential areas, and also home to a population undergoing changes in cultural and ethnic composition. Originally an Italian community, it has grown to include significant numbers of Hispanic and Asian groups. (SNI newsletters and flyers are regularly prepared in English, Spanish, Vietnamese, Italian, and Portuguese.)

The EBSNI was formed late in 1994. Crime rates, especially drug-related offenses, had escalated during the late 1980s; yet equally disturbing to residents was the increasing sense of disorder on streets. The SNI's mission would be "to reassure residents and businesses that there is a plan and a commitment on the part of law enforcement, social service agencies, and city services to coordinate an approach to community problems." Primary partners include the Suffolk County District Attorney's Office, Boston Police Department, and Mayor's Office, but the Metropolitan Boston Transportation Authority (MBTA) Police, Boston Housing Authority Police, Municipal Police, Probation Department, and several city agencies and social service programs also are involved along with private citizens. Police support is strong—from Captain Robert Cunningham (head of district A-7), to the community service officers and detectives who regularly work with the SNI. SNI prosecution efforts involve two assistant district attorneys assigned to the district court (one designated the SNI Project Manager), with a liaison prosecutor at the superior court. The SNI coordinator (a former victim witness advocate), who reports to the SCDAO, is widely regarded by SNI participants as the "key" individual in the functioning of the partnership—drawing together the various efforts of police, prosecutors, partner agencies, citizens, and groups in the community.

The presiding justice of the East Boston District Court, Judge Domenic Russo, operates what he sees as, in essence, a community court. He himself is active in the community—attending crime watch groups and community meetings, visiting classrooms in local schools, participating in Law Day (when students come to visit the court)—and has taken a special interest in juvenile crime and safety issues, in part through his contact with probation officers attached to his court. While he is careful not to involve himself in ways that could influence specific case outcomes, Judge Russo participates directly in the SNI by attending occasional SNI meetings (where particular offenses and court cases are not discussed), and has offered considerable support for SNI goals. In the last year, commitments for violation of probation have doubled in his court. He has developed conditions of probation in juvenile cases (requiring students to remain at home from 7 p.m. to 7 a.m., but lifting conditions if students make the honor role—thereby lowering probation case loads), a mandatory HIV educational program for prostitutes, and started publishing lists of outstanding warrants in the local newspaper, encouraging voluntary surrender to the court. All in all, Judge Russo believes that commitments for violation of probation have doubled in the last year in his court. For his commitment to the SNI, Judge Russo has received some criticism from other district court judges in the county.

The SNI Advisory Council experienced problems early on when different factions in the community disagreed over citizen representation on the Council: these difficulties were ultimately resolved (primarily by citizen representatives themselves) and the SNI is now functioning smoothly. Views

of citizen participants on the Council are presented by the SNI coordinator to law enforcement partners at Steering Committee meetings (although community service officers from BPD also attend Advisory Council meetings). When the SNI began, a series of police initiatives took place to begin the enforcement component of the program in the target area: specifically, quality of life offenses were emphasized, including prostitution, public drinking, and disorderly conduct. SNI district court prosecutor David Coffey worked nights and weekends with officers when the sweeps were conducted—a first such collaborative effort for many. One of the best-known later law enforcement initiatives was OPERATION BONANZA, developed in 1996 by prosecutors and police agencies to address the problem of outstanding warrants. Letters were sent to several hundred individuals with outstanding warrants, inviting them to take a short survey and claim a cash or merchandise prize. Those coming in to claim prizes were arrested—twenty at first—and several others who received letters later turned themselves in voluntarily after the results were publicized. Operation Nightlight has also operated successfully in the SNI area and throughout East Boston, with police and probation officers working together during the evening hours to check on probationers in their homes (and to do safety checks on victims). Other problem-solving efforts have targeted underage youth drinking and liquor sales, street-level drug dealing, developing Asian gangs, and required “johns” to carry out community service.

Citizens have brought mixed concerns to the SNI: as often as not, traffic offenses, illegal parking, prostitution, loud music at night keeping them awake. Police and prosecutors have addressed these issues forcefully. Sometimes citizens have discussed activities that seemed troublesome, but were not illegal—such as young Hispanic men gathering in parks to talk after work. The men were not drinking alcohol, using drugs, or engaging in any illegal behavior, but to some residents, they appeared strange. Police and prosecutors sent a clear message that there was no basis for any police action—and a Spanish-speaking officer explained that purely social gatherings like these typically occurred in public plazas in Latin American countries. Finally, citizens are perhaps the most vigilant partners when it comes to crime prevention—always anticipating a change in season or weather, when youth will be out later at night and are likely to need attention, picking up the slightest increase in prostitution or drug-related activity at specific locations. SNI summer and after school programs for youth, and education programs for elderly residents have also been undertaken as art of prevention efforts.

Coordination of policing and prosecution has resulted in higher conviction rates (87%) and crime reductions in the EBSNI target area (18%);<sup>16</sup> equally important, however, is that citizens themselves report significant improvements in quality of life and safety in the community and stronger relationships with police and prosecutors, and the community has begun to recognize the achievements of the SNI.

*Grove Hall (Roxbury) SNI:* The Grove Hall SNI, begun in March 1995, targets an area surrounding and extending out from the intersection of Warren Street and Blue Hill Avenue of Roxbury. The population is just under 20,000, predominately African-American and Hispanic, and two-thirds of area children live with a single parent. 1990 figures indicate that Grove Hall’s per capita income was \$9,749, compared with the Boston average of \$15,581; the poverty rate in Grove Hall was 26.5 percent. Grove Hall lies within the most highly crime impacted neighborhood in Boston: street violence, drug trafficking, youth violence and firearms have posed major problems, with sexual assaults and reported domestic violence incidents increasing in recent months. At the same time,

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<sup>16</sup> *East Boston Sun Transcript*, May 1, 1996.

however, Grove Hall has strong family-oriented neighborhoods, committed citizen coalitions, crime watch groups, and numerous social and human service programs operating locally.

Participants in the SNI include the Attorney General's Office (which has spearheaded the effort), the Suffolk County District Attorney's Office, Boston Police Department, the Mayor's Office (specifically the Office of Neighborhood Services), the U.S. Attorney's Office (other federal agencies such as DEA and ATF coordinate efforts with the Boston Police in Area B-2), and several community organizations: Project Right ("Rebuild and Improve Grove Hall Together"), the Grove Hall Board of Trade, the Garrison-Trotter Neighborhood Association, and a number of service providers operating in the area. An assistant attorney general is assigned to the SNI at Roxbury District Court; another, along with an assistant district attorney, takes SNI cases to the superior court. The Coordinating Council is co-chaired by one representative from the community (Dan Richardson, president of Garrison-Trotter) and one law enforcement agency representative (BPD Deputy Superintendent Bobbie Johnson). Originally the Council met monthly (later, every two months); however, a Coordinating Committee (involving representatives of the Attorney General's Office, BPD, and Project Right, and a "community-court liaison" who coordinates prosecution activities in the community from Roxbury District Court, and reports to the Attorney General's Office) meets more frequently to handle day-to-day matters on behalf of the Council.

Although the Grove Hall SNI has been operating for about two years, it was slow in getting off the ground. Perhaps the most significant problem was working out a partnership with the community. There are several contributing factors: first, mutual mistrust between citizens in Grove Hall and police and prosecutors was present from the start, when the first assistant attorney general working with the project was killed by a youth on the street in what appeared to be a prosecution-related (or at the time, gang-related) crime. Additionally, questions regarding who actually represented the community were not easily resolved. Discretionary funds for the SNI itself were not available, and there was no coordination of programs and resources already feeding into the target area. Although community representatives expressed support for actions coordinated by police and prosecutors, Coordinating Council meetings were often frustrating for all participants because of the lack of a consensus. This hindered the potential for action and accomplishment.

Nevertheless, commitment to the Grove Hall SNI by all involved did not disappear—the key partners (especially high-level representatives from the Attorney General and District Attorney's Offices, and from BPD, as well as the community) continued to come to the table and lend their support. In March 1996, the GHSNI received official site recognition from the Executive Office of Weed and Seed, and a total of \$225,000 in federal funds was awarded in the fall of that year, with the Attorney General's Office as grantee. (Other funding comes from the Executive Office of Public Safety, and supports a GHSNI community-court liaison position.) A "seed" coordinator was hired to work in GHSNI, from the offices of Project Right; the "weed" coordinator was designated in the police department. The GHSNI identified five quality of life issues as priorities: prostitution/johns; violent crimes against seniors (55 and over); domestic violence/violation of restraining orders; sale of alcohol to minors and public drinking; and motor vehicle violations and speeding on residential streets. Mini-grants were awarded to local agencies and service providers to address these concerns. The number of programs for youth and seniors grew, as did new crime reduction and prevention efforts. Law enforcement and prosecution efforts also moved ahead.

One of the most significant aspects of the development of the GHSNI is the large number of citizens who are active in it. Beginning in 1997, public meetings were convened every other month (alternating with Coordinating Council meetings) for private citizens to meet with GHSNI partners,

including police and prosecutors, to discuss their concerns and to receive updates on SNI activities. It was not unusual for 75-100 persons to attend. As crime rates continued to fall, and as citizens saw evidence that their concerns were being responded to and actively addressed by police, prosecutors, and city service offices, they appeared to become even more committed to working with the SNI. Police and prosecutors, in turn, began hearing not only criticism and questions, but praise. At the same time, trust was gradually developing among the partner agencies themselves.

*Chelsea:* Chelsea SNI (CSNI) is the newest of those included in this case study. Chelsea has an ethnically mixed population, with a large Hispanic community, sizable Cambodian group, newly arrived East Africans among others, and is close to East Boston. The SNI targets twenty-four blocks in the Bellingham Hill-Bellingham Square area, home to about half of Chelsea's 30,000 residents, yet accounting for more than seventy percent of arrests. A majority of crimes are drug-related. A Working Group/Steering Committee was founded in September of 1995 between the Suffolk County District Attorney's Office, the Chelsea Police Department, and representatives of the community, at the initiative of Police Chief Edward Flynn. The primary goal of the CSNI is to involve key law enforcement agencies, city agencies, businesses and residents in strategic planning and activities to increase the sense of safety and security in the target area. Priority issues and objectives are the reduction of crime, especially drug dealing and prostitution, through coordinated police and prosecution efforts and neighborhood involvement; developing and executing a Neighborhood Policing Action Plan to coordinate social service intervention, business involvement, traffic and parking enforcement, city services, public infrastructure investment, and law enforcement activity; implementing special police operations in the problem areas; prosecuting cases from the SNI area more quickly and reaching successful dispositions; involving the Chelsea District Court Probation Department in CSNI operations (already underway); and raising the awareness of judges of SNI efforts.

The Chelsea SNI faced a number of challenges during its early years, and the first year and a half of operations have not been perceived as effective as some would wish, according to many involved. A number of reasons emerge in these accounts. Prosecutors that were not suited to the job and the lack of an effective SNI coordinator at first were frequently mentioned. The removed operation of the Chelsea District Court, which has been in Cambridge (MA) for several years awaiting replacement of the courthouse in Chelsea, poses another difficulty. The CSNI office is located in a police station in the Bellingham Square area, where the SNI coordinator (a non-lawyer from the District Attorney's Office) is housed; yet the assistant attorney general and assistant district attorney assigned to the CSNI are frequently in court in Cambridge. In addition, although there was strong support from Chelsea Police Department's two captains, Chief Ed Flynn eventually left to take position elsewhere.

Community involvement has been accomplished up to this point through the Advisory Council, consisting of residents, local merchants, city and local agency representatives, and school personnel, which has met monthly with law enforcement agencies since March 1996. The Council has experienced some difficulty in sustaining the active involvement of community members, and from time to time dropped some members and sought others to join the Council in order to increase its membership. Eventually the Council plans to prepare community impact statements for use in court during the arraignment of suspects arrested in the target area, and host meetings and informational sessions with officials from the Probation Department, district court, and other state and county offices. Quarterly information sessions are also on the agenda, to be open to all residents within the CSNI area.

In sum, each Safe Neighborhood Initiative in which the District Attorney's Office has been involved has been a unique and distinct experience—especially because the character and resources of the neighborhoods and citizen groups, and the challenges present locally, are different. While crime reduction, restoring order in the community, and better prosecutions have been explicit goals, assistant district attorneys and assistant attorneys general report without exception that the strong relationships formed between prosecutors and police, and prosecutors and citizens from the local areas, represent equally important measures of achievement and success.

#### Prosecutors in Police Stations (PIPS) Program

The PIPS Program started in operation on April 1, 1997, as a one-year pilot project to place two senior district court assistant district attorneys in Boston Police Department area stations, specifically to “provide extended prosecutorial services and enhance police/prosecutor/ community partnerships.” One prosecutor is currently assigned to Area E13 (Jamaica Plain); another will be on board soon. The project has been in the planning stages since mid-1996, largely at the initiative of the Director of Community Prosecution Programs, Marcy Cass, who visited Indianapolis and observed the street-level advocacy program there. Careful planning and coordination was undertaken with the Boston Police Department over a period of many months, to make certain that the police would be fully supportive of the project. In addition, recruitment of candidates within the SCDAO was carried out slowly and deliberately, as a search for those who would bring a set of qualities and accomplishment that would make them likely to succeed in the program.

The assigned prosecutors are to screen all incoming applications for complaints from the area station; to provide services such as search warrant review and investigatory/legal assistance; to liaise between felony trial team and district court personnel, and police personnel; to target and handle high profile community-interest cases, including vertical prosecution of felonies (in the superior courts); to develop and maintain partnerships with community members and groups; and to develop additional responsibilities (such as consulting on cases at the request of police, or on larger issues) according to the needs of the area station house. Only senior level district court attorneys (with significant trial experience, including multiple jury trials) were considered for the positions. Applicants had to be willing to work irregular hours, be on call twenty-four hours a day, be dedicated to the “community-based prosecution concept,” and commit to one year on the job. PIPS will do monthly evaluation forms.

As perks, PIPS are to receive an extra stipend of \$2750; a beeper, cell phone, voice mail and a laptop computer; two offices (one in the District Attorney's Office, and another in the area police station house); second chair on a murder trial (that is, serving as “co-prosecutor”); access to superior court investigators; and assuming that they do well in the program, a “plum assignment” after completion of the term. Cass sold the program to applicants by emphasizing that they would have an opportunity to hone their trial skills and be “prepped” to move to a superior court trial team at the end of their committed service.

An assessment is to be conducted at the end of a year's operation to determine whether the program will continue, or expand.

#### New Developments in the District Courts

In the district courts, Martin is pressing for assistant district attorneys to stay in specific locations for a longer time than they had previously spent so they get to know the community and police. Many of these assistant district attorneys report that even though they are anxious to move up to the superior courts (which have jury trials), they do in fact build strong relations with the police if they

do not move so rapidly. Furthermore, at least one supervisor of a large district court team believes that there has been a change in the professionalism of the police through this closer relationship: "the demands that Martin has placed on prosecutors to be more professional have led to police improving, too." Supervisors of three district court prosecution teams—Brighton, BMC, and Dorchester (Area C-11 only)—now screen cases before they go to the court clerk: some do the screening in the police stations. In Dorchester, assistant district attorneys are providing oral reports to police officers regarding what is needed in their individual written reports.

#### Other Activities in the Community

Outside the courthouse and the office, district court prosecution teams will also participate in upcoming seminar/meetings with members of neighborhood watch groups, local merchants and boards of trade, churches, and concerned citizens that the SCDAO is planning to hold in each of the four superior court cachement areas of the city this spring. The title of the meetings will be "Working Toward Solutions: the DA and the Community." Teams of assistant district attorneys from the superior and district courts in each area will speak; community partnerships and initiatives will be highlighted; and there will be a discussion of the importance of community impact statements.

#### *Redefining an Organization: Changing the District Attorney's Office from Within*

#### Strategic Planning

Within the last year District Attorney Martin has initiated a number of strategic planning exercises in the SCDAO, especially at the executive level, to focus generally on the area of community-oriented prosecution. Martin recognized that there was a problem of "devaluing" such programs in the office as a whole, and that he would need to educate staff so that they would move toward *wanting* to become involved, rather than being coerced to do so. Early in 1996, therefore, he brought together groups of "traditional" prosecutors in the office to talk about new strategies in community-oriented prosecution. The groups were addressed by staff already involved in community-oriented programs (specifically the Safe Neighborhood Initiatives and the Community Based Juvenile Justice Program) who were able to comment on what they were seeking to accomplish in the initiatives, and what outcomes were emerging—lowered crime, and more community involvement. Martin then brought together the chiefs of specialized units to talk about how community prosecution programs could be better integrated within the overall operations in the office.

In June of 1996 Martin brought in representatives of the American Prosecutors Research Institute to conduct a one-day workshop in community prosecution, to try and get people "thinking about how they can use power and influence as prosecutors to address recurring issues and problems." The workshop was held at a conference center outside of Boston: approximately thirty-five assistant district attorneys from various levels in the office, victim-witness counselors, and administrative and executive staff took part, including District Attorney Martin himself. Some staff who attended already worked in Safe Neighborhood Initiatives or other community-based programs; others had had little contact with them. Problem-solving exercises in which staff participated that day generated actual solutions to issues and concerns that prosecutors were attempting to address in neighborhoods and district courts—a plan to reduce shoplifting, vandalism and loitering on Newbury Street in the Back Bay, and heroin dealing in Charlestown.

In addition to disseminating information through a workshop forum, Martin himself speaks on community prosecution during the five-day training sessions that all new district court prosecutors attend when they join the SCDAO. Two assistant district attorneys visited the Travis County

District Attorney's Office in Austin, Texas, to learn more about community justice initiatives there, and Director of External Affairs Jim Borghesani spoke to D.A. Earle's assistant district attorneys about Boston's Safe Neighborhood Initiatives. SCDAO staff also have traveled to Indianapolis to observe the street-level advocacy program.

As an outgrowth of the strategic planning process, Martin and his staff established committees to review or develop three relatively new community-oriented programs: the PIPS (Prosecutors in Police Stations) Program, which had not really begun operating yet (the review focussed on the process of setting it up); an Elderly Initiative that Martin was thinking of creating; and the Grove Hall Safe Neighborhood Initiative, in operation for some time but having encountered a number of obstacles to the achievement of its goals. In each case the review/development committee was composed of staff from various levels and positions in the SCDAO. Further reviews are planned as a follow-up to the initial reports; in addition, committees will be established to review other programs within the office.

#### Changes in Funding Sources

Although some community oriented programs, such as the Safe Neighborhood Initiatives originally received funding from grants and external sources, many of these funds have dried up. So far Martin has been able to avoid dismantling any programs, and has actually been able to continue expanding those he believes to be worthwhile. For example, East Boston SNI was funded through a BJA grant; however, when it was time to begin the Chelsea SNI, Martin went to the state legislature to seek an appropriation. Increasingly, he and his staff are attempting to use grant funds for planning purposes only, and to support actual programs from regular funds.

#### Providing Incentives

Assistant district attorneys who participate in the community-oriented prosecution programs in the SCDAO are beginning to reap rewards beyond those of job satisfaction and community appreciation. Every attorney must continue to develop and maintain trial skills: Martin sees this as a core function that prosecutors will continue to perform even though they work in the community, and one that gives them credibility with the police and members of the public—they can say “look what I did for you, I put this guy away.” Attorneys assigned to the SNIs and PIPS program have the opportunity to try important cases with senior attorneys, and they are promised first crack at coveted positions that open up when they move out of these jobs. This fact is becoming more widely recognized by attorneys throughout the office, many of whom report that they also see the value of working closely with the community in these types of programs.

## THE BOSTON POLICE DEPARTMENT AND THE SCDAO

In January of 1992, the St. Claire Commission—the Boston Police Department Management Review Committee—excoriated the Boston Police Department (BPD): “Commissioner Roache and his command staff...have failed to provide effective leadership;” “the Department has adopted a reactive posture, merely drifting from crisis to crisis;” “We found that the Department actually operates as many separate and nearly autonomous police departments, each with its own priorities and informal rules;” “A substantial majority of the citizens and police officers we spoke with believe that Commissioner Roache and his command staff lack the necessary managerial skills and experience to run the department effectively. We agree;” “the Department has been unable to implement new programs or effectively manage many existing programs;” “Perhaps most striking is the near total lack of accountability within the department;” regarding citizen complaints--“our study revealed an investigative and hearing process characterized by shoddy, halfhearted investigations, lengthy delays, and inadequate documentation and record-keeping.”<sup>17</sup>

The St. Claire Commission was created by former Mayor Raymond Flynn in 1991, after complaints of brutality, racism, and inefficiency had accumulated over the years of his administration. Indeed the Boston Police Department had been troubled by similar charges for decades. For many, the origins of the BPD’s troubles lie in the famous 1919 strike, when a police department that was internationally known for its competence and honesty—in an era when police corruption and inefficiency were the rule, not the exception—was torn apart by labor strife and the vulnerability of newly hired officers to the new patterns of corruption that arose out of Prohibition (virtually the entire force was fired in the aftermath of the strike and rioting). For decades thereafter, corruption and inefficiencies burdened the BPD. Moreover, during the modern era political influences burdened the police department (whether true or not, many in the department believe that appointments and promotions were made on the basis of political dispositions rather than competence) and interfered with the normal police union/city bargaining process (benefits such as a “four days on, three days off” schedule were gained through political support of particular candidates rather than the give and take of collective bargaining).

Consequently, although the BPD was to receive substantial funding for improving its ability to relate to the community and to involve other agencies in crime control during the early 1990s through the Bureau of Justice Administration’s Comprehensive Communities Program (CCP), few, including this author (Kelling), were particularly sanguine about its ability to rally itself after decades of problems. Indeed, the community/police planning process that framed the CCP was so complicated—sixteen planning and implementation teams (ten district planning teams, five BPD function teams, and one city-wide team) with over 400 participants—that few outside pundits familiar with the BPD gave the department much chance of success.

To virtually everyone’s surprise, at least to departmental outsiders, the BPD has become a national model for organizational decentralization, inter-organizational collaboration, and effective crime control. District commanders are now as organizationally autonomous and as accountable to neighborhood residents as any department in the country. The collaboration among police (including state and DEA officers), prosecutors (district attorney, state attorney general, and federal prosecutor offices), state probation officers, social service agencies, and neighborhood residents is also as far developed as any other community. (As noted above this is non-partisan, with Massachusetts having

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<sup>17</sup> “Report of the Boston Police Department Management Review Committee,” January 14 1992, pp 4-8.

a democratic attorney general and Suffolk County a republican district attorney). Finally, the BPD's gang-related youth violence effort has been a spectacular success and, although widely misunderstood and misrepresented by the media, potentially is both a model for controlling youth violence in other cities and for addressing other forms of violence, such as domestic and child abuse.<sup>18</sup>

From the point of view of police, the SNIs are what is new and innovative about prosecution in Boston. It is important to understand here that Boston has maintained its decentralized district courts and prosecutors are assigned to them have offices either in the court buildings themselves or nearby. Consequently, different from the other cities studied here, because both police and prosecutors are assigned geographically, police officers and detectives have always known prosecutors on a first-name basis. As one patrol officer said:

In the past we've always had D.A.s in [neighborhoods]. You meet 'em at the court and whatnot.

A detective added:

Most of the officers are familiar with D. A.s. We know them all on a first name basis.... Actually, some of the time we even socialize with them.

Consequently, from one point of view, the development of SNIs has had little impact on the relationship among police officers and prosecutors. They know each other and communicate formally and informally. Yet, most police believe that the SNIs have a great impact on their work and its success in neighborhoods. First, prosecutors in SNIs get to know neighborhoods. An officer talked about the value of getting to know residents:

They're coming out of their offices into the community as we are. Our relationship with them [assistant district attorneys] has always been good.... What's happening now is the community is getting to know them.... Now they know them, and people are less intimidated by them. Like, for example, when they come to make an impact statement.

The officer went on to discuss how, as a consequence of going into local communities and meeting with citizens, prosecutors were learning about the importance of minor offenses like trespassing, drug dealing, and drinking in neighborhoods. Now, prosecutors were being more innovative, using civil authority and stay-away orders. The officer gave an example of the involvement of both prosecution and probation in dealing with a particularly troublesome youth. Because of their involvement in the SNI, and their understanding of the seriousness of minor offenses, this youth wound up back in prison as a result of trespassing and violating a stay-away order.

But another officer added another dimension. Now, prosecutors also came to know the offenders on a more personal level:

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<sup>18</sup> David M. Kennedy, "Pulling Levers: Chronic Offenders, High-Crime Settings, and A Theory of Prevention," *Valparaiso Law Review* 31, 2 (1997):449-483.

But now, they also know the person who gets arrested, the criminal. She knows the background about this guy.

Because of their contacts with citizens and the time they spend with police officers in neighborhoods, prosecutors were able to discover just how troublesome a small number of offenders were in communities. This too, affected their priorities and, because of their regular contact with the courts, affected the priorities of the courts as well.

For many of the officers, the relationship with the prosecutors, however, was more than just the pairing of police and prosecutors. The secret was in the broad multi-dimensional collaborations that came about as a result of the SNIs. While officers described the involvement of citizens and community interests in these collaborations, they were especially proud of the break-down of professional barriers that have come about not only as a result of the SNIs, but as a result of other efforts as well (Cease Fire and Nightlight, for example)

I see this happen a lot, when people come in from the justice department to speak to us about the SNI or they come in to talk to us about community policing. Everybody wants to know what's making this work. And when you explain it to 'em, everybody looks at you and says "There's got to be more to it than that." The big words of the '90s are "partnership" and "collaboration." All that it is, is that we're taking the mystery away of all of our jobs.... We've broken down all the barriers. Everybody's at the table.

The point is, in Boston the changing nature of the police relationship to prosecutors has to be viewed within the context of changes that are now taking place among all criminal justice agencies, especially in the SNIs but not limited to them. Most police not only are pleased with these changes, they believe it has improved the quality of life and reduced crime in neighborhoods.

## CONCLUSIONS

Martin believes the success from community-oriented prosecution initiatives to be exponential. An important part of the legacy he hopes to leave is that community prosecution will be "mainstreamed" within the District Attorney's Office, creating a new role for the district attorney that "is larger than it was before, so it will be hard for anyone who might become district attorney to go back to a restricted case processing model. You couldn't drop the Safe Neighborhood Initiatives now. The police would go beserk!"

Through a broad strategy that seeks to redefine the roles of prosecutors in the community, as well as within the Suffolk County Prosecutor's Office, Ralph Martin appears well on the way to achieving his goals as district attorney—to making the SCDAO more accessible and responsive to the community, and along with the Boston Police Department, contributing significantly to restoring order and safety to neighborhoods.

## POSTSCRIPT: 1997-98 UPDATE

Changes that were apparent in the SCDAO from 1997 through 1998 reflected District Attorney Martin's continuing emphasis on several important issues: juveniles, community prosecution initiatives, and prosecution itself.

### *Juveniles*

In the last year, both the Juvenile Unit and the CBJJP expanded. The Juvenile Unit increased in size to five prosecutors (assisted by a victim witness advocate and investigator), handling both juvenile delinquency and "youthful offender" cases. From January 1 through December 10, 1997, approximately 134 youthful offenders were indicted: thirty percent for armed robbery; twenty-one percent for assaults; and nine percent for firearms violations. Alongside the Juvenile Unit, CBJJP also grew, so that by early 1998, one-third of high schools and half of all middle schools in Boston participated; in addition, all high schools in the northern part of Suffolk County—Chelsea, Revere, and Winthrop—had roundtables in operation. District Attorney Martin's goal was to have all schools in the county eventually participating.

New funding obtained in 1998 led to an expansion in the Truancy Project, under which police and attendance officers conducted sweeps to pick up truant students, who were then referred to the roundtables for discussion. Nevertheless, the CBJJP roundtables initially were having difficulty coping with the sheer number of truants identified, and it soon became clear that demands were also exceeding the ability of service providers and case workers to handle the referrals that could be made. Reports from various partners indicated that for the Truancy Project to reach its potential, substantial effort would be required.

### *Changes in Office Structure and Processes*

Several changes were undertaken within the District Attorney's Office itself. First, a new Elder Abuse Unit was formed late in 1997, with one assistant district attorney and a victim witness advocate. The Unit's mandate was not only to prosecute cases in which elders were victims (including physical abuse and criminal negligence, as well as scams), but to conduct outreach in the community, and to refer elderly victims and their families to appropriate service providers. The Unit established linkages with the Attorney General's Office, police, service providers, and Safe Neighborhood Initiatives around the area to publicize its mission and capacity and create collaborative relationships.

By late spring of 1998, SCDAO's strategic evaluation and planning processes had moved into a new phase with the convening of "Best Practices" symposia. Every two months, staff involved in an exemplary unit or activity were asked to present an overview of operations to a group of prosecutors and other personnel from throughout the office, with discussion following. Among the first to do so were the Gang Unit and the Child Abuse Unit. The goal was to increase the flow of information about exemplary methods and management practices throughout the office, and thereby stimulate replication.

A more far-reaching set of changes also began during 1998 when the executive staff led a planning effort to reorganize the structure of the SCDAO. While several models were considered, the one finally chosen would eliminate the geographically-based superior court prosecution teams, replacing them with a three-tiered system in which cases would be prosecuted from the entire county at each

level. Prosecutors in the lowest tier would handle general felony cases; the middle tier would take more serious felonies; and the top tier would try major felonies requiring the greatest degree of experience and skill by prosecutors. Special units (Child Abuse, Homicide, Domestic Violence, Special Prosecutions) were to be retained. This reorganization raises the issue of congruence of the new system with prior attempts by the SCDAO to work closely with local neighborhoods and communities, and with BPD's community orientation. The new system was introduced late in 1998. At that time, no decision had yet been made concerning how the Safe Neighborhood Initiatives would interface with the new felony prosecution structure.

#### *Safe Neighborhood Initiatives and PIPS*

The PIPS program continued to expand in 1997-98, with a second prosecutor assigned to work in Chinatown, Beacon Hill and the North End (BPD Area A 1). In addition a new RIP (Rapid Indictment Prosecutor) position was created in which an assistant district attorney with experience in juvenile prosecution was assigned to work with detectives in BPD Area B 2 (Roxbury) on unsolved shootings, and recent cases. The goal was for the RIP to go to crime scenes and meet victims as soon as possible, and take the case to the Grand Jury sooner, while memories and recollections were fresh and likely to be more accurate. After working hard to "win over" some police who were decidedly skeptical at first, both PIPS and the RIP program prosecutors engendered a high degree of enthusiasm from police who could see, on the ground, what the prosecutors could add to cases, and who began to use the prosecutors as conduits on other cases being handled by the SCDAO felony teams. Late in 1998, District Attorney Martin was considering expanding the program by another two PIPS positions. Meanwhile, prosecutors continued to work with Cease Fire on youth violence issues.

Almost uniformly, the four SNIs continued to thrive. Chelsea's new police chief took office in May 1998, and immediately began attending SNI meetings and placing his support firmly behind the SNI. In 1997, East Boston SNI's coordinator took on the Chelsea SNI coordinator position as well. Bringing much-needed organization and creating closer linkages with citizens in the community, she played a central role in strengthening the SNI. New prosecutors assigned from the SCDAO drew praise and intensified commitment from the Chelsea Police as well. In Grove Hall, the degree of community support and involvement in the SNI continued to grow, and positive working relationships were on firm ground among the Attorney General's Office, District Attorney's Office, BPD, and local agency partners. Several "wins" buoyed the confidence of the SNI, including a joint effort by citizens, police and prosecutors to convince the Liquor Control Board to roll back hours of establishments that were serving liquor and drawing crowds of several hundred young men into the early morning hours. The potential danger of violence, and the nuisance to citizens whose sleep was interrupted by noise and commotion, were abated when the Board acted in accord with local wishes. Prosecutors, police and citizens also continued work in closing down drug houses as part of the Ten Most Wanted program. In Dorchester SNI, a substantial grant was obtained to launch a domestic violence project. In several areas, citizen reports concerning new gang activity assisted police in taking steps to prevent violence from erupting (for example, by visiting the homes of middle school youth to talk with parents, and by watching spots where truant youth congregated). In every SNI area, levels of violent crime continued to fall,<sup>19</sup> and citizens' attention and concerns

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<sup>19</sup> For 1997-98, citywide, violent crime was down in Boston by 6 percent; the Dorchester SNI area, violent crime fell 12 percent; in the East Boston SNI, by 2 percent; and in Grove Hall SNI, by 6 percent. Figures are provided by the Boston Police Department, Office of Research and Evaluation.

focused increasingly upon quality of life issues (trash removal, traffic concerns, noise abatement) and working more intensively on prevention, particularly with juveniles.

Nevertheless, several challenges presented themselves to the SNIs: first, an advisory opinion handed down in July 1998 by the Committee on Judicial Ethics of the Supreme Judicial Court (Massachusetts) in response to a query posed by Judge Russo in East Boston held that a judge could not attend SNI Steering Committee meetings since it would impair his or her impartiality (that is, not all views from the community would be presented, especially that of the defense bar). An earlier decision had prohibited judges from touring a designated SNI area, for the same reasons.<sup>20</sup> Second, the reorganization of the Juvenile Court took effect in 1998, so that juvenile court prosecutions were centralized and removed from each district court. The initial effect of this change was to remove local control over juvenile offenders, and make coordination of juvenile probation efforts in the local SNI areas, more difficult. Finally, the SCDAO reorganization in late 1998 left the liaison between district court and local SNI cases and operations, and superior court proceedings, unclear. All of these problems were recognized as issues that the SNIs would need to address.

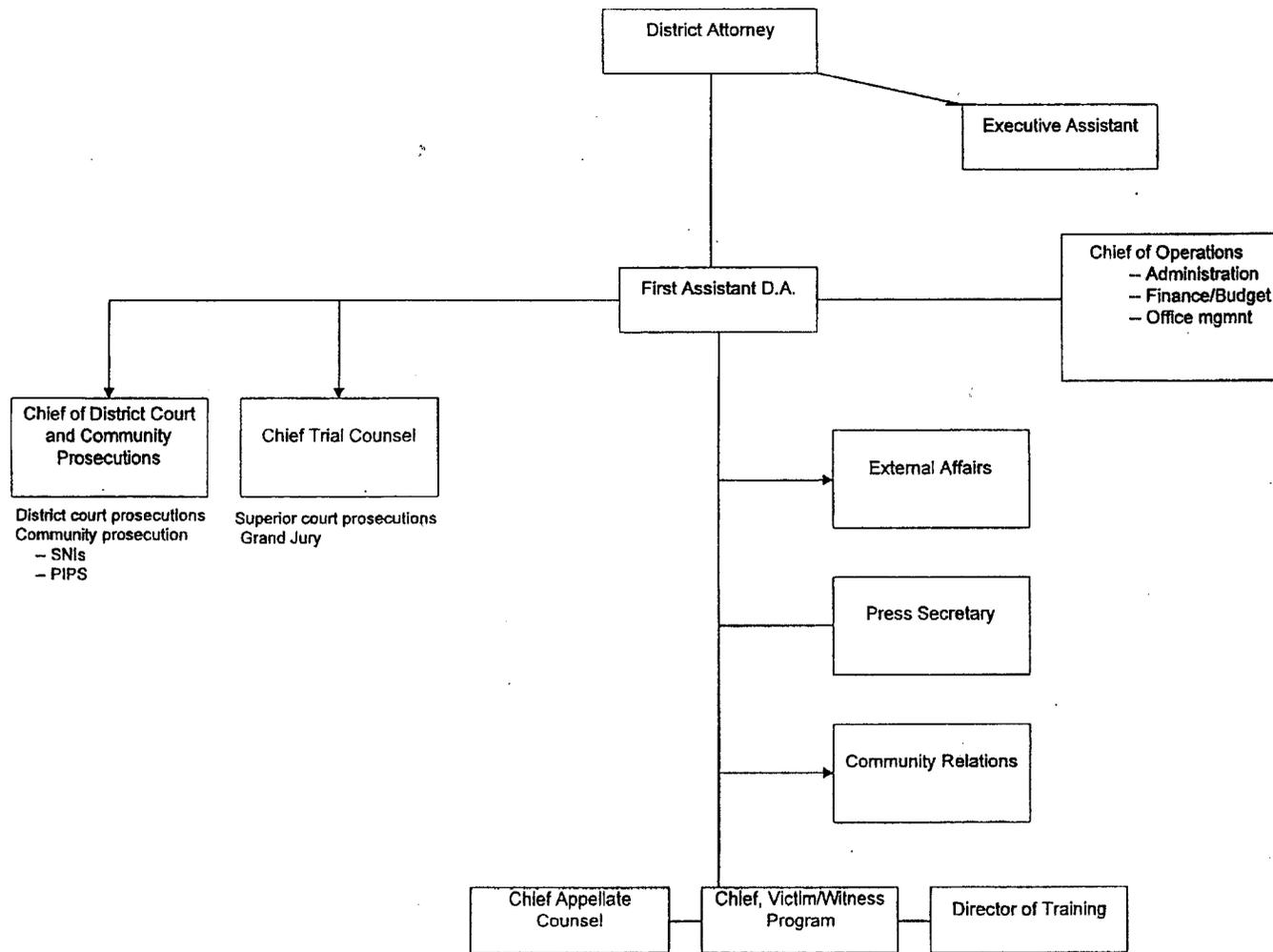
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<sup>20</sup> See CJE Opinion No. 98-9; and CJE Opinion No. 97-8.

**APPENDIX A:**

**SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE**

**ORGANIZATIONAL STRUCTURE**



**APPENDIX B:**

**SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE**

**1996 BUDGET**

**SUFFOLK COUNTY (MA) DISTRICT ATTORNEY'S OFFICE****BUDGET SUMMARY**

Over the last three years the district attorney's office has had an average annual budget of \$11.5 million. The office employs 135 prosecutors and about 170 victim/witness advocates, investigators and support staff. It handles about 50,000 cases a year.

The office derives about 96 percent of its budget from the state general fund. The remainder is derived from criminal forfeiture proceeds and grants. The budget funds the district attorney office's operations in Suffolk Superior Court and nine district courts. The Superior Court staff is arranged into various units including homicide, gang, domestic violence, special prosecutions and child abuse.

Since 1994 the office has applied for and received numerous grants relating to community prosecution operations and has participated as a partner in other community prosecution grants obtained by other law enforcement agencies. The community prosecution grants include:

- The East Boston Safe Neighborhood Initiative (SNI) grant (approximately \$100,000 per year July 1994 through June 1998): This grant funded a comprehensive community anti-crime project involving prosecutors, police, probation officers, city officials, merchants and residents.
- The Dorchester and Grove Hall SNIs: The Massachusetts Attorney General's office is the recipient and administrator of both of these grants. The District Attorney's Office is a partner in these projects.
- Franklin Hill Comprehensive Gang Initiative (approximately \$100,000 per year 1993 through 1997): This program targeted gang violence in the Franklin Hill public housing development in Dorchester. The program included a policing component and a prevention component.
- Community Based Juvenile Justice Grant (\$50,000 for 18-month period ending December 1998). This program brings together prosecutors, teachers, police, probation officers and others for school-based roundtable discussions about juvenile offenders and at-risk youth.

In addition to the grants, the office spends an additional \$125,000 each year out of its general fund on community prosecution projects. This money underwrites police operations, promotional materials, meeting costs and other expenses generated by community prosecution projects.

**PROSECUTION IN THE COMMUNITY:  
A STUDY OF EMERGENT STRATEGIES**

**APPENDIX C:**

**MARION COUNTY (INDIANAPOLIS), INDIANA  
CASE STUDY**

Catherine Coles  
With George Kelling on Police

Program in Criminal Justice Policy and Management  
of the Malcolm Wiener Center for Social Policy  
John F. Kennedy School of Government  
Harvard University

Prepared May 1997  
(with 1997-98 Update)

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## INTRODUCTION

. . . It used to be that police were run-takers, and their performance was judged by how quickly they responded to incidents and how many arrests they created. Prosecutors similarly were viewed as case processors or trial lawyers only.

I don't view the roles in that way. Like in the world of business, we are having to change the way we do business, to focus our scarce resources, whether it's jail or courts or police. We have to focus them on where we're going to do the most good, where we can point to outcomes in the system in terms of people, in neighborhoods, actually feeling safer. So I think for the police as well as prosecutors the most important crime statistic should not be the number of arrests or the number of convictions, but how safe people feel in the neighborhoods, how many evening walks can be taken in a particular neighborhood on any given night.

And I think police in the form of community or problem-oriented policing as well as prosecutors, who are using what I call street-level prosecution strategies . . . are responding to that. What this means is that we're asking the community what outcomes, and we need to know from the community, what outcomes can we produce for you that are going to make you feel safer?

Scott C. Newman, Marion County Prosecutor  
 "State of the Streets," Address to the Downtown Kiwanis  
 Club, Indianapolis, Indiana, January 17, 1997.

Offering these remarks in his "State of the Streets" address after two years in office, Marion County Prosecuting Attorney Scott Newman summed up a year that had produced the highest ever number of homicides in the county (139), an overall decline in other major crimes of 7.5 percent, two years with record numbers of jury trials (382 in 1995; 339 in 1996), a 65 percent conviction rate in these trials in 1995 and 69 percent in 1996, and significant police controversies that resulted in charges being brought by the prosecutor's office against six officers. Four months earlier, a *National Law Journal* article had called Newman the "kamikaze prosecutor," reporting that Indianapolis defense attorneys said "he would rather lose a case than accept a plea bargain."<sup>1</sup>

Newman, a Republican, was elected to office in 1994 by defeating incumbent Democrat Jeff Modisett. Modisett had served only a single term as prosecutor (1991-94), and the campaign proved so close that few anticipated a victory by his challenger—in fact, Newman didn't even write an acceptance speech and had to "wing it" on election night. Nevertheless, the thirty-four year old new prosecutor put his head down and moved forward with an agenda that included sharp curtailment of charge-bargaining, tough new mandatory minimum plea standards for crack cocaine dealers, and legislative initiatives for toughening juvenile sentencing guidelines, streamlining death penalty appeals, increasing penalties for drug dealers who used or possessed firearms in the course of narcotics trafficking, ending the ban on victim impact evidence in death penalty cases, and stiffening sentences for hit and run drivers.

But taking into account the rest of Newman's short record it soon becomes clear that he is not so easily pigeon-holed. This "punishment without apology" prosecutor also expanded initiatives to safeguard the rights of victims and witnesses in gang-related crimes, and to develop a "street-level prosecution" program (built upon the community prosecution project begun under his predecessor) in which a small number of his deputies worked out of the four Indianapolis police district stations.

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<sup>1</sup> Andrew Blum, "'No Plea' Policies Sprout Across the U.S.," *The National Law Journal*, September 9, 1996, p. A1.

By the end of 1996, in spite of the fragmented and contentious relations characterizing much of the criminal justice world within which they worked, street-level prosecutors and police officers developed a sense of trust and mutual accountability, reached out to include citizens in their efforts, and began to make headway in addressing discrete problems in several Indianapolis neighborhoods. The Indianapolis model of community-based prosecution was drawing as much attention from prosecutors around the country as were Newman's "no plea" policies.

## BACKGROUND

### *The City and County*

Indianapolis is the capital and largest city of Indiana: the state legislature selected the site for the capital and first met there in 1825. Located in the center of the state and on the west branch of the White River, Indianapolis was planned by Alexander Ralston, who as an assistant to Pierre L'Enfant also helped design the federal capital. At the heart of the city Ralston placed a circular plaza with diagonal avenues radiating outward in all directions. Today this plaza—Monument Circle—contains the 285 foot high Soldiers and Sailors Monument, and is the center of the main business district, with the State Capitol and other public buildings nearby.

Almost from its beginning, Indianapolis was known as a city of homes and churches. Germans, Irish, African-Americans, Italians and Eastern Europeans were the major cultural groups to converge on the city during the nineteenth century. Indianapolis was incorporated as a city in 1847, the same year in which the railroad arrived. Slaughtering and metalworking became the most important industries during the 1870s and 1880s. Today the city is a major industrial and wholesale retail center producing automotive and airplane engines, electronic and electrical equipment, pharmaceuticals, chemicals, furniture, and machinery), a grain and livestock market, and a transportation center. A sports center as well, it is home to the Indianapolis 500 Mile Race each Memorial Day, and has arenas for its professional football and basketball teams in the downtown area. Butler University, Indiana University-Purdue University Indianapolis, and Indiana Wesleyan are also located in the city.

Since the implementation of "Unigov" on January 1, 1970, when suburban areas of Marion County were incorporated into Indianapolis (except for the cities of Beech Grove, Lawrence, and Southport, and the town of Speedway, which continue to operate independently), effectively increasing the Indianapolis population by fifty percent, city and county boundaries have been roughly coterminous. Indianapolis-Marion County has a mayor and city-county council form of government. Current mayor Stephen Goldsmith, a Republican elected in November 1991 and re-elected in 1995, served as Marion County Prosecuting Attorney from 1979 through 1990. In 1996 he lost a bid for the governorship of the state. As mayor, Goldsmith has achieved a reputation for innovative leadership based upon a philosophy of "small government" and "reinventing government," an important element of which is opening the provision of government services to private sector competition.<sup>2</sup>

The population of Indianapolis-Marion County today is 818,014, making it the twelfth largest city in the US. Metropolitan Indianapolis includes a nine county area, with a population of 1,461,684.

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<sup>2</sup> Stephen Goldsmith, *The Indianapolis Experience: A Small Government Prescription for Big City Problems*, unpub. ms., City of Indianapolis, 12/96.

Crack cocaine did not become epidemic in Marion County until 1993: at that time, the violence that had hit other cities earlier accompanied the entry of crack into the county. Of the first 100 felony cocaine cases filed in Marion County in 1990, none were for crack cocaine; of the first 100 filed in 1995, 85 were for crack.<sup>3</sup> Nevertheless, juvenile crime has been on the rise since 1985: by 1996, juvenile crime had increased over 200 percent in total cases filed against juveniles; homicides involving defendants under 18 more than tripled during 1995 (although it was still only 10)..

### *Criminal Justice Processes in the County*

The Marion County Prosecutor has jurisdiction over all felony and misdemeanor arrests, traffic offenses, and juvenile and family support cases. Several police jurisdictions exist within the county—including those of formerly independent cities—all of which present felony and misdemeanor arrests to the county prosecutor's office. However, most cases originate with the Indianapolis Police Department (IPD) and the Sheriff's Department.

The prosecuting attorney's office is organized in large part around the court system in Marion County. On January 1, 1996, a unified court system was implemented by merging municipal courts (which heard criminal misdemeanors, D felonies—the least serious—and traffic cases, as well as civil cases) and superior courts (which heard A, B, and C felony cases, and civil cases) into a single system of thirty-one superior courts. The purpose was to simplify administrative operations, making them more efficient and cost-effective. During 1996 the merger affected the actual operation of the criminal courts very little, although the judges themselves appeared to be in a state of upheaval over changes in court administration and procedures for obtaining or retaining a seat on the bench.<sup>4</sup> Previously, the fifteen superior court judges had been elected, while the sixteen municipal court judges were appointed by the governor; under the new system, superior court judges were up for re-election in 1996, while the election of municipal court judges was put off until the year 2000. By statute the superior court in Marion County is to reflect a balance between Republicans and Democrats: each party presents a slate of sixteen candidates, with the winning party retaining all sixteen, while the losing party retains fifteen seats.

Under the new system, six "felony" superior courts hear A, B, and C felonies, with cases assigned to the judges in each court on a random basis following screening by the prosecutor's office. An additional court hears only major felony (dealing) narcotics cases; and another functions as an expedited felony court. Superior courts previously designated as "Municipal" are organized as follows: four courts are assigned to handle misdemeanors, one per police (Indianapolis Police Department) district, based upon the assignment of the law enforcement officers involved; three courts handle D felony cases county-wide; one court handles all misdemeanor initial hearings; one court handles misdemeanors and D felony cases from Speedway and Indiana State Police; one court handles all traffic and ordinance violations; two courts hear all domestic violence misdemeanor and D felony cases, and (civil) domestic protective orders.

A Juvenile Court, one of the superior courts, sits in the Juvenile Justice Complex. The Complex also houses the Juvenile Detention Center, Intake, the Probation Department, and the Juvenile Branch of the Indianapolis Police Department. The Juvenile Court has jurisdiction over most

<sup>3</sup> Scott Newman, Letter to the editor, *The Washington Post*, January 10, 1996.

<sup>4</sup> "Not very judicial" (editorial), *The Indianapolis Star*, Dec. 22, 1995, p. A18; Janet E. Williams, "Bill to unify county courts sent to Bayh," *The Indianapolis Star*, May 3, 1995, p. B1.

crimes that would be committed by juveniles up to the age of eighteen (to the age of sixteen for murder, robbery as an A or B felony, rape, kidnapping, or possession of a sawed off shotgun and some handgun offenses), including status offenses of runaway, truancy and alcohol possession.<sup>5</sup> The Court has concurrent jurisdiction with the Criminal Court in cases involving adults charged with neglect, contributing to the delinquency of a minor, and violating the compulsory school attendance law.<sup>6</sup>

### *Previous County Prosecutors*

#### Stephen Goldsmith, 1979-1990

Stephen Goldsmith became Marion County Prosecutor in 1979, and remained in office through 1990. Early in Goldsmith's tenure, the Marion County Prosecutor's Office (MCPO) underwent a transformation from being staffed by part-time prosecutors (who spent most of their time on private practice matters and came in only to conduct actual trials) and run largely by interns, to a more professional office comprised of full-time prosecutors who were accountable for an entire caseload. Goldsmith shaped this new office milieu: full-time prosecutors had their own cases, prepared them more fully, conducted legal proceedings for all stages of trial work, and began to incorporate the use of computers into prosecution. During the 1980s, crack cocaine had not yet moved into Indianapolis—this would happen only in the early 1990s. Yet Goldsmith describes a system that was in effect being driven “backward” from sentencing and sanctioning: the increased numbers of drug cases saturating criminal justice processes at the final stages were causing people to turn their attention to what preceded them. For Goldsmith, a shift in legal systems away from case processing was already beginning then.

During the late 1980s, Goldsmith participated in the Executive Sessions on Prosecution at the Kennedy School of Government at Harvard, and credits this experience with helping many of the participants to think strategically and move away from a case processing orientation. In a paper that he prepared for the sessions, Goldsmith wrote of the need for prosecutors to develop a new mission that would allow them to contribute to the community, that “concentrates on providing real value to real people rather than exclusive attention to interim superficial purposes” and he suggested reasonable choices including: “empowering institutions such as the schools, enhancing the chances of the urban family, assisting the endangered neighborhood, or empowering individuals such as battered women.”<sup>7</sup> Retrospectively, he recalls setting priorities that included addressing violent crime, property crime, domestic violence, and street level crimes. In particular, he worked at reconstituting the domestic violence unit in the MCPO, and on problems posed by serious chronic offenders.

As mayor of Indianapolis since 1992, Goldsmith has continued to shape criminal justice processes through his appointment of the Indianapolis police chief, and through the policies and activities of the Corporation Counsel and city prosecutor.

#### Jeff Modisett, 1991-94

<sup>5</sup> The Court has jurisdiction of traffic offenses for juveniles only when a charge is a felony or a misdemeanor for which an officer may make an immediate arrest, such as driving while intoxicated.

<sup>6</sup> See *Indiana Code* 31-6-2-1.1 (January 1, 1996).

<sup>7</sup> Stephen Goldsmith, “A New Mission for the Prosecutor and the Community,” Draft paper prepared for Prosecutors’ Executive Session, John F. Kennedy School of Government, Harvard University, October 1, 1990, p. 2.

Following Goldsmith, Jeff Modisett served as Marion County Prosecutor from 1991-94.<sup>8</sup> Modisett, a former assistant U.S. Attorney in Los Angeles from 1982-88 who was Deputy Chief of the Public Corruption and Government Fraud Section, and later Executive Assistant for Public Safety for Governor Evan Bayh of Indiana, served one term that, especially at the beginning, was anything but tranquil. During the first six months a recount was undertaken, followed closely by the Mike Tyson rape case and trial.<sup>9</sup> By March 1992 when the case ended, Modisett was finally able to turn his attention to implementing his priorities for the office. At this very time, Mayor Goldsmith was making significant changes in the Indianapolis Police Department, specifically attempting to move the department toward community policing. Modisett was impressed with the ideas behind community policing and the changes being made in IPD (Indianapolis Police Department), even though he recognized that some officers were resistant. He met Charles Hynes, District Attorney of Kings County, New York, who was initiating a range of “community prosecution” programs, including reorganizing his office to create five geographic prosecution zones, with a specific team assigned not only to prosecute felonies that occurred there, but to attend community meetings and get to know the specific problems of the community.<sup>10</sup> Modisett could not hope to implement changes as far-reaching as those he saw in Hynes’s programs—they would have required significant alterations in court operations, and IPD had its hands full with the mayor’s demands. He also couldn’t divert money from current prosecutorial operations, and raising new funds from county government proved difficult. The only answer was for the new county prosecutor to “do it on his own.”

Modisett found an ally and supporter for his ideas in deputy prosecutor Jan Lesniak, who was then head of felony screening in the prosecutor’s office. Lesniak was a longtime employee of the prosecutor’s office who had served previously as a victim advocate, a paralegal, and a trial deputy on a superior court team. She also had already worked with community leaders in IPD’s north district, almost doing “community prosecution” before it had a name. When Modisett approached Lesniak, she liked the idea of moving out of the prosecutor’s office into the community. The only funds Modisett could find to support this project were diversion fees from traffic offenses: eventually, he arranged for Lesniak and one other staff member to spend a day or two a week in north district. From the beginning Lesniak had strong support from police officials who had been in senior positions under former Mayor Hudnut, but demoted under Goldsmith. She took on several new projects, including working in public housing projects. With her success, Modisett was able to raise more money for the “community prosecution” project, eventually expanding the program to involve three prosecutors (only two were full time). He also attempted to initiate nuisance abatement activities; however, they required collaboration with the Corporation Counsel’s office since the city had jurisdiction over code and ordinance violations—and this collaboration was not forthcoming. (Newman had similar difficulties with over nuisance abatement “turf” issues when he took office.)

These new programs and initiatives reflected Modisett’s basic approach to the job of prosecutors: he saw them as problem solvers who, by working with the community, could prevent crime as well

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<sup>8</sup> In 1996 Modisett was elected attorney general for the State of Indiana.

<sup>9</sup> During Modisett’s tenure, the MCPO brought rape charges against and successfully prosecuted boxer Mike Tyson.

<sup>10</sup> See Charles J. Hynes, “The Urban Criminal Justice System Can Be Fair.” *Fordham Urban Law Journal*, Vol. XX:419-30. Hynes also developed a Crime Victims Counseling Unit and Domestic Violence Bureau, began Project Legal Lives, set up citizens advisory councils and a drug diversion program for non-violent offenders.

as prosecute cases. Prosecutors who served under Modisett recall that he strongly emphasized intervention strategies, especially with juveniles, and that he tried to open up access to prosecution processes for members of the community. Perhaps not surprisingly, police responded favorably: they “loved getting advice and information out on their own turf,” before they made mistakes. Within the prosecutor’s office the response was receptive from many quarters as well: one experienced deputy prosecutor who joined the community prosecution program was Melinda Haag, a respected trial attorney who had also been involved in gang prosecutions. (Haag is currently supervisor of the street-level advocates under Newman.) Modisett’s management style in working with the community prosecutors was “hands-on in terms of caring about the program,” but he gave substantial discretion to them in their day to day activities. In fact, the community prosecutors themselves worked with him to define the scope of their job: Modisett sat down with Lesniak and Haag to work out their overall responsibilities; they came back with specifics for deciding what problems could be solved “now” and how to go about it. Modisett encouraged new ideas, and the community prosecutors gave him their best.

By the end of 1994, when Modisett left office, several new projects were operating as part of the community prosecution program. Community prosecutors were working at least part time in all districts (north, south, east, and west). The Safe Schools Project was running; prosecutors were teaching primary school students in the “Legal Lives” program; and Project Courage (Community Organizations United to Reduce Areas Gang Environment), an anti-gang school-based program that brought community leaders, police, juvenile court judges, and anti-gang workers together in a problem-solving exercise was (albeit barely) underway. What is more, all of these activities were carried out with little additional funding—at most with small grants received through the state Criminal Justice Institute, or funds obtained through asset forfeiture.

At the same time, Modisett could not ignore the influx of drugs, especially crack cocaine, into the local community. Under his administration a federally funded pilot project was initiated for an expedited court to handle the surge and developing backlog in narcotics and other types of felony cases, and one of the criminal courts was designated a “Drug Court,” to process all drug cases.

#### *The 1994 Campaign for County Prosecutor*

Scott Newman’s legal career has been spent largely as a prosecutor: he worked originally in the Marion County Prosecutor’s Office as a deputy prosecutor under the leadership of Goldsmith. He then spent five years as an assistant U.S. Attorney, leaving in 1993 with the goal of running for county prosecutor. Newman was troubled by what he perceived to be a lack of aggressive handling of serious crimes—especially spates of drive by shootings that were occurring, and growing drug problems. Newman was slated by the Republican party and ran for office in 1994. During the campaign he took a tough stand on crime, and proposed death penalty reform.

During 1993 and 1994, Newman also had begun thinking systematically about how prosecution could be reorganized and improved in Marion County. In August of 1993, he commissioned a concept paper on the subject, and was presented with a plan for moving toward a geographically based system (paralleling existing police and sheriff’s districts) in which teams of prosecutors would be assigned to work closely with police and citizens in particular neighborhoods, and prosecute all crimes, from misdemeanors to felonies. Other operations—child support, intelligence gathering—would also be carried out by district, and the court system would be entirely reorganized toward geographical case processing. During the campaign, Newman proposed to create a “Street Level Advocacy” program, in which deputy prosecutors would have responsibility

for geographic areas, and would engage in problem solving as well as try cases emanating from the areas.<sup>11</sup>

## TAKING OFFICE: THE NEWMAN ADMINISTRATION

### *The Mission of the Prosecutor and Substantive Priorities*

In his 'State of the Streets' address at the end of 1995, Prosecutor Newman succinctly summed up his mission as prosecutor: "Though I appreciate that the roots of crime run deep, I don't run a social welfare agency . . . . Our mission will continue to be punishment, without apology." With crack cocaine the "single biggest challenge to local law enforcement," he vowed that vigorously fighting crack dealers would remain a top priority for the coming year, "as part of an overriding commitment to inflict the 'maximum pain' on criminals."<sup>12</sup> Such pronouncements are characteristic of Newman's communications to the public even now: they are backed up by the priorities he has set within the prosecutor's office, and by his accomplishments through 1996. Yet they do not tell the whole story.

In fact, Newman's vision of prosecution appears to be evolving as he grapples with the problems he faces every day in office. After "Phase I" - an initial year spent getting his administration up and running, with safety and continuity in trial operations as the guiding principles, and hitting hard on drugs - Newman decided to pause and take stock. With the goal of developing a more specific mission for the MCPO in "Phase II," Newman drew his core advisors into a strategic planning process beginning late in 1995 and continuing through 1996. Together they identified three "constituencies" to which distinct "products" needed to be provided by the MCPO: the public (which seeks retribution); victims and witnesses (who desire both retribution and the knowledge that prosecutors care about them); and the police (who want respect). Defining the job of top management as designing and operating a system to deliver these products reliably and consistently to constituents, Newman led a discussion of specific tactics and activities that could be implemented to carry out this mission. They would continue hitting hard on drugs (Newman wants to be the leader in the community on the drug issue), using new tactics; they would address violence in schools and lives of children through collaborative partnerships with school administrators; they would emphasize nuisance abatement more (especially since the community response was so positive).

By January 1997, at the end of his second year as prosecutor, Newman's 'State of the Streets' address focused no less on the problems of crack cocaine, violent crime, and drug use, but equally on the means his office had undertaken to improve the treatment of rape victims, to work with police to address crime in specific neighborhoods and to empower citizens, and on the work of street-level advocates (community prosecutors) in building trust, partnerships, and communication with local citizens. Although finding it impossible to implement on a broad scale, Newman keeps returning to his central idea of reorganizing prosecution—and ultimately other criminal justice processes as well—around geographically based teams that would work on all aspects of crime and public safety in specific neighborhoods. His overall record of planning and achievements thus belies a narrow vision of prosecutor as crime fighter, and suggests instead a dual mission.

<sup>11</sup> Russ Pulliam, "A campaign against crime," *The News*, June 8, 1994.

<sup>12</sup> Scott Newman, "State of the Streets" address to the Indianapolis Downtown Rotary, Jan. 2, 1996.

*1995: The First Year in Office - "Crime Fighter" and "Community Prosecutor"*

If Scott Newman surprised himself and other people by being elected Marion County Prosecutor, this is not to say that he had not prepared for office. By his own account, he took office with two agendas: first, to promote conservative principles, by addressing "needed changes" in areas such as charging and plea-bargaining policies, and integrity issues (to ensure that no one could receive "special treatment" and be taken care of outside the guidelines that applied uniformly in case processing; that no one could take a case away from a deputy prosecutor based on some inappropriate interest in it), and strengthening professional standards in the office. He gave raises to his deputies, obtained computers for them; improved the physical plant conditions; and corrected pay inequities for women in the office.<sup>13</sup> Second, he sought to make the prosecutor's office less bureaucratic, and more accessible to the community. By the end of his first year (1995) Newman estimated that he was "eighty percent" along with his first set of goals; and perhaps a third of the way through the second.

Fighting Crime

Crucial to moving ahead with his first agenda were three individuals Newman brought into the prosecutor's office to fill top executive posts. All were former colleagues of his, and all had worked earlier as deputy prosecutors in the MCPO. They quickly became a close-knit core group of advisors who provided regular input into policy development. They also took on the task of trying—sometimes along with Newman, himself—a number of high profile cases for the office, as well as carrying out their specific duties. The **Chief Trial Deputy**, a former assistant U.S. Attorney in Indianapolis, would leave at the end of 1996 to become a superior court judge. During 1995 and 1996, he oversaw the operations of the MCPO, dealt with personnel issues and hiring, played a major role in developing drug and firearm-related plea and prosecution policies and legislation, tried a number of high profile cases and supervised many others, served as something of a crisis manager ("put out fires"), and monitored ongoing inter-agency projects (such as jail overcrowding implications for the office, and a "coerced abstinence" drug program (for drug monitoring of offenders). The **Chief Counsel** has served as Newman's primary legal, political, media, and policy advisor. A former deputy prosecutor and clerk for the chief justice of Indiana's Supreme Court, journalist, press secretary for Governor Robert Orr, and policy director for the Republican Party in Indiana, he headed Newman's transition team into the prosecutor's office and has been responsible for drafting Newman's legislative packages for the State Legislature, providing legal advice in complex trials, and overseeing communications with the media and lobbyists. The **Chief of the Felony Division** supervises operations of the felony trial teams, and carries a small case load for training purposes with mid-level deputies. (This represents a recent change: during much of 1996 the former chief headed one of the felony trial teams, and tried murder and other high profile cases. She later moved into the position of Chief Trial Deputy). The Felony Division chief contributes to the development of plea and other office policies, and oversees the progress of individual deputies in trial work so as to provide immediate feedback and mentoring.

Working with this team, Newman immediately instituted tougher plea policies, aimed at sharply reducing "charge bargaining," the practice of allowing defendants to plead guilty to lesser charges than they were originally charged with so as to move cases through the system more quickly.

<sup>13</sup> Former county prosecutor Modisett has disputed that any pay inequities based upon gender existed in his administration, and contends that statistics proving his point were subsequently published in a local newspaper. Personal communication to C. Coles, May 21, 1997.

Newman's general policy would be to demand a conviction for the highest provable felony or "lead charge." He eliminated plea bargaining entirely for adults who recruited juveniles to commit crimes—such defendants would have to plead guilty as charged or proceed to trial. He also set in place mandatory minimum plea standards for crack cocaine dealers, demanding no less than two years in prison for those caught dealing with even the smallest amounts of crack cocaine.

The effect of these policies was to increase dramatically the number of trials that took place: deputy prosecutors tried a record of 382 jury trials in 1995, a 43 percent increase over 1994. The backlog in the expedited felony court was significantly reduced, and the prosecutor's office achieved a conviction rate of 65 percent in jury trials—exceeding the average for the previous six years by seven percentage points. Newman himself tried several cases, including one that resulted in the first death penalty jury verdict in Marion County in seven years.<sup>14</sup> To accomplish the increase in trials, Newman filled vacancies in the office by hiring seven new deputies to fill vacancies in felony court positions: of these, three had previously served as chief deputy prosecutors in other counties; one had been a former elected prosecutor in another county. He set up a mentoring system matching older experienced trial attorneys with newer attorneys. He also elevated the position and raised the salary of the prosecutor who handled "drunk driving" cases, making this a priority in his administration.

Almost immediately after taking office, Newman, with the help of his chief counsel and a few other deputy prosecutors, also put together a package of crime bills to present to the state legislature.<sup>15</sup> He then testified before the House and Senate on behalf of legislation to expedite appeals of death penalty cases; provide for truth in sentencing (requiring 80 percent of time to be served) upon conviction of certain felonies; repeal a cap on consecutive sentencing; mandate determinate sentencing of juveniles for several offenses; and permit the discretionary addition of five years to sentences for convictions involving the use of a handgun in the commission of a drug crime. The last three of these were passed by the Legislature and became law.

#### Reaching Out to the Community

Turning to his second agenda, increasing the accessibility of the office to the community, Newman himself made a point of being visible outside the office, moving the agenda to neighborhoods, where he posted toughened plea standards on the door of a crack house, and led an anti-drug march. The new county prosecutor also returned to his campaign promise to develop a Street Level Advocacy Program. Shortly after the November election, he had formed a task force to develop a proposal for this program. The task force presented a draft proposal by December 30, 1994, and followed up the next month when Newman was in office with a memo raising several issues of concern. The draft proposal identified several specific purposes for the program:

1. To give residents of the community a greater voice in solving problems which plague their neighborhoods.
2. To provide prosecutors a greater opportunity to be proactive in fighting crime.
3. To change the focus of prosecution from simply obtaining convictions on assigned cases to problem solving in the neighborhoods.
4. To assist law enforcement agencies in their community policing efforts.

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<sup>14</sup> State of Indiana v. Timberlake, Indiana Supreme Court, Docket No. 49S00-9305-DP-577, filed July 1995.

<sup>15</sup> These bills reflected several proposals of the Republican Party's Contract for Indiana, developed by the Republican Caucus in Indiana during the 1994 election campaigns.

5. To assist law enforcement and residents of the community in their fight against crime by:
  - a. Providing greater continuity and feedback in case screening.
  - b. Providing information to police regarding evidence which needs to be obtained in cases as they develop.
  - c. Coordinating with citizens' groups, including Crime Watch; IPD IMPACT program; and other groups concerned about crime issues.

When Newman took office early in 1995, two community prosecutors were working four days per week in two of IPD's districts (north and east); a third position (in the west district) had been written into a Department of Justice Weed and Seed grant awarded late in 1994, for which funding was forthcoming. Community prosecutors were working with police in the districts, screening cases, providing legal advice, and doing some liaison work with the community and between the police and MCPO. Modisett's original plan had called for extending the program to four positions, one in each IPD district. Newman's task force proposed, at minimum, expanding the program to a total of six deputy prosecutors, including two who would be assigned to the sheriff's districts.

But the task force went further. First, it cited several obstacles to the existing program, including: the need for better communication with judges, especially "to explain the purpose of program, the need to target the individual" offender rather than offenses, and "the extent of the [MCPO's] commitment to representing the community in this way;" the need for greater communication with police, including full accountability of prosecutors for their screening decisions and free discussion of issues concerning police and prosecutors; the need for better education of all participants; and the potentially limited effects of the program "due to the lack of direct involvement with the community of the bulk of deputy prosecutors." To address these "disadvantages" the task force proposed, along the lines of the Brooklyn model created by District Attorney Charles Hynes, a geographic reorganization of both prosecutors and courts, with felony and misdemeanor cases distributed (by incident location) to courts and trial teams assigned to handle all cases for specific areas. Specialized units—arson, sex crimes, domestic violence, fraud, environmental crime—would continue to operate, but specific cases could still be assigned to courts based upon geographic location; the drug court would continue to operate, with each prosecutor handling cases from a specific area. As the task force recognized, however, this plan was not likely to be adopted in the near future because of the magnitude of changes required—especially those involving changes in the court structure (intransigence by judges was anticipated) and distribution of cases.

As an alternative the task force suggested a "modified" approach: six deputy prosecutors would operate out of the four IPD district stations and two Sheriff's Department districts, carrying out the tasks outlined above; misdemeanor and D felony courts would be merged and would receive cases based upon geographic district in which the offense occurred; teams of prosecutors would be assigned by district; felony screening would take place in the districts; and teams for each district (consisting of the on-location district deputy, misdemeanor/D felony team members, and the drug court prosecutor assigned to the district) would attend monthly task force meetings held in each district, along with police and community representatives, and would ride with a police officer on a regular basis.

Once in office Newman moved ahead with his (renamed) Street-Level Advocacy program. Taking an active role in steering the program, he added a fourth deputy so that all four IPD districts were covered, and two paralegals to assist them. Another deputy prosecutor would handle nuisance abatement activities, working both with street level advocates and the City Prosecutor's Office.

Newman reduced caseloads for three of the four street level advocates (they were to continue to carry four to five cases, but from the districts in which they worked),<sup>16</sup> and required them to focus their efforts in two selected neighborhoods in each district. Concerned that the advocates would become general "public relations" workers in the districts, he sought to ensure that they would concentrate instead on criminal justice, setting out crack cocaine, domestic violence and nuisance abatement as mandatory priorities (in descending order of importance) in their work. He would meet with the advocates every six weeks, but would closely monitor their activities through monthly reports that they were to prepare, summarizing their activities and progress. One of the advocates, experienced prosecutor Melinda Haag, was designated as supervisor of the program. Specific activities undertaken by the street level advocates beginning in 1995 and running through 1996 are detailed below. Essentially the structure and basic scope of operations of the program established during the first year would remain the same. No court reorganization was attempted or implemented, except for an experiment in the Juvenile Court undertaken in 1996 (see below).

### *The Organizational Structure of the MCPO<sup>17</sup>*

During his first two years in office, Prosecutor Newman made few if any changes to the basic organizational structure of the MCPO. Initially he kept key division heads in place so that there would be no interruption in ongoing functions. The office operates through five principal divisions: Felony, Grand Jury, Municipal (including D felony and misdemeanor), Juvenile, and Child Support. Each division is headed by a chief; most are comprised of several units or sections. The Street Level Advocacy Program and nuisance abatement investigator (discussed in a separate section below) in effect constitute a separate division, apart from most operations of the office, although the cases they generate are prosecuted in the appropriate courts within the felony or municipal divisions with follow-up by the street level advocates where they do not prosecute cases personally. An organizational chart illustrating office structure (1997) is provided in Appendix A.

#### Felony Division

The Felony Division has several units:

**Screening** - includes a director, two additional full time deputy prosecutors, and two part time deputies. The street level advocates screen all felonies in their respective districts except drugs, homicides and sex crimes. One deputy prosecutor screens all drug cases and coordinates the screening and filing of mandatory habitual offender charges. Arson cases are pre-screened by an arson prosecutor, and D felony habitual traffic offender cases are screened by a deputy prosecutor in the Municipal Division.

**Criminal Courts 1-6** - a team of four-five deputy prosecutors is assigned to each criminal court (including the trial team leader). Cases are received after they are randomly assigned to judges for each criminal court following screening.

**Drug Court** - in operation since 1991, all A, B, and C felony drug cases (with the exception of prescription fraud) are channeled to this court, a seventh criminal court. Six deputy prosecutors are assigned to the trial team, including one from each of the other criminal courts, along with a legal intern. Deputy prosecutors attached to this court carry beepers and are on call

<sup>16</sup> Street level advocate supervisor Melinda Haag continued to carry a caseload of 40-70 felony cases until the end of 1996.

<sup>17</sup> This description pertains to the MCPO during 1996; some changes were made during 1997, particularly in light of the reorganization of the Superior Courts.

twenty-four hours a day to assist with IPD investigations within specific districts and citywide. An **Interdiction Unit** works with Indiana State Police and other law enforcement agencies to handle cases involving drugs coming into the city. The drug court supervisor is also head of the **Metropolitan Drug Task Force**, an interagency group that addresses drug-related crime in the county.

**Expedited Court** - staffed by a magistrate, with four prosecutors (one handles drug cases; the other three do any felony cases) and a legal intern assigned to process cases, this court was created with federal funds under the Modisett administration to clear up a backlog of old cases (A, B, and C felonies). It was continued in 1995 with county funding. Cases are referred to this court from the criminal court judges; defendants are usually incarcerated. Operations do not take place in a full time courtroom; rather, hearings are held in jail and at various locations. Average case disposition time in the Expedited Court during 1995 was approximately 80 days, compared with 250 in non-expedited courts.

The **Sex Crimes Unit** - located at the **Family Advocacy Center**, a few blocks from the main county building. Seven deputy prosecutors are assigned to the unit, of whom six hold concurrent assignments in criminal courts, where they prosecute the cases that they handle. Sex crime cases are screened in the unit, and vertical prosecution is used.

**Forfeitures** - one deputy prosecutor is assigned full time.

**Post Conviction Relief** - one deputy prosecutor handles these appeals of A, B, and C felonies (filed with a trial judge following convictions or pleas).

**Arson** - one deputy prosecutor handles A through D felonies, and works as a liaison with arson detectives in IPD and the Sheriff's Department, as well as with the Fire Department.

**Victim Advocate Unit** - a decentralized unit, eight victim advocates are assigned to provide services in nine courts: two in felony courts (for all homicides and attempted murders, and felony domestic violence); two in the Family Advocacy Center Sex Crimes Unit; three in the Domestic Violence Unit (Municipal Court); and one at the Juvenile Court.

#### Grand Jury Division

The Grand Jury Division of the prosecutor's office has primarily investigative functions. By law, indictments in Indiana are not required from the Grand Jury. The prosecutor's office usually takes cases to the Grand Jury for indictment only in exceptional situations, such as those involving police misconduct, fraud, or corruption. Two deputy prosecutors are assigned to the division. In addition, nine investigators from IPD and the Sheriff's Department work with the two prosecutors. After screening, cases are referred to the division by the chief trial deputy. Important areas of investigation have involved police misconduct and perjury, and gang activities.

Once investigations have been completed, the deputy prosecutors in this division try cases through vertical prosecution. One of the two prosecutors handles all gang cases, and acts as an advisor to the **Metropolitan Gang Task Force**, an interagency body that brings together policing agencies, the FBI, and prosecutors from Marion and Johnson Counties to conduct a number of operations, some undercover. The assigned prosecutor is cross designated as a special assistant U.S. Attorney for purposes of working on cases that may proceed to federal court. A special assistant to the county prosecutor also works with the task force to assist in relocating victims and witnesses who may be in danger as a result of their participation in a prosecution involving gang members.

#### Municipal Division

The Municipal Division, headed by a division chief, handles the screening and prosecution of most misdemeanors and D felonies, and trains deputy prosecutors. The division chief and screening

administrator meet regularly with IPD, the Sheriff's Department, and the Indiana State Police to discuss issues related to screening, and crime problems in particular areas generating certain types of cases (such as prostitution).

**Screening** - A screening administrator, who works with both chief of the Municipal Court Division and the director of Felony Screening, oversees nonlegal aspects of screening, including the collection of information on D felonies and misdemeanors by paralegals and secretaries. A street level advocate screens Sheriff's Department cases and other police agency felonies, and D felonies. One full and several part time deputy prosecutors screen misdemeanors. An extensive pretrial **Diversion Program** is available for offenders who have been charged with misdemeanors, involving counseling, restitution and reparation, medical treatment, and other conditions. Charges (but not the record of arrest) are dismissed upon successful completion of the program.

**D Felony courts** - four deputy prosecutors are assigned to each of three D felony courts; cases are randomly assigned to courts after screening.

**Misdemeanor courts** - three deputy prosecutors are assigned to each of four misdemeanor courts. Cases are assigned to particular courts depending upon the law enforcement officer involved—each court handles cases from one IPD district.

**Expedited court** - beginning in January 1996, one specific court was designated to clear the backlog in D felony and misdemeanor cases, particularly where offenders had been incarcerated for some time. One deputy prosecutor is assigned to handle these cases.

**Domestic Violence** - including the supervisor, four prosecutors are assigned to the Domestic Violence Unit, along with three legal advocates, and victim assistance volunteers. All misdemeanor and most D felony domestic violence cases are heard in two courts; another handles domestic civil protective orders. A few cases are transferred out to other parts of the Municipal Division, or are referred to a felony court: the supervisor and her deputies follow up on these cases if necessary. A diversion program is available to refer defendants to group counseling with programs approved by the diversion coordinator.

**Nuisance Abatement** - during 1995 a deputy prosecutor was assigned to carry out nuisance abatement efforts in collaboration with the city prosecutor, IPD, and city code inspectors. This same prosecutor was involved in developing grant proposals for the MCPO, and other community-oriented projects (such as a coordinated response for rape victims) as well, so she could not devote full time to nuisance abatement. Early in 1996 most of her nuisance abatement responsibilities were taken over by a nuisance abatement investigator who worked closely with the street level advocates, and was able to accomplish most of his objectives through narcotics eviction procedures. He continued to work with the deputy prosecutor originally assigned to pursue nuisance abatement where charges were filed and cases moved through the municipal courts.

#### Juvenile Division

The director of the Juvenile Division supervises a staff of seven deputy prosecutors and five support staff. Along with the Municipal Court Division, the Juvenile Division is often part of a "rotation" in which new deputy prosecutors gain experience in the MCPO. This means that turnover is often high: since no jury trials take place in juvenile courts, prosecutors seeking jury trial experience are often motivated to move on as soon as possible. Prosecutor Newman has created a "number two" position in the division to assist the director, has raised the pay of deputy prosecutors, and asked for a two year commitment. Prosecutors in the division screen cases, deciding whether charges are to be filed, whether to recommend release or detention at the initial hearing, and whether to request possible transfer of the juvenile to adult court (through a waiver hearing). Under the supervision of Judge James Payne, four courtrooms are presided over by appointed Juvenile Court magistrates. Four deputy prosecutors are assigned to sessions in these

courtrooms, while two others have specialized caseloads: one handles sex offenses; another does felony, handgun and determinate sentence cases (these resulting from the explosion in cocaine cases).

### Child Support Division

The Chief Deputy of the Child Support Division supervises a staff of 90, including 10 additional deputy prosecutors, 35 paralegals, and the remainder trained to provide special support services. The division tracks payments from court orders for child support and prosecutes to enforce payment. Both public assistance cases and non-public assistance cases are pursued—involving about 63,000 active cases as of early 1996. Although the office is separated physically from the rest of the MCPO, staff in the division recognize the efforts made by Prosecutor Newman to minimize the separation between them and the rest of the MCPO. After taking office Newman himself tried a support case to emphasize the importance of the division's operations. He meets regularly with Division Chief Deputy John Owens (who reports formally to the chief counsel). The mission of the division itself is to use administrative and non-prosecution remedies wherever possible to intervene and bring about change that will improve the quality of life of children, and in doing so to prosecute only as a last resort. The underlying belief is that children in families lacking support and experiencing domestic violence (which characterizes many cases) will end up as perpetrators of crime—and staff cite this as the common thread that binds them to the larger (MCPO) office.

The policy adopted for current use in the division is not to follow up on cases involving hard core drug dealers, since the prospect of recovery and enforcement is so low. Instead, greater efforts are targeted at those in the “middle,” who either would like to, or could, pay but do not.<sup>18</sup> There is significant cooperation with the Mayor's Office on day programs to provide training for some unemployed parents in default, such as the “Job or Jail” program, a partnership between the City of Indianapolis, the Marion County Prosecutor's Office, and the Indianapolis Private Industry Council that places non-working, non-custodial parents in private sector jobs.<sup>19</sup> Additionally, the division itself offers the ON TRACK Program, aimed at reaching and teaching young fathers, in high schools, and technical and alternative schools:

### *Administrative Processes*

#### Prosecutorial Leadership

The role of county prosecutor as a leader and manager of a large office is a relatively new concept in Marion County, having developed only with the expansion of the office under Prosecutor Stephen Goldsmith during the 1980s. Goldsmith, Modisett and Newman have thus been faced with defining this role in the absence of a lengthy legacy. In his first two years in office, Newman has been a “hands on” manager, leading the office and his staff through close oversight—whether it be

<sup>18</sup> The MCPO has maintained a higher collection rate for child support payments than other Indiana counties, averaging 70 percent. During the administration of Jeff Modisett, collections increased 50 percent from \$34 million to just over \$50 million (personal communication from Modisett, May 21, 1997). In 1995, the Prosecutor's Office collected more than \$52.7 million in child support payments. The projected 1996 collections were \$56,500,000. See press release, “Mayor and Prosecutor Announce Initiative to Increase Child Support Collection,” City of Indianapolis, Office of the Mayor, June 16, 1996.

<sup>19</sup> The “Job or Jail” program is part of the City's Rebuilding Families Campaign, a series of initiatives aimed at encouraging responsible fatherhood, creating a culture to discourage teen pregnancy, and improving support for teen mothers and economic opportunities for young families.

in matters of trying cases, monitoring activities by street level advocates, or working on collaborative projects involving IPD and other agencies, such as the Safe Neighborhoods Partnership (described below). Projecting an image of toughness and professional competence as a litigator and prosecutor, he offers a role model to his deputies by putting himself on the line with them, prosecuting several high profile cases each year. He has tried death penalty cases, conducted major trials of gang members, and has been known to offer shelter to a witness, threatened by gang members, in his own home. (He also secured the state's first witness protection grant for use in gang-related prosecutions, financed by federal funds administered by the Indiana Criminal Justice Institute). Deputies who have shared the prosecution of cases with him find him serious and demanding. Newman expects his deputy prosecutors to develop similar qualities, and is particularly concerned that those who represent the MCPO out in the community (including street level advocates) display not only competence, but self-confidence and assuredness.

Having clearly established control of the office, by the end of his second year Newman was looking for ways to decrease his "remoteness" and "top down" management style, and to increase a sense of his own accessibility for line prosecutors. Used to communicating frequently with staff through intra-office "toss" mail and policy directives, in August he held an office-wide meeting for all attorneys to present the priorities for the office that he and his core advisors had developed in the strategic planning process. (Lawyers in the office normally meet four times a year; office-wide meetings take place twice a year; and Newman meets with division chiefs every eight weeks.) Newman was beginning to recognize that he needed to reach out to lower levels in the office—to seed ideas at the "grass roots" level, to bring line prosecutors in contact with the priorities he was developing at upper management levels. During 1996, he also experimented with an "open door" policy to encourage staff to drop in at certain times each week, and began taking a deputy prosecutor to breakfast one day a week (twenty-five have gone so far).

With his core group of advisors, Newman continued the strategic planning process through 1996. Late in the year a retreat was planned for upper management in which a set of substantive priority areas would be discussed, with an eye to developing specific tactics that would address each. These priorities were: drugs, the family, children, the courts, business, and police problems following the Meridian Street incident in August (which resulted in a grand jury investigation and indictments brought by the prosecutor's office against several officers).

#### Creating a Culture

Four elements stand out in the "culture" of the Marion County Prosecutor's Office that Scott Newman has helped to shape. First, deputy prosecutors in particular share a sense of idealism and commitment to their profession: they love being prosecutors, and they want to be good at their job. For most, although they suggest changes they would like to see implemented ("an expansion of community prosecution throughout the city," "neighborhood courts," "a gang court," "reduce caseloads," "more money . . . not just for our office, but for the police as well"), the office is doing what a prosecutor's office should do. Many would like to continue as career prosecutors, but worry that they will not be able to do so because of relatively low salaries and correspondingly high debts from law school. And they see no commitment to raising prosecutors' salaries by the city-county council, when "they won't even allocate money for security in the building we work in!"

Second, deputy prosecutors and other staff share Newman's commitment to differing values and dual senses of mission for prosecution. The basic business of prosecution involves: "punishment and retribution, without apology," (the most frequent response); but also "assisting victims of

crime by using prosecution and all means possible to get rid of criminal activity,” “providing service to victims of violent crime,” “public service . . . to be leaders in the community . . . creating coalitions to solve problems so that you don’t have to prosecute so much,” “working with police, to make sure we can vigorously prosecute what they investigate,” and “improving the quality of life in the county—for people who don’t commit crimes—by all these means.” No one is willing to abandon the idea of punishment as necessary; yet many couple it with the recognition that punishment should be integrated with rehabilitation, at least in some cases, both because the community will be made safer, and because a growing scarceness of resources means “we have to look hard at other alternatives.”

Third, deputy prosecutors feel pressure, not only to be good trial attorneys, but to be “all things to all people”—to punish, obtain restitution and retribution, “win cases,” “make judges and courts happy,” “be a victim advocate.” Acutely aware that the mission of prosecution as Newman, and they, see it, is changing and becoming broader and more inclusive, they feel caught in the middle. They also feel this pressure emanating from the community: as the office does more community prosecution, citizens like it and the demand goes up—they want more community prosecution, without any decrease in traditional prosecutions.

Finally, in spite of the problems and obstacles they describe, deputy prosecutors and staff express the belief that individuals and individual efforts can make a big difference in what they achieve. Especially with police, prosecutors who develop a personal relationship with officers find that they work much better together: riding along on patrol, prosecuting cases important to officers, giving them feedback on why cases they had worked up were not filed or how to improve their work, praising officers when they worked up a great case, or cooperating with them in community prosecution efforts—all seem to bring better results. Staff recognize the efforts Prosecutor Newman himself has made in creating better working relationships with IPD—such as by presenting awards to officers nominated by prosecutors for outstanding work, at MCPO staff meetings.

#### Personnel

The prosecutor’s office employs 82 deputy prosecutors and 16 supervising attorneys at the executive staff level; 10 administrators; 26 paralegals; 8 investigators; and 41 support staff. The Child Support Division employs five deputy prosecutors; 3 supervisors; 39 paralegals; and 28 support staff.

The current pay scale is low enough that Prosecutor Newman and his executive are concerned about the limited pool of applicants available for recruiting new lawyers. They have discussed mounting a campaign to market the office in law schools in the area. The office also occasionally hires a prosecutor laterally. Criteria sought in new deputies are a good academic record; demonstrated interest in litigation; a desire to be a prosecutor; and a “pro-law enforcement” attitude.

New deputies are trained within the divisions: there is no overall orientation or training process. Deputies receive a performance review yearly, which consists of a written assessment (according to categories “very good,” “meets requirements,” or “needs improvement”) by the supervisor in eight general areas: sense of initiative, relationships with co-workers, dependability and consistency, quality of work with the public, management of time and priorities, overall contributions to the office, effectiveness of trial techniques and legal expertise, and maintenance of public image. Comments and specific suggestions for improvement are also requested. The deputy is also asked

to complete a brief written self-assessment by answering four open-ended questions ("self-assessment of job performance," "what do you like most and least about your job?" "suggestions for increasing your job effectiveness," and "goals, both career and professional performance.>").

The MCPO offers accredited continuing legal education classes on a monthly basis, some of which are open to prosecutors from other offices in the state. In the past year (1996), topics covered have included: Michie CD Rom and legal research; discovery, depositions and pre-trial issues; case law and 1996 legislative review; community prosecution, national trends and local solutions; psychological testing of defendants; search and seizure: search warrants and investigatory stops; ethical issues for prosecutors; the death penalty: cases and issues; proving prior felonies: habitausl and other issues; Indiana Rules of Evidence: 404(b), opinion, character and habit, hearsay.

#### Technological Capacity

During 1996, the prosecutor's office utilized the JUSTIS system for integrated information management (along with IPD and the Clerk of the Court), developed under Prosecutor Goldsmith for the City of Indianapolis and Marion County.<sup>20</sup> The system includes a single data base comprised of pretrial data (booking information, criminal history, demographic information), jail admission and release data entered by the Sheriff's Department, court data (case chronology and scheduling), screening and witness data (entered by prosecutors), and law enforcement data. JUSTIS supports the major processes that move arrested individuals from booking through case disposition, providing system-wide information. However, it does not offer case tracking by disposition, or geographical area, and the juvenile system is not integrated with it (nor is probation or the Sheriff's Department). It is inadequate today for use in case management, or applications for law enforcement strategies. An Integrated Law Enforcement Services Board is currently working toward replacing JUSTIS.

#### *Tactics and Activities*

##### Case Processing, Statistics, and Plea Guidelines

Scott Newman's plea policies have shaped all of case processing in the MCPO, and as noted above, have resulted in increases in the number of trials. The basic policy governing all felony and misdemeanor cases generally precludes pleading down from the lead charge. At the earliest stage of case processing, screening prosecutors have responded by tending to charge conservatively in questionable cases, except for domestic violence. In high profile cases where a charge will reflect the policy of the office as well as the charge, the Felony Screening director will communicate with the prosecutor, the chief trial deputy and chief counsel before making a final decision. As noted above, sex crime screening takes place in that unit and cases are handled through vertical prosecution.

Written plea policies applicable to specific offenses, habituals, cases involving death, and enhanced penalties have also been developed, and although deputy prosecutors are informed that they should use "sound discretion" in appropriate sentencing and plea decisions, for the most part permission must be obtained from a trial team supervisor or the Municipal or Felony Division chief where any departure from written policies or guidelines is considered.

<sup>20</sup> Stephen Goldsmith, "Sharing Information for Better Management," Draft Paper prepared for Executive Sessions on Prosecution, Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, Harvard University, October 30, 1989.

The following tables show numbers of cases filed and dispositions from Felony and Municipal Divisions:

***Case Filings, Dispositions***

CHARGE	1995 FILINGS	1995 DISPOSED	1996 FILINGS	1996 DISPOSED
<i>ABC Felonies</i>	3185	3509	3347	3116
<i>D Felonies</i>	7884	7272	8914	8234
<i>Misdemeanors</i>	25,564	30,056	28,360	36,711

***Jury Trials***

*(by Defendant: does not reflect number of charges)*

YEAR	NUMBER OF TRIALS	NUMBER OF CONVICTIONS
1989	267	162
1990	216	127
1991	291	160
1992	264	142
1993	287	157
1994	267	172
1995	382	248
1996	339	234

**The Legislative Agenda**

Each year in office as prosecutor, Newman has put together a substantial package of legislative initiatives, and has testified before the Indiana Legislature in support of these measures. During his first year, Newman and his chief counsel, Mark Massa, helped draft legislation that passed the General Assembly toughening juvenile sentencing guidelines, streamlining death penalty appeals and increasing penalties for drug dealers who used or possessed firearms in the course of narcotics trafficking. He also proposed legislation truth in sentencing legislation that did not pass, and was unsuccessful in proposing a constitutional amendment to provide for preventive detention without bond in cases where an offender poses severe danger to potential witnesses. However, in the 1996 short session Newman followed this up with a proposal to amend the bail statute, permitting a judge to take dangerousness into account: this passed the Legislature. Also in 1996, he was successful in seeking an end to the ban on victim impact evidence for use after trial (in sentencing) in death penalty cases, and stiffer penalties for hit and run drivers, but failed to get a hearing for his nuisance abatement package. His preliminary agenda for the 1997 long session included, among other initiatives, proposals to: allow judges to sentence consecutively for offenders convicted of causing multiple deaths as drunk drivers; make aggravated battery (a B felony) a non-suspendable crime, requiring an offender to serve the minimum executed sentence; give Juvenile Court judges authority to sanction violations of local curfew ordinances that may be tougher than

the curfew mandated by state statute; eliminate voluntary intoxication as a defense in all criminal cases; repeal a sentencing reduction statute giving judges power to grant early release for completion of vocational or substance abuse programs.

#### Grants/Special Programs

Under Newman's administration, the MCPO has strengthened and developed a number of special programs that reflect his own substantive priorities. Three examples of these lie in the area of domestic violence, violent crimes against women, and the Metro Gang Task Force.

**Domestic Violence:** The premise underlying the operations of the Domestic Violence Unit in the MCPO is that effective intervention at an early stage can prevent domestic violence from escalating to more serious actions. Approximately 4,000 cases were handled in 1996. Headed by supervisor Amy Leitch, who has worked in child support and domestic violence for a total of six years, the Unit aims at improving the lives of families, as well as assisting victims and punishing offenders. An extensive diversion program of counseling and other services is available to first time offenders whose offense did not result in severe injuries for the victim.

Misdemeanor and D felony domestic violence crimes are prosecuted through the Domestic Violence Unit; other felonies are assigned for prosecution to trial teams in the Felony Division. In every case the first concern is with the safety of the victim: no contact orders are requested initially on every case filed (these are handled in a separate court), although they may be lifted at a later time. Office policy dictates that charges are filed in all cases where the evidence presented satisfies the elements of a crime: "Victim requests' not to file charges are inappropriate considerations when making filing decisions." Although in some cases prosecutors may later allow victims to drop charges, no cases are dismissed until the defendant has had an initial hearing and been processed, and the victim has proceeded through several consultations (including viewing a videotape about domestic violence and attending a support group meeting for victims).

Although written guidelines and a domestic violence protocol guide Unit operations, individual deputy prosecutors, who work out proposed pleas, are given substantial discretion in developing pleas and sentences. A typical sentence for a first time batterer might involve anger control counseling, participation in the diversion program and perhaps alcohol treatment as well. Where diversion is agreed upon, the case is continued for seven months; upon satisfactory completion, subsequent dismissal of the charge with a "nolle 5 - defendant completed diversion" notation occurs. Failure to comply results in the case being sent to the appropriate deputy prosecutor for trial. The MCPO makes referrals for offenders to a number of service providers (for participation in batterers' groups, and counseling), and acts as a liaison between the court and the service provider to report the defendant's compliance to the court.

The Municipal Court Probation Department works with the Domestic Violence Unit, overseeing all cases in which domestic violence counseling is ordered as a condition of probation. There is also a procedure in place for an exchange of information between the Child Support Division of the MCPO and the Domestic Violence Unit, in order to locate defendants who are also delinquent in child support obligations. Finally, the Unit has negotiated arrangements for services for victims, including emergency housing through the Indianapolis Housing Authority and local office of the Federal Department of Housing and Urban Development, transportation through local public transportation companies, and the sharing of information and services with local shelters for battered women.

**Sex Crimes, the Family Advocacy Center, and the Centers of Hope:** In addition to domestic violence, Prosecutor Newman has made violent crime against women a high priority in his administration. He has taken a personal interest in the Family Advocacy Center, where the Sex Crimes Unit is located, at various times finding funds to pay the Center's rent from the MCPO, and acting as an advocate for the Center within the county.

Out in the community, Newman has been working with the St. Vincent and Wishard Memorial Hospitals, and going after several S.T.O.P. Violence Against Women discretionary grants, a Lilly Endowment grant, and Victims of Crime Assistance Funding for 1995 and 1996, to develop sexual assault response Centers of Hope at each hospital. Deputy prosecutor Lori Spillane has been responsible for overseeing this effort, but Newman himself has participated at every step of the way. The MCPO conducts statewide training sessions on the creation and operation of sexual assault treatment centers and teams (which Newman helps to present); has helped (with funding) to staff and equip the Centers of Hope; and has trained medical staff at these Centers regarding legal aspects of working with victims (such as how to preserve evidence, or document testimony).

**Metro Gang Task Force:** Funded by a grant from the Indiana Criminal Justice Institute that was originally obtained by the prosecutor of Johnson County, the Metro Gang Task Force makes up the Marion County arm of the Regional Gang Intervention Program, a collaborative effort (beginning in 1995) that draws together prosecutors and policing agencies (local as well as FBI) in central Indiana with the goal of suppressing, intervening in, and prevention of criminal gangs and gang activity. Prosecutor Newman has strongly supported the task force, sending the deputy prosecutor he assigned to it to various training programs around the country. The task force is headed by a captain from IPD; the deputy prosecutor assigned to it acts as legal advisor to its operations and is involved in the investigative phases of cases. Cross-designated an assistant U.S. Attorney, he then prosecutes cases generated by the task force in both the state felony courts and federal courts. Adding this vertical prosecution component to the intelligence operations of the task force provided an important next step in expanding the impact of the group on the local gang problem. The task force acts as a centralized clearing house for gang intelligence information to be shared by all counties adjacent to Johnson and Marion Counties; facilitates vertical prosecution of cases; brings together a coalition of policing, prosecution and community groups to address gang violence; and also operates a witness relocation plan.

#### Use of the Media

Newman has attempted over the course of his two years in office to cultivate an image of openness and directness with the media. He holds press conferences to announce developments in key cases (such as when the Grand Jury handed down indictments of several IPD officers involved in the Meridian Street incident), and uses these events to educate the public about issues (for example, how a Grand Jury works), as well as to inform citizens about an ongoing case. The prosecutor's office issues several press releases weekly on activities that Newman is engaged in, having to do with prosecution of cases, collaborative law enforcement efforts with the City and IPD, and other activities in the community, such as drug marches. Newman also writes occasional op-ed pieces for local (and national) newspapers.

Two staff persons are responsible for differing functions pertaining to the media and communication with the public. Chief counsel Mark Massa had primary responsibility early on in Newman's administration for dealing with the media, including day to day inquiries. Massa brought a journalism background and considerable experience as a press secretary to this work. However, in combination with his other responsibilities the day to day media contacts became so

time-consuming that by early 1996 a second person was found to handle them. Massa continues to consult with Newman regarding overall strategies for his dealing with the media.

Public relations director Beverly Phillips was hired in January 1996 (when the work of several people was consolidated into a single position) to handle day to day queries from the press regarding major programs, cases or issues involving the office—she has become the “link” within the office for many press inquiries—and to work with Newman on long-range strategies for facilitating interaction between the office and the community. Phillips has a background in marketing, media relations, and community development. Together, Phillips and Newman (in consultation with his senior advisors) have developed a number of “guiding messages” that they seek to communicate to the media concerning Newman and his leadership of the office: prosecutors are not just case processors, but have a broader role in criminal justice; specific crime issues must be addressed to restore the health of the community; family issues are a high priority for the MCPO; Newman listens to the public, is accountable to them, and will be responsive to their priorities; quality of life is important to prosecutors as well as serious crimes; the MCPO under Newman will met out punishment without apology, and Newman is prepared to take a stand and make tough decisions where they are needed. Outside the office, Phillips has organized drug marches in the community, has done profiles on topics such as nuisance abatement for local television stations, and has designed literature for distribution to the public.

#### Problem Solving and Collaborative Ventures

Prosecutor Newman has either initiated or agreed to participate in several problem-solving initiatives and processes since taking office. Most involve collaboration with IPD and City agencies; some have also required approaching the courts and gaining their commitment to a program, such as the Safe Parks Initiative. Many of these efforts have been in the area of juvenile justice. Two examples are provided here.

**Safe Parks Initiative:** In June 1996, Prosecutor Newman, along with Mayor Steve Goldsmith, announced the Safe Parks Partnership, a program to curb criminal activity, especially drug dealing, public indecency, vandalism, and prostitution (mostly misdemeanors), in City parks in order to make them a “safe haven for kids and families.” Newman led the planning for the project, which took place over the course of several months, and included the involvement of street level advocates and Municipal prosecutors from his office, Indianapolis Park Rangers, the Police Department, the Marion County Sheriff’s Department, Indianapolis Greenways, the Corporation Counsel, and the Public Defender’s Office. Once in operation, neighborhood groups and volunteers would also become involved. The law enforcement components of the initiative would be carried out through IPD and Ranger bike patrols, undercover operations in secluded park areas, and occasional curfew sweeps for late-night violence and gang activity. The Prosecutor’s Office devised special plea policies for dealing with offenders: no pre-trial diversion would be offered for offenses committed on park property, mandatory community work service for acts of vandalism, graffiti and criminal mischief would be performed in the parks, offenders convicted would be banned from all parks for one year, and enhanced penalties applied for drug dealers and drug offenses. Cases involving public intoxication were to be filed. Plans were also made for citizen volunteers to be trained, and then under the supervision of Park Rangers, to begin patrolling nature trails with two-way radios, looking for violators. It was hoped that additional efforts would be taken by neighbors of the parks to increase their presence, and eventually push out “negative elements.”

**Juvenile Justice:** Juvenile justice was a priority for Newman from the time he entered office: during this first year he developed a teen curfew policy (reintroducing the idea of enforcing the

curfew). Following up with IPD, "curfew" sweeps have been conducted in various locations, with juveniles tested for drugs and the results given to their parents. Churches offered to house the juveniles picked up in sweeps, to offer consultation and link them up with social services and activities in the neighborhood. During 1996, a new geographically based prosecution effort was attempted in the Juvenile Court: each of four deputies was to handle residential burglary cases (originally, cocaine and handgun charges were to be pursued as well) within a particular probation district (similar to but not identical with IPD districts), and was encouraged to meet with police, residents, and community members in that area, cooperating with street-level advocates insofar as possible. Cases from each area would then be handled by the appropriate deputy prosecutor, and heard within a single courtroom. Unfortunately, the operation of the geographically based prosecution effort right alongside other operations in the Juvenile Court that were not geographically based proved difficult from the perspective of court operations. Deputy prosecutors assigned to the program reported having difficulty in working out in neighborhoods and probation districts while attempting to carry out their regular duties at the court. By the end of 1996, the future of the program was uncertain.

#### THE STREET-LEVEL ADVOCACY PROGRAM

I learned quickly that seeing criminal activity on the street is much different than reading about it in a probable cause affidavit. "High drug trafficking area" does not mean that once in a while, some one is selling drugs on that corner, it means that the same people come to sell drugs on that corner at the same time every day. From observing first hand, I was able to help the officers better articulate some of their observations so that the facts rose to the level of "reasonable, articulable reason to stop" or probable cause to arrest. I try to impress upon the officers that it is easier to work together before the arrest or the paperwork, than it is to repair damage done. I also began making training tapes to be played at roll calls and also at detective meetings. The first tape explained Felony Screening . . . . This offers great opportunities for providing needed information and fostering a better relationship between law enforcement and our office. One last observation. The officers are much more likely to accept my decisions now that I have observed the problems and their responses first-hand. . . . In turn I try to communicate my new perspective to the deputy prosecutors downtown . . . .<sup>21</sup>

These are the observations of Jan Lesniak, the first community prosecutor in Indianapolis, describing the increased understanding that grew between the prosecutor's office and police in the early days of her work as a community prosecutor for the MCPO. They could easily be the words of any deputy prosecutor working as a street level advocate during 1996: each new advocate has achieved this same realization. It is one of the sources of enjoyment and satisfaction that street level advocates mention most often when discussing their work; a close second is seeing an impact from their efforts within the community—a drug house closed or a block cleared of drug dealing, burglaries reduced in an office park, arrests decreasing in a zero tolerance zone, a massage parlor shut down, a park reclaimed for the community, successfully prosecuting a neighborhood drug dealer to the relief of local residents.

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<sup>21</sup> Jan Lesniak, Memo to Scott Newman Re: Community Prosecutor Program, November 28, 1994.

The Street Level Advocacy Program has received national attention—and deservedly so: district attorneys and prosecutors from Boston, Kansas City, and other cities have visited Indianapolis to observe the program; the American Prosecutors Research Institute has followed its progress and held regional community prosecution workshops locally. Program supervisor and Deputy Prosecutor Melinda Haag has been invited to attend numerous gatherings in other states to describe the operation of the program and provide technical assistance to other jurisdictions. Responses from local citizens indicate a great deal of positive support for the program. At meetings of neighborhood associations and block groups, and numerous other community events observed in the course of data collection, residents came with questions and information about what was happening in their own neighborhoods; they were eager to cooperate with the advocates and IPD in addressing “their” crime problems; and they sought information about how far street level advocates and police could go in helping them. If anything, the demand seemed to be for ever greater involvement by prosecutors in this process. And, as we shall see below, IPD views the Street Level Advocacy Program as the “missing link” in community policing.

As with all organizational and programmatic innovations, the MCPO Street Level Advocacy Program has been attended by a certain amount of organizational strain and personal stress for those involved. These issues are presented as data, but are not analyzed, in this case. Instead, a systematic discussion is left for the cross site analysis, where organizational and management issues raised by innovations will be addressed more fully.

#### *Street Level Advocate Activities and Program Operation*

During most of 1996, four street level advocates, assisted by two paralegals (each having responsibility for two districts), operated out of the four IPD district offices. Two interns were added to the program later in the year. The advocates’ mandate was to work closely with police and citizens in each district: they were to address problems related to drugs, nuisance abatement, and domestic violence, by screening and filing all felony cases except drugs, homicides and sex crimes cases, selecting four to five cases to prosecute that are of particular importance to the local community (and following up on others with prosecutors in the Municipal and Felony Courts), and helping to devise and implement other strategies for reducing crime and improving public safety. The relationship and distribution of tasks between each advocate and paralegal vary: some work closely, collaborating on projects; others divided up tasks and worked largely independent of each other. Paralegals are largely responsible for collecting neighborhood impact statements and needed police reports, for working with the court watch program, and also share with advocates activities involving neighborhood associations.

Street level advocates are involved in a myriad of activities. Apart from the functions they perform with police in the district stations, in screening, and prosecuting selected cases, the essence of their work in the local community involves problem solving. They meet regularly with neighborhood associations and groups to discuss local crime problems, and by using the combined resources of IPD, the prosecutor’s office, the nuisance abatement investigator, and virtually any other agency they can approach, the advocates attempt to develop strategies and tactics for addressing these problems. For example, they share information with the Metro Gang Task Force regarding growing gang problems in the local neighborhoods; make referrals to the nuisance abatement investigator regarding problem locations; conduct domestic violence and elderly safety educational sessions in the community; investigate specific crime complaints (such as frequent shootings at a location, continuing drug activity, repeated crime at a local convenience store with spillover into the surrounding neighborhood); track crime patterns in particular areas (for example, advocates

attend "IMAP" meetings with police in each district to track crime distribution); track cases and report back to citizens regarding case progress and outcomes of significance to the neighborhood; monitor zero tolerance zone activity; and work with the Juvenile Division of the MCPO to plan curfew sweeps for juveniles. Working with judges and city prosecutors, street level advocates have participated in setting up procedures for issuing stay-away orders as conditions of probation for various offenses, to keep offenders from returning to the same neighborhoods they had been victimizing. Advocate Jan Lesniak has been working recently with judges and community representatives to explore the possibility of establishing a neighborhood court. This is only a small portion of the range of activities engaged in by street level advocates.

Nuisance abatement and narcotics evictions have developed as powerful tools that are used in conjunction with the Street Level Advocacy Program. Hired in January 1996 to expand nuisance abatement activities that had previously been carried out by deputy prosecutor Lori Spillane, investigator Monty Combs has worked closely with the street level advocates in the community. Combs first pursued nuisance abatement projects referred by the advocates, IPD or the Sheriff's Department, conducting investigations and obtaining assistance from local citizens. Where suits were initiated, the nuisance abatement deputy prosecutor would then handle the proceeding. (A nuisance abatement investigator from IPD and the City Prosecutor's Office also worked aggressively in this area: although the two tried repeatedly to work together, they were never able to develop a satisfactory arrangement.) Gradually, Combs turned to drug evictions as a much quicker and simpler remedy for stopping drug activity. After investigating drug-related activity in specified locations (along with IPD), he served official notice on landlords by mail and asked for their cooperation in addressing the problem on their properties. In most cases, Combs was able to use the authority of the prosecutor's office to secure agreement by the landlord: he would then work with IPD officers to prepare a case; and accompanied by Combs and IPD officers, the landlord would appear before the small-claims civil court in the city seeking eviction of tenants. In a successful case, the judge would issue a writ of restitution demanding vacation of the premises within 72 hours. The timing of the entire process meant that drug-related activity at a location could be stopped within two weeks, avoiding lawsuits that might go on for months without relief for citizens in the neighborhood. Where landlords refused to cooperate, Combs would work with a prosecutor to file a civil suit against the landlord, seeking forfeiture of the house—but this happened very infrequently. Combs's activities mushroomed during 1996: he worked all over the city, with all the street level advocates. Response from the community was enthusiastic, and ultimately benefited the street level advocacy program itself.

Yet turnover in the advocate and paralegal positions in the program was high during the year. The program was anchored by the two senior deputies who had been community prosecutors since the Modisett administration—Melinda Haag (supervisor of the program) and Jan Lesniak. Both are experienced prosecutors, who also work well with police and in the community. Virtually all other staff—both advocates and paralegals—were replaced during 1996. A third advocate, hired early in 1995, returned to her former position in the Domestic Violence Unit of the prosecutor's office early in 1996; she was replaced in April by a young deputy who had worked only a year in the Municipal Court Division. The fourth advocate worked in the program from April of 1995 to October 1996, when she left to become Assistant Corporation Counsel in the Litigation Division for the City, where her responsibilities would include bringing nuisance abatement suits. Her replacement was hired in November 1996. Both paralegals were also replaced during the first six months of 1996; two interns later came on board to assist the paralegals. During the fall an advocate and paralegal were hired to work with the Sheriff's Department, filling positions that had been created late in 1995 to bring the program up to a total of five street level advocates and three

paralegals. However, the advocate left after only two months, and as of March 1997 had not yet been replaced; the paralegal continues to work with the Sheriff's Department. Finally, at the end of 1996, the nuisance abatement investigator also left, primarily because of salary considerations. His replacement was on the job a month later.

Some of the high turnover in the program appeared to be caused by "burn-out:" advocates report that "prosecution by relationship" is time-consuming and demanding, with long hours in the community and with police, plus the additional requirement of trying cases. Advocates perceive no set strategies; instead, each advocate has to "do it on your own," while out in the public eye, having to make decisions and public statements on the spot. With "a lot of flux in IPD deputy chiefs, and in the districts," advocates say they have to "feel your way to the right level in IPD." (The high turnover in IPD district commanders is discussed below.) A difficult relationship with the police has to be worked out: initially, advocates feel tension is involved in screening and answering to police, who want their cases accepted and filed. Most advocates report working hard at this relationship: going on ride-alongs, and occasionally switching hours to cover evening roll calls and late shifts. And the incidents involving inappropriate and illegal behavior by drunken police officers during the year caught street level advocates in the middle: while working closely with police, their own loyalties tested as a Grand Jury investigation took place over several weeks and eventually resulted in indictments for several officers, morale low even among good officers—street level advocates described especially serious disruptions and tension in their relationships with IPD during the last few months of 1996.

A particular source of stress for many deputies moving into the program involves "not knowing how to measure whether I've been successful." Prosecutors generally are "goal oriented," but community prosecution is a "different process" with different goals. They ask how it is possible to measure improving the "quality of life" in a neighborhood. In addition, some participants in the program reported feeling unappreciated by other deputies in the MCPO, and uncertain as to whether Prosecutor Newman himself believed they were doing a good job and really stood behind their efforts, especially out in the community. (This did not appear to be the case for the nuisance abatement activities: street level advocates and the investigator all reported feeling strong support from the county prosecutor in this area.) Others worried that the program was not developing and expanding, that there was no comprehensive policy or "overarching plan of attack," that they seemed to be "putting out fires" incident by incident rather than moving ahead. Tension proved a serious enough concern that one advocate required hospitalization for stress-related illness, and led to her leaving the position. (In this particular instance, the situation of the street level advocate was exacerbated by the source of funding for her position—a Weed and Seed grant—that led community members in the west district to believe that they had an exceptional claim on how she would set priorities and carry out her activities. To counter these community pressures, Prosecutor Newman eventually transferred the program supervisor, Melinda Haag, to west district.)

Whatever the cause, high turnover has had an impact on program operations in the districts. A district might be (and some were) left for weeks or months without an advocate or paralegal where vacancies were not filled rapidly. When the west district lost its street level advocate early in the year and supervisor Melinda Haag was moved from the east district to west district, citizens and police in both districts were upset. Advocates and paralegals also describe an inevitable "down time" faced in the first few weeks on the job in a new neighborhood, until they are able to familiarize themselves with unknown settings and reach optimum levels of effectiveness in the community. Apart from turnover itself, street level advocates might be removed from a district for a week (or two or three) if they are pulled downtown by the prosecutor's office to try a case

unrelated to their work in the districts. To the observer it appears that assuring continuity and consistency in the provision of services to police and the community in the districts has proven difficult for the street level advocates and the program as a whole.

Prosecutor Newman directly oversees the Street Level Advocacy Program. Newman himself makes all decisions regarding appointments to the program, interviewing applicants where replacements are required with the assistance of (then) Felony Division chief Sheila Carlisle. The street level advocates' supervisor also provides some input into the process. Applicants for street level advocate positions have not been numerous. There are no incentives or "perks" offered to encourage participation. Perhaps because the program is relatively new, there is no clear record established in the office of how service in the Street Level Advocacy Program will contribute to career advancement prospects for deputies. Prosecutor Newman is intensely aware that advocates are representing the MCPO out in the community, and in their work with IPD. He tries to meet with them at least every six weeks (although all advocates, paralegals and interns meet weekly with the supervisor); in the interval he monitors their work, consulting with the program supervisor, following carefully the monthly written reports of advocates (see Appendix C) and paralegals, and responding by "toss" mail or some other means.

Within the prosecutor's office, responses to the program are mixed. Some deputies express admiration for and praise the work of advocates, especially where a prosecutor needed and got "help with IPD" from an advocate who could deliver based on her own good relationship with police. At the same time a skeptical, suspicious attitude toward the program is not uncommon: some deputies see street level advocates as doing "women's work" (in fact, only one paralegal, and the last advocate hired late in 1996, were male, although two males worked in the program under the Modisett administration) or "social work" (working out in the community instead of trying serious cases). Virtually all deputies who know anything about the program perceive the job as extremely demanding in terms of hours (nights and weekends) required. Many don't see why anyone should want to take on the role of street level advocate: "you are out of the courtroom and don't get to try a lot of good cases," and "where does it get you?" in terms of advancement? More frequent, perhaps, is a genuine lack of understanding concerning what street level advocates actually do—even though presentations have been given by advocates in the program at educational seminars in the office.

Regardless of these differing organizational considerations, whether one talks with street level advocates, police, or citizens, the message is the same: the Street Level Advocacy Program is important and powerful. It has contributed markedly to improving the working relationship between the MCPO and IPD; it has taken the prosecutor's office out "into the community," gaining support and greater understanding from citizens; and it has brought a sense of the community into the prosecutor's office—and through individual cases, even into the courtroom.

#### THE INDIANAPOLIS POLICE DEPARTMENT AND MCPO

In respects, the Indianapolis Police Department (IPD) has been a troubled organization. Since 1991, the IPD has had four chiefs of police and 28 different persons have filled the four deputy chief slots. Moreover, the police department's image has been tarnished by a two episodes of events in which drunken police officers have been involved in brawls with citizens. The first occurred in August of 1996 when drunken police officers confronted citizens after a sporting event. Four officers were indicted by a grand jury, however, police disciplinary action was held in

abeyance for weeks after the event. The most recent event was in March of 1997 when one of the officers involved in the original altercation was again drunk and allegedly assaulted a married couple, pursued them in a police car after they fled, and continued the assault after cornering them in a parking lot. This later event took place less than a matter of days after Reuben M. Greenberg, chief of the Charleston (SC) Police Department, who had been brought in to advise Mayor Stephen Goldsmith, strongly criticized police handling of the original brawl. According to the *Indianapolis Star News*, "Greenberg said the Indianapolis Police Department needs to change a culture that either accepts the behavior of officers in an incident as the August brawl or fails to act quickly to ostracize those involved. He noted that then-Chief Donald Christ was not able to act because of his involvement in the case."<sup>22</sup> (In the most current event, the officer was immediately arrested, jailed, and his bond for the original indictment revoked.)

Despite the administrative turmoil, however, in other respects there is evidence that the department was functioning quite well. Surveys conducted in 1993 and 1995 by the School of Public and Environmental Affairs at Indiana University in the city's four police districts suggest that the police department enjoys strong support from residents in districts. Although some differences exist among the districts, fairly substantial majorities express strong general support for police and substantial majorities of those who had specific interactions with police express satisfaction with the services they received.<sup>23</sup> Perhaps most noteworthy are the conclusions of the survey from the West District – generally considered to contain the city's most troubled and crime-ridden neighborhoods:

Residents of the Indianapolis Police Department's West District gave positive assessments of policing in their neighborhoods in the Baseline Survey. Large majorities said that they were satisfied with police services in their neighborhoods generally. Large majorities said they were satisfied with police services in specific circumstances in which they had called for police assistance. Police visibility was high also. Three out of five respondents said they felt very or somewhat safe walking in their neighborhood at night.<sup>24</sup>

Moreover, in the follow-up report, "Indianapolis Police Department South Police District Community Policing – Two Year Implementation Report" (the first survey was conducted in 1993, the second in 1995), staff of the School of Public and Environmental Affairs found that concern for problems of burglaries and gangs declined and reported positive trends in police visibility and residents satisfaction with police services.<sup>25</sup>

Secondly, the IPD distinguished itself by winning the Webber Seavey Award for Quality in Law Enforcement, given by the International Association of Police Chiefs for creative problem solving in police departments. In this project, carried out with the resources of the IPD, the Parkview Place Problem Solving Project targeted the efforts of police, housing management, the residents,

<sup>22</sup> Kevin O'Neal, "Expert criticizes IPD chief's handling of brawl," *Indianapolis Star News*, 5 March 1997.

<sup>23</sup> The four reports published by the school were: "The Indianapolis Community Policing Baseline Survey South District," "Indianapolis Police Department North Police District Community Policing Baseline Report," "Indianapolis Police Department West Police District Community Policing Baseline Report," and "Indianapolis Police Department East Police District Community Policing Baseline Report."

<sup>24</sup> "West Police District Community Policing Baseline Report," p. 18.

<sup>25</sup> P. 20.

and the broader community on problems identified through community surveys. Surveys and departmental data documented the success of the undertaking.

Finally, despite administrative turmoil, the IPD and Marion County Prosecutor's Office were able to maintain and solidify the Street Level Advocacy Program that placed active prosecutors in each of the four IPD districts, initiated under County Prosecutor Jeff Modisett, and maintained and expanded under the current Prosecutor, Scott Newman.

To give due credit to the IPD, however, it is important to emphasize that many of the organizational and administrative problems have their origins in the IPD's and Goldsmith's attempt to shift from a traditional "reform" police organization to a genuine community/problem-oriented police department. Like many other police departments, the organizational shifts in the IPD were accompanied by considerable stress. Moreover the plan was a radical one, to be implemented in a relatively short time. (Kelling advised the IPD during the early days of Goldsmith's administration.) The IPD's plan was to radically decentralize itself into four geographic districts and to provide virtually all police services on a decentralized basis. This was made difficult in part because of an unusual number of captains, many of whom neither had nor would develop any command position requiring such a rank. Moreover, early administrations suffered from a somewhat unclear definition of responsibility between the chief of police and the director of public safety.

Despite the recent incident of drunken aggressive behavior by an officer, it now appears that the new administration of Chief Mike Zunk has inherited a relatively sophisticated community policing competence in the districts, and has "settled the organization down." He has done this by taking fairly firm command of the IPD without trying to undo the overall gains towards organizational decentralization and community problem-oriented policing. The basic shift in philosophy appears to have penetrated the organization deeply and the IPD has a substantially different "feel" than it had five years ago when Kelling first visited it. Most importantly, the organizational tension – "where are we going and how will I be affected by getting there" – seems to have dissipated and a sense of "let's get on with the work," seems to permeate the organization

The basic issues discussed below are two: the impact of street level advocates on the IPD and, from the point of view of officers, deputy chiefs, and two of the four street level advocates, the impact of street level advocates on the MCPO. These views were obtained through the conduct of four focus groups, one in each of Indianapolis' four districts. Participants in the focus groups included detectives, community patrol officers, sergeants and mid-managers, and deputy chiefs. Street level advocates participated in two of the focus groups.

### *The Impact of Street Level Advocates on Police*

From the point of view of focus group participants, the street level advocates had four primary impacts on police. First, the functioning of street level advocates allowed fuller police response to citizen demands by giving police new tools. Second, they provided both formal and informal on the spot training for police. Third, the presence of local prosecutors increased the efficiency of police and the quality of their casework. Finally, street level advocates enhanced police satisfaction with their work.

### Facilitating Fuller Police Response to Citizen Demands

The officers interviewed acknowledged and saw as legitimate, new demands placed on police by citizens, especially in the areas of control of drug dealing and maintaining order. Officers believed that prosecutors strengthened their hand in dealing with citizens in three ways: first by accepting and filing minor cases that they would not have in the past; second, by providing new tools such as nuisance abatement activities and stay away orders; and, third, by being there when citizens discussed their problems. The experience in Parkview Homes, a Section 8 housing development, provides an example. As police view it, most of the problems in Parkview were the result of outsiders coming into the area to sell drugs: "Dope dealers don't peddle in front of their own homes." Moreover, most of the residents were either single mothers and their children or the elderly. Consequently, dealing with drug dealing had to focus not just on "drug busts" but on the use of criminal trespass ordinances and "stay away" orders as well. The presence of a street level advocate, on the streets with the officers, provided the prosecutor's office with the information it needed to make informed decisions about particular cases. In the view of police, street level experiences by advocates put them in contact with the "other victims" – the residents in neighborhoods who live in terror because of repeated low level offenses by a few trouble-makers. "In the past, if I went in with a trespass violation they would have laughed me out of the office and gone on to 'important' work. But now, the prosecutor understands how important trespass violations are to regaining control of the neighborhood."

Moreover, police recount examples of how, during their attempts to deal with the problems in Parkview, the presence of a prosecutor at police/community meetings led to deeper understandings on the part of citizens about what police could and could not do in their attempts to solve problems. Additionally, officers report that the feedback citizens receive about cases – either filtered through the police or directly from the prosecutor – is important to citizens. They want to know case outcomes and the street level advocate is available to provide information.

#### Training of Police

Street level advocates train police in three ways: through roll-call presentations and formal in-service training; through consultations about the legal matters that were raised in the individual cases that police brought to prosecutors for handling; and, through explanation of prosecutorial policy (as against mere legal bases of case handling).<sup>26</sup> One Indianapolis police officer noted "Having a street level prosecutor around is like having a personal legal trainer. Anytime I need information about legal parts of my work, I just go over and ask [name of street level prosecutor]." Another officer put the individual training in similar terms "If a pile of paper work goes in, nothing is learned, in a 'face to face' we can learn about how things should be done." Another officer said something similar: "When we went to anyone in the prosecutor's office we never learned about the prosecutor's strategy." In other words, the face to face feedback not only presented a response to case, it transmitted policy.

#### Increasing the Efficiency of Officers and Quality of Cases

Police have also found that the participation of a street level advocate increased their efficiency and improved the quality of cases. The mere presence of a local prosecutor reduced the time it took for detectives and police to handle cases. No longer did they have to go "downtown" – a prosecutor was in the next office. Detectives, especially, report that having an advocate immediately present "saves a ton of man-hours." "Especially on Mondays when we have all the weekend work, detectives would have to go downtown, look for a place to park, stand in line with a whole bunch

<sup>26</sup> Live training has also been conducted by the MCPO by remote, with interactive teleconferencing, at roll calls.

of other people – it would take hours before you even got to see a prosecutor, let alone do any work.” Moreover, as a result of ongoing discussions about cases, police came to understand more thoroughly and incorporate the legal standards required for case acceptance. “Now, because [name of prosecutor] is so close and accessible, detectives are more likely to call and ask questions before they do things. In the past they’d just do things and figure out whether they did the right thing later on. Now they call and ask ‘Where can we go from here? What are our legal grounds?’” Additionally, “[name of street level advocate] is very quick to tell you why your case isn’t going to go further, but she’s also very quick to tell you what you should have done. Now that’s one of the biggest criticisms I have of the prosecutor’s office. If a pile of paperwork goes in, it looks just like that to the prosecutor who has to go through it – a pile of paper. But if you’re sitting in front of the officer who made the arrest, it changes the whole relationship and allows you, for the first time to say, ‘We’re in this together’ – what I do impacts what you do – without all the finger pointing and name calling that normally go on. This is one of the most important parts of strengthening a criminal justice approach to public safety. When [name of prosecutor] tells me ‘This is what you have got to get to get this arrest,’ this is as good as it gets in the criminal justice system.”

Other examples of improvement in quality of work emphasized how officers could achieve their goals. One officer noted the problem of a neighborhood youth who was a chronic “minor offender,” however, was constantly harassing elderly in the neighborhood. “Now if an officer wants to get somebody like this off the street, she (the advocate) teaches him the right way rather than just harassing the trouble-maker.”

#### Raising Police Morale and Satisfaction

Finally, police morale and satisfaction was improved as a result of several factors. First, police got direct feedback about their cases and why they were or were not accepted. Those who took this seriously had the opportunity to improve their cases and have them accepted. (The old system was seen as a “crap shoot”: “case acceptance depends on the prosecutor you get that day and no explanations were given.”) Because of their understanding of why cases were rejected, police also would be in a stronger position to explain the reasons to citizens. Second, street level advocates provided case feedback to officers on all cases as they worked their way through prosecution, court, and sentencing, and were available to explain outcomes. This was done both informally, through routine contacts, and formally, through periodic reports that would summarize the status of all pending cases. Third, prosecutors were more sympathetic to officers who were the victims of threat and intimidation. This was important to officers. Officers’ views were that in the past all such cases were refused automatically and dismissively without regard for the serious potential in some of the threats. Although officers understood that this was a sensitive area, now, prosecutors would listen more carefully to individual circumstances and, at times under special circumstances, file on such cases.

#### *The Impact of Street Level Advocates on Prosecution (from the point of view of police)*

Police believed that street level advocates had three basic impacts on the offices of the prosecutor. First, they brought a *neighborhood* point of view to prosecutors. Second, street level advocates brought a *police* perspective to prosecutors. And, finally, neighborhood prosecution strengthened the cases that police referred to prosecutors.

Virtually all the police interviewed gave examples of new understandings in prosecution about the problems in neighborhoods and of more flexible prosecutorial responses to cases, especially minor offenses and aggregate minor offenses (either repeated minor offenses by one individual, or many

minor offenses by many individuals). They attributed this sensitivity to the fieldwork of prosecutors in the community and the channeling of the insights gained in the field back into the prosecutorial office. Now, street level advocates themselves would either process cases that were of neighborhood significance, or they would represent community interests to other “downtown” prosecutors who would make case decisions.

Second, police believe that, apart from community understandings of problems and their consequences, they too have understandings of the consequences of offenders’ behavior on community life and/or their jobs and lives. The availability of a street level advocate gives police the opportunity to bring unique and valuable points of view into prosecutorial policy-making. An example of this was a detective’s response to the prosecutorial policy that all cases had to be brought to the prosecutor by a detective: from his point of view, there was no reason why patrol officers should not bring particular cases to prosecutors, and the availability of a prosecutor in his district at least gave him an opportunity to put his concerns on the table with some hope that the prosecutor would channel both his concerns and rationale to prosecutorial policy-makers.

Finally, police believe that their increased sophistication regarding legal requirements for cases and prosecutorial policy made life easier for “downtown” prosecutors by improving the quality of the cases referred to them. In a sense, street level advocates provided continuous pre-case screening – both in individual cases and in general case handling – that raised the overall level of cases referred to prosecutors.

In sum, it was hard to find critics of street level advocates among police. To be sure, some officers grumbled about individual cases, but this was a minor theme in the overall discussions. Such grumbling was largely dismissed – even among those grumbling – as early experiences that occurred before working relationships had been established between police and street level advocates. The ongoing presence of street level advocates in districts was seen both by officers and advocates as establishing a sense of mutual accountability in which officers had to justify to a prosecutor why a case should go forward, and prosecutors had to justify to an officer why it should not. Both advocates and police believed that such encounters ended “game playing” and “posturing.” differences in priorities could be sorted out; the meaning of events explained; legal priorities detailed; and plans made for handling current cases in question, as well as future cases. Additionally, officers believe that the personal contacts among police and prosecutors allowed prosecutors to understand the difference between serious, hard-working officers who either make mistakes or who are doing the best they can, and non-caring officers who are “cutting corners” or just trying to get by with as little work as possible. Prosecutorial help provided to serious officers, either in the form of taking a case forward even though it isn’t as strong as it could have been or, if possible, by working with them to strengthen the case, became a form of *de facto* professional recognition that was not evident in the old system. Previously, as noted above, getting a case to go forward was a “crap shoot” more dependent on “who ya got” as a prosecutor and her/his mood that day, than either the strength of the case or the seriousness of the problem being addressed.

Finally, as one police manager put it, police see the advocates as the “missing link in community policing and problem solving.” They provide new sources of authority, identify informational needs, and are strong partners in community problem solving.

## PROSECUTION IN THE COMMUNITY

### *The Corporation Counsel*

Data were collected from the Indianapolis Corporation Counsel primarily in the areas of nuisance abatement and health and safety code enforcement. The Corporation Counsel has maintained a high level of interest in quality of life issues throughout the administration of Mayor Steve Goldsmith. During 1996 and 1997, prosecution staff headed by Fred Roetter conducted an active program of civil prosecutions, using nuisance abatement, licensing and zoning regulations, and code enforcement, to clean up or close down troublesome motels and hotels, liquor establishments, and adult clubs.<sup>27</sup> They also were able to close numerous drug houses, particularly with the assistance of an investigator who worked closely with IPD and fire department officers. Other city prosecutors prosecuted under municipal quality of life ordinances regulating panhandling (particularly following the opening of the City Center Mall in 1995) and sleeping in parks. One problem identified by several prosecutors in this area lay in reaching a balance between Goldsmith's "less government is best" approach which promoted increasing deregulation, and the need for regulations and ordinances that would promote quality of life conditions on city streets and in commercial areas.

During the study, staff in the Corporation Counsel office, as well as the MCPO, recognized the power available to them through the use of civil enforcement and civil remedies. But for the most part, there was little if any cooperation between the offices, or the investigators working out in the community to address particular problem properties. Late in the study, a street level advocate from the MCPO replaced Roetter when he returned to private law practice. This arrangement promised greater cooperation for the future.

### *The Impact of and Responses to Newman's Policies*

Newman's aggressive prosecution and plea policies have not gone without notice by, or effect on, other criminal justice agencies and the courts in Marion County. Some judges interviewed for this case study portrayed a situation of being overwhelmed with cases, and suggested that the prosecutor had not consulted with them about the problems they were facing; the county ran out of jury funds in 1996; and at least in part because of the increase in numbers of jury trials, the Public Defender's Office has been scrambling as well. As a result of the Public Defender petitioning the City-County Council for additional funds, in 1996, a management audit of the Marion County Public Defender Agency was conducted. The audit did not fault Newman's policies--recognizing that he was an elected official--but did note the absence of overall collaboration in criminal justice planning in the county.<sup>28</sup>

By fall of 1996, Newman was thinking of how this situation could be improved, of what steps he might take to overcome his image as combative and adversarial. He had worked productively with many criminal justice agencies in Indianapolis--for example, IPD, and the U.S. Attorney's Office. The time might be ripe now for him to move into a stewardship position with other criminal justice agencies. In this vein he wrote to presiding judges, officers of the City-County Council, the mayor,

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<sup>27</sup>Health and sanitary code violations are prosecuted through the Health and Hospital municipal corporation.

<sup>28</sup>The Director of Public Safety in Mayor's Office is supposed to coordinate criminal justice planning, but has not really carried out this function.

sheriff, chief probation officer and Public Defender's Office, to propose the creation of a criminal justice coordinating council, and to begin a dialog concerning how criminal justice processes might be more effectively planned, coordinated and implemented in the county.

#### POSTSCRIPT: 1997-98 UPDATE

In 1998, Prosecutor Scott Newman won his first re-election campaign. He did not campaign heavily based upon his record in community prosecution. The bigger issues that he emphasized were raising the stakes of punishment for repeat criminals, making the entire system work better for people (into which he wrapped the street level advocates' activities), and as prosecutor, standing for certain values and principles. As he describes it:

I'm still in the conservative wing of the movement in the sense that I think you have to start with your core competency...in terms of law enforcement strategy, and not raise expectations too early, and not jump in and say "okay, next week I want to start a community prosecution program and I want you to be in the schools and doing community mediation panels." You can't start there. You have to establish your credibility and start demonstrating results with what you know how to do best that is unique to prosecutors, even traditional prosecutors, and build from there. Yes, we've deepened what we do, but I don't think we could have done it successfully by putting together the community court discussion if we'd come to that first.... I don't think I could have just gone in on any given day and said, "I'm the new prosecutor, I'm starting community prosecution. Presiding judge, chief probation officer, people, come around the table, and I want to put a court out in the community." They wouldn't have understood where I was coming from. They understand that better because of the processes we've been through, and the way we've brought them along.

During 1997 and 1998, Newman continued in particular to emphasize strong drug and violent crime prosecution efforts. He attempted to encourage greater local neighborhood involvement through the Marion County Drug House Eviction and Nuisance Abatement Program (with both referrals and evictions increasing dramatically in 1997), and the production of a video, *CrackBack: One Neighborhood At A Time*.

Nevertheless, Newman made a definite effort as well this past year to strengthen the Street Level Advocacy Program and its relationship with the entire MCPO. Concerned about the program's sense of direction, he held a retreat for advocates at his home—a clear message not only to the advocates, but to other staff in the MCPO about how much he valued the program. Newman was convinced that it was time to "step back" and encourage all involved to look at what they were doing. He asked advocates to prepare concept papers that would present a "broader vision" for what they hoped to do in their districts. Together they engaged in a strategic thinking exercise to try and bring more focus to the program. As Newman sees it, "There is a kind of cycle in the lives of community prosecutors where they start out very focused on some limited law enforcement goals, then they learn more about the community, and start getting pulled in different directions, and every once in a while they need help in refocusing and knowing where to place their energies." Newman has also decided that the rest of the office should be more aware of what the advocates are doing: a quarterly newsletter detailing program activities has been created, for circulation throughout

the MCPO, to police, and in the community. Among the positive outcomes for the Street Level Advocacy Program this year is greater stability in personnel.

Newman's new focus in terms of where the activities of advocates should be headed represents a definite change in his own thinking about the relationship of his office to the community, and his own role as a facilitator of collaborative relationships. He explains:

I think the thing I've learned most in the last year is this notion of treating the community as an end in itself rather than as a means to an end. You see that philosophy played out in the concept papers...instead of "let's get a bunch of citizens to come to court and ask for a higher sentence," we want to impart an ownership experience to the community for their justice system, so we're doing the restorative justice thing, where we get the community involved with juveniles in sentencing, and the community court, which we will have up and running this year, kind of a "Midtown Community Court" idea.

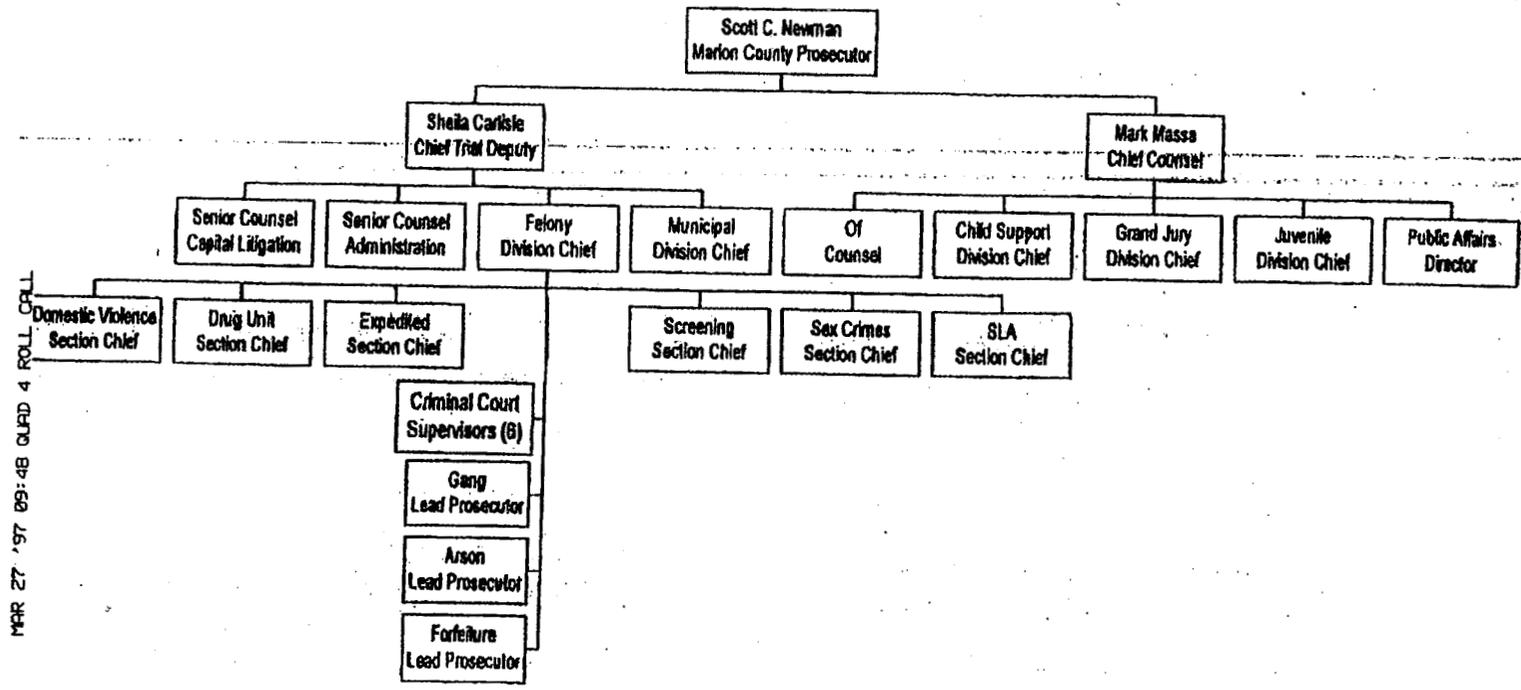
Newman has taken decisive steps, as a leader and facilitator, toward closer collaborations with private groups and other criminal justice agencies. Within the community, it was Newman who pulled together other agencies, including the courts, and local groups to submit a Community Justice Pilot Project Proposal. Having obtained funding, participants are now planning to open a community court in a Weed and Seed area in northwest Indianapolis. Newman talks of the possibility of a renovated storefront building that will provide an office for a probation officer as well as a deputy prosecutor. Another collaborative effort, the restorative justice project is a pre-adjudication diversion program, based upon an Australian model, for juvenile offenders (aged 12-14, for property offenses) that grew out of a partnership between the MCPO and the Hudson Institute in Indianapolis. Victim-offender conferences are held with parents, the offender, victim, and a facilitator (from the MCPO, IPD, or the Sheriff's Department). Contracts that involve restitution, as well as some curtailment of privileges, are offered to offenders. A new Drug Treatment Court Working Group also caused certain working relationships to develop, according to Prosecutor Newman: the group obtained a planning grant, and applied for an implementation grant. Finally, the new Criminal Justice Coordinating Council has begun meeting—the public defender, the presiding judge, the mayor, the sheriff, the chief of IPD, head of probation, and Prosecutor Newman.

**APPENDIX A:**

**MARION COUNTY PROSECUTOR'S OFFICE  
ORGANIZATIONAL STRUCTURE**



# MARION COUNTY PROSECUTOR'S OFFICE Supervisory Staff



MAR 27 '97 09:48 GUPD 4 ROLL CALL

**APPENDIX B:**

**MARION COUNTY PROSECUTOR'S OFFICE BUDGET, 1996**

**Marion County (IN.) Prosecutor's Office  
Budget History, Directions, and Priorities**

By Scott C. Newman, Marion County Prosecutor

With the exception of two increases of two percent (2%) to the amounts designated for salaries only, in the nature of small "cost-of-living" increases, the budget from County General (tax) revenues for the Prosecutor's Office has held steady for approximately six years. The total annual budget on the criminal side of the ledger is about \$4.5 million, while the Child Support Division is separately budgeted at a yearly figure of about \$2.5 million. A one-time investment of approximately \$400,000 for computer upgrades throughout the Office was made by the County Council during 1997.

Given the fact that the Criminal and Child Support Divisions together employ well over 200 people, and given increased population, increased child support collections, and generally increased rates of arrest and prosecution, the challenge has been to fund expansion and enhancements to the Office without appreciable increases in amounts budgeted from tax revenues. This challenge has meant an increasing reliance on a search for usable non-tax revenue sources, principally federal grants, fees imposed on offenders upon conviction (e.g., drug and alcohol countermeasures fees), and fees associated with pretrial diversion or deferred prosecution programs (e.g., Safe Driver deferral fees). Such non-tax revenues accounted for an infusion of about two million dollars into the Prosecutor's Office in 1996; it is not uncommon that the Office's total payroll begins to be met from deferral funds some time during October through the end of each calendar year.

The relative scarcity of resources, the widely understood near-impossibility of inducing the Council to increase basic budgets, and the need for creativity in developing alternative funding sources has meant that constant, careful thought must be given to the Prosecutor's priorities for seeking and spending whatever additional funds can be attracted.

In our view, the first priority has been to ensure salaries for legal staff sufficient to keep a prosecutive career competitive — or at least palatable — when viewed in relation with the private sector or other public sector opportunities. This need has become particularly poignant as the Prosecutor's Office has lost key staff to private practice, to the State Attorney General's Office, and to the city's Office of Corporation Counsel. A two percent cost-of-living increase as proffered by the Council does not even begin to meet this need, so a career-path structure with commensurate salaries has been built largely on deferral revenues. The provision of appropriate tools to increase the non-monetary rewards of the job, such as computerized desktop legal research, have also been a priority for these same reasons.

With those basic administrative needs met, our next priority is to invest funds in those positions that will allow the criminal justice system to work better for the average citizen, and to be more responsive to the city's neighborhoods. Hence our substantial new investment in the Street-Level Advocacy and Nuisance Abatement programs, and our present seeking of funds for coordinator positions to operate a supervised waiting room/playroom for children of victims and witnesses, and for coordinators in the Victim Advocates Unit whose task will be to harness volunteers to enhanced levels of service for crime victims. It must also be said that maintaining sufficient numbers of deputy prosecutors, particularly in areas where caseloads are burgeoning (such as in the lower-level felony area) is an essential ingredient both to adequate individualized attention to crime victims, and to bolstering the psychic rewards of choosing a prosecutive career.

The federal Law Enforcement Block Grant is being used, beginning in April 1997, to expand the Street-Level Advocacy program into the Sheriff's jurisdiction, to expand our vertical-prosecution capacity in gang cases, and to enhance the quality and coordination of street-level narcotics arrests and prosecutions. The federal Violence Against Women Act funds have been instrumental in allowing us to establish "Centers of Hope," sexual assault response teams and centers at three hospitals in the county, thereby substantially improving in the course of a single year the competency and humaneness of the medico-legal response to sexual assault.

**Prosecutor Budget Comparisons for 3 years :**

	<b>1995</b>	<b>1996</b>	<b>1997</b>
<b>Child Support Division</b>	<b>2,152,919</b>	<b>2,581,000</b>	<b>2,581,000</b>
<b>Prosecutor</b>			
<b>County General</b>	<b>4,417,908</b>	<b>4,400,610</b>	<b>3,362,851</b>
<b>Diversion</b>	<b>754,868</b>	<b>885,000</b>	<b>885,000</b>
<b>Deferral</b>	<b>552,757</b>	<b>300,358</b>	<b>503,500</b>
<b>*Grants</b>	<b>812,818</b>	<b>994,624</b>	<b>1,144,824</b>

\*Grant Funding is approximated for 1997 as all revenue is not determined.

**APPENDIX C:**  
**STREET-LEVEL ADVOCATE MONTHLY REPORT FORM**

**Marion County Street-Level Prosecutor Monthly Report**

Deputy Prosecutor:

District:

MONTH:

**Crime Control Initiatives****Selected Objectives/Goals:****Strategic Planning:** (Coordinated strategy of crime prevention, education, and law enforcement activities within your community designed to achieve selected objectives):**Community Initiatives****Selected Objectives/Goals:****Strategic Planning:** (Coordinated strategy of crime prevention, education, and law enforcement activities within your community designed to achieve selected objectives):**Long-Term Strategy and Future Priorities:****List your 3 most important achievements in the area of crime control:**

1.

2.

3.

**List your 3 most important achievements in the area of community initiatives:**

1.

2.

3.

**Please describe your district's greatest crime problem:** (may be crime type or a particular location)

\*\*\*\*\*

**Crime Data:**

**No. of Cases Screened:** \_\_\_\_\_

**No. of Cases Filed:** \_\_\_\_\_

**TYPES OF CASES:**

**-Drugs:** \_\_\_\_\_

**-Weapons:** \_\_\_\_\_

**-Property:** \_\_\_\_\_

**-Offenses Against Persons:**

**Community Data**

Events Planned and Occurring:

Meetings Attended:

Activities Attended:

Law Enforcement Contacts (e.g. search warrants, drive-alongs, state law and crim. proc. questions):

Community Contacts (tx, walk-ins)

**APPENDIX D:**

**STREET WISE**

**MARION COUNTY PROSECUTOR'S OFFICE  
STREET LEVEL ADVOCACY PROGRAM  
NEWSLETTER, VOL. 1, MARCH 1998**



# STREET WISE



VOLUME 1

MARCH 1993

## A Publication of the Marion County Prosecutor's Office Street Level Advocacy Program



As the amount of drug activity in the county increased, and as violent crime associated with the drug activity became more visible, the Marion County Prosecutor's Office (MCPPO) in August of 1993, laid the groundwork for a "community prosecution" program, later renamed the "Street

Level Advocacy Program (SLA)."

MCPPO's jurisdiction encompasses the entire county. The county has numerous police agencies within it, the two largest of which are the Indianapolis Police Department (IPD) and the Marion County Sheriff's Department (MCSO). The jurisdiction of IPD covers the broadest area of the county and includes diverse racial and socioeconomic neighborhoods; the Sheriff's Department covers an area which rings around IPD's jurisdiction and is more suburban in nature. IPD divides its patrol service area into five large districts (North, South, East, West, and Downtown); the Sheriff's Department is divided into two large service districts (East and West).

The Prosecutor of Marion County, Scott C. Newman, since taking office in January of 1993, has expanded the concept of community prosecution so that at the present time, there are four full-time deputy prosecutors assigned to IPD jurisdiction (Melinda Hong-West District, Kurt Eisgruber-South District, Michelle Presswood-East District, and Heizer Warster-North District). Those four prosecutors are assisted by two paralegals who are assigned full-time responsibilities in two IPD districts each (Diann Lair-East & South Districts, Brian Long-North & West Districts). In the Sheriff's Department jurisdiction there is one full-time deputy prosecutor (Libby Milliken) and one full-time paralegal (Fischer Rich). There is also a full-time nuisance abatement

coordinator (Mark McClesse), who works directly with all the other members of the SLA program and services all of Marion County.

The community prosecution model emphasizes a proactive approach to crime prevention and community intervention, as well as creation of close relationships with other governmental agencies, law enforcement, and neighborhood organizations. The key to the program is information-sharing, communication, problem-solving and increasing access to and availability of prosecution programs in the neighborhoods. Major program emphasis is placed upon targeting high-risk neighborhoods and criminals in those areas, and working with law enforcement and affected neighborhoods to create innovative strategies involving thorough investigation, aggressive prosecution (including "vertical" prosecution), and crime prevention. In short, the main goal is to improve the quality of life for the citizens of Marion County.

IMPORTANT PHONE NUMBERS	
IPD NORTH DISTRICT SLA	
Heizer Warster	327-5138
IPD EAST DISTRICT SLA	
Michelle Presswood	327-6221
IPD SOUTH DISTRICT SLA	
Kurt Eisgruber	327-6392
IPD WEST DISTRICT NEWS	
Melinda Hong	327-6427
SHERIFF'S DEPARTMENT JURISDICTION	
Libby Milliken	331-1223
PROSECUTOR'S DRUG HOUSE EVICTION / NUISANCE APPEALMENT PROGRAM	
Mark McClesse	327-6288
PARALEGAL (North / West Districts)	
Brian Long	327-6133
PARALEGAL (East / South Districts)	
Diann Lair	327-6284
	327-6284

### IPD NORTH DISTRICT NEWS



The North District SLA, Jan Leoniak, has been working to creatively abate the

nuisances created by a few North District proprietors. As an example, she has teamed up with Community Policing Officer Mark Wells to reduce the large police run load to Weyerbacher Terrace Apartments. After meetings with management and security officers, the parties formulated a joint plan which includes strict enforcement of visitation and weapons restrictions by management, walk-through patrols by IPD, cooperative enforcement of the trespass law, and request for court-ordered stay-away orders. The plan began March 2. Hopefully, these strategies will create a safer environment for the law abiding residents while reducing IPD's run load.

She has also been working with city corporation council as well as IPD to resolve problems at a resident owned property by encouraging the owner to establish a trespass list and having officers serve trespass notices on behalf of the owner. Officers will be provided a binder including all the trespasser information including their photographs. By enforcing the owner's trespass list, they hope to determine whether the problems are in fact caused by trespassers or by people allowed on the property by the owner. The effectiveness of this strategy will be evaluated in a couple months. Both of these properties fall within IPD North District's Weed and Seed area.

After over 4 years on the job at North District, Jan Lesniak is "retiring" as North District Street Level Advocate to resume her former position as a Felony Screener. She can be reached at 327-3312. An enthusiastic Helen Worster took her place effective March 2. As a Deputy Prosecutor, Helen has tried cases in Municipal, D Felony, Expedited, and Drug Courts. Prior to becoming a Deputy Prosecutor, she has worked as a reporter, court bailiff and paralegal. With such varied experience, we are sure Helen will be an asset to the SLA team. You will find Helen at North District Railroad, 4209 North College Avenue, 327-6156.

## IPD EAST DISTRICT NEWS



**M**ichelle Presswood is completing her second year as the Street-level prosecutor in East District.

The large size of this service district (27.5 square miles with a population of 123,000 residents) means this is a very busy job. Most of her mornings on the District are spent screening the felony arrests from the prior day.

Michelle spends the rest of the day working on a variety of projects, attending various community meetings and, in her rare spare time, screening police warrants.

One of the many projects that Michelle (and Diane Lutz) are working on at this time include identifying hot spots and "top offenders" for drugs and domestic violence. She is compiling the information from uniform officers and is in the process of pulling up case reports, police run histories, criminal histories, etc., on these problem addresses and people. They will be analyzing this information and doing nuisance abatement referrals, neighborhood impact statements, stay away order requests and using other appropriate tools to help correct these problems!

Michelle also has a couple of domestic violence projects that she will be working on this spring. The SLA personnel have been brainstorming to come up with creative ways to positively impact domestic violence victims. The East District target area for this effort is the Meadows.

The Weed and Seed area for East district is just getting started and she is looking forward to working with IPD, the community, federal law enforcement and other agencies on this strategy. Michelle recently returned from a Weed and Seed Law

Enforcement conference in Charleston, South Carolina, where she picked up some great ideas!

As East District Street-level prosecutor, Michelle is involved in the city-wide Safe Neighborhood Task Force; the Meadows Area Task Force; the Weed and Seed Steering committee; the NESCO community policing committee; the Old National Board Business Association and the 2-Fountains/Sutton Place apartments' managers round-table. She has also had the privilege of being invited to be a guest speaker at various schools and other organizations on East District. This is a great way to educate and inform the public about the prosecutor's office and its programs.

## IPD SOUTH DISTRICT NEWS



**K**urt Eisgruber and Diane Lutz work at the

street-level Advocates on the South District at the railroad site, 1150 South Shelby Street. South District is the second largest district of the five (5) districts covering approximately twenty-seven (27) square miles. It is also the second largest in population totaling approximately 82,000 people.

The South District had thirteen homicides (13) in 1997 which ranked it fourth of the five districts. The primary criminal activity on the South District involves property crimes such as burglary, theft and auto theft. Some of these crimes are committed as a way of making a livelihood, but an ever increasing number seem to be committed to supply a drug or alcohol habit. Drugs can be bought by swapping stolen goods or fencing them for cash. Drug activity does not usually take place on the street corners or in public as is common on other districts. It is

**SLA QUARTERLY****MARCH 1998**

usually more discrete and harder to detect.

**SLA PROGRAM**

There are three major components of the Street Level Advocate program. The police component involves screening cases, answering legal questions presented by both detectives and street officers, and identifying properties suitable for the nuisance abatement program. The community component entails working with interested groups in curtailing criminal activity in various neighborhoods. This includes tracking cases of community interest, sending groups police reports and other information which may benefit them.

The third component involves implementing initiatives to impact crime on each district. In the South District, this entails three (3) initiatives. One involves reducing drug activity in the Barrington area and in and around Brokenburr Trails Public Housing Complex, commonly referred to as "Brick City." Community support and aggressive police work have identified much of the criminal element in the area. This often involves encouraging citizens who are skeptical of the system to participate. Many of the criminals are currently awaiting trials on various charges and their convictions will send a positive message to these communities.

A second initiative involves identifying and tracking juveniles in Zone 40 which is one of the most active zones on the South District. The intent is to have an impact on juvenile crime in a particular geographic area by identifying twenty (20) or more juveniles who are active within the system and are expected to cause more problems in the future. Once identified, the delinquents will be tracked and the juvenile prosecutors will be briefed on the impact which those delinquents are having in a particular neighborhood.

A third initiative involves preparing better quality domestic violence cases for prosecution. The training which officers receive concerning domestic disturbances and arrests can be improved. The intent is to develop a standard operating procedure which can be disseminated to the street officers so that cases presented for prosecution are more complete.

Please call Kurt Eisgruber or Diane Lair if you have any questions or suggestions.

**IPD WEST DISTRICT NEWS**

Welcome to the Wild, Wild West, land of Weed & Seed (not a lawn and garden program), and some of the most active neighborhood groups in the City. West District's SLA, Melinda Haag, tries diligently to keep up with all of the crime strategies and prevention programs which IPD and the community are working on. In addition to the Weed & Seed initiative (weeding out criminal elements and seeding the community by social service, economic development, and property rehabilitation) in the WESCO and UNWA neighborhoods, Melinda is working on strategies to address drug and gun problems, as well as domestic violence and prostitution. That means each month reviewing a list of all police reports in the WESCO and UNWA neighborhoods, evaluating key locations and individuals who are responsible for that activity, and then creating ways to disrupt and decrease that activity. None of the strategy is successful without the assistance of MCPO's trial deputies who are bombarded with e-mails about cases and defendants and locations.

With very busy officers doing lots of good proactive policing, there

are lots of questions to answer, cases to screen, and strategies to discuss. Some recent initiatives have reduced burglaries and drug houses. Some future initiatives will address problems with individuals purchasing and possession handguns in violation of Indiana Law.

In attempting to reduce the prostitution on West Washington Street which will reappear when the weather warms up, Melinda is working on some strategies for publicizing and shaming those convicted of patronizing prostitutes, as well as strategies for deterring behavior by education about health risks.

But the Wild, Wild West is not as wild as it used to be. The recent infusion of millions of Federal dollars into the WESCO neighborhood has resulted in the safest public housing community in Indianapolis — Concord Village, a place many of you know by former reputation. For those of you who are doubters, come out to Melinda's office at 551 North King Street sometime and she'll take you out on a tour. The homes are beautiful and the area is safe. But those out West are not resting on any past laurels; there's lots more to be done, and interested folks are welcome to join the mule train.



4SLA QUARTERLY

MARCH 1998

## SHERIFF'S DEPARTMENT JURISDICTION

Since May of 1997, Libby Milliken and Rachel Rich have been working to apply the approach of



community-based prosecution to the areas patrolled by the Marion County Sheriff's Department (MCSDF). They are currently targeting certain apartment complexes located on the northwest side of Indianapolis, two of these being Sunrise Apartments and Abbington Apartments. These two complexes are located in the area around 47<sup>th</sup> Street and Georgetown Road, a "hotspot" for criminal activity. By coordinating the efforts of our office, the Marion County Sheriff's Department, apartment management, and resident groups, they hope to drive out lawless residents and create a community atmosphere that is intolerant of criminal activity. The management of both complexes have been extremely cooperative and receptive to innovative strategies to reduce crime in their complexes and increase the safety of their residents. If the tactics employed at Sunrise and Abbington prove to be effective, they hope to soon apply similar strategies to other "hotspot" complexes in Marion County.

In addition to their work with apartment management and resident groups, Libby and Rachel are working to design databases to store information regarding drug activity and domestic violence, to develop strategies to improve law enforcement response in domestic violence situations, and to increase community knowledge of and involvement in the processes of the criminal justice system. The community-based law enforcement approach is relatively new to MCSDF's area. Consequently, Libby and Rachel are having to continuously adapt the program,

which was established for the IPD jurisdiction, to fit the particular needs of their more suburban communities. Any helpful suggestions will be appreciated.

## PROSECUTOR'S DRUG HOUSE EVICTION / NUISANCE ABATEMENT PROGRAM

Mark McClosse works as the Nuisance Abatement Coordinator for MCPD. Recently, he has had the opportunity to speak to different groups and organizations about the Nuisance Abatement Program.



Whether the audience is citizens who are concerned about criminal activity in their neighborhoods or property owners themselves, Mark has been very consistent with the message he conveys. That message is that it takes everyone (police, landlords, prosecutor's office, and neighborhood groups) to effectively take back our streets and send a clear message to those who want to use property for the sole activity of perpetrating criminal activity. Several months ago, while speaking to the Rivoli Park neighborhood, Mark used the analogy of a tripod to explain how together we can make a difference.

One leg of the tripod is community members and neighborhood organizations. They provide support, vital information, and the desire to clean up their communities. To continue this analogy, the other leg is property owners and managers. Without evicting tenants engaging in criminal activity and then taking steps to ensure future tenants won't

do the same, the efforts of the community and law enforcement will be for naught. There are no guarantees that potential tenants will not be a detriment to the neighborhood. However, there are some steps owners can take, such as thorough applicant screening that can eliminate potential trouble before it begins. This proactive approach is the only way that we can effectively deal with the growing problem of criminal activity. That is the ultimate goal of the Drug House Eviction Program.

The Drug House Eviction Program has had a positive influence on communities throughout Marion County. To explain how it works, nuisance property is identified and documented. If you suspect narcotics activity, call the drug hotline at 327-2673 (327-slope). Documentation is essential to ensure that if the case goes to court the eviction can be secured.

Documentation usually comes in the form of police reports. That is why Mark delegates the third leg of the tripod analogy to law enforcement. Once this documentation is secured, Mark determines who owns or manages the property and then works with the owner to abate the activity, usually by securing an eviction. In 1997, 233 evictions were completed by the Drug House Eviction Program. Though this is a quantifiable way to measure our success, the real way may not be tangible. The way we determine if our program is a success is by the improvement we make in neighborhoods. The appreciative letters and phone calls we get from communities who have suffered too long because of criminal activity is the real measure of success. By working with communities, property owners, and police, the Drug House Eviction Program will continue to make neighborhoods safer for everyone. LJ

**PROSECUTION IN THE COMMUNITY:  
A STUDY OF EMERGENT STRATEGIES**

**APPENDIX D:**

**JACKSON COUNTY (KANSAS CITY), MISSOURI  
CASE STUDY**

Catherine Coles  
With George Kelling on Police

Program in Criminal Justice Policy and Management  
of the Malcolm Wiener Center for Social Policy  
John F. Kennedy School of Government  
Harvard University

Prepared May 1997  
(with 1997-98 Update)

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## INTRODUCTION

Claire McCaskill was elected Jackson County Prosecuting Attorney in 1992, inheriting a broad-based program for addressing crime and other problems related to the sale and use of drugs that had been created by her predecessor, Albert Riederer. As a new county prosecutor, McCaskill entered office with both assets and liabilities. The Anti-Drug Sales Tax, a county-wide initiative passed by the voters in 1989, raised fourteen million dollars a year: much of this would be under her control as county prosecutor. McCaskill herself had a broad base of political support, and brought legislative experience at both the state and county level, detailed knowledge of the revenues and programs associated with the drug tax, considerable acumen in dealing with the media and the public, a willingness to compromise and work at establishing strong relationships with other criminal justice agencies and elected officials, and a well-thought out agenda for what she would attempt as prosecutor. Moreover, she was also assuming leadership of a prosecutor's office that had been headed by a well-known and thoughtful visionary, who had succeeded in professionalizing and raising standards in the office. On the other hand, McCaskill had spent only a few years in the office a decade earlier as an assistant prosecutor; upon election she encountered wary staff, many of whom were loyal supporters of Riederer, and a strained if not hostile relationship between the prosecutor's office and KCPD. The Anti-Drug Sales Tax program itself was barely underway, and would require a major effort to reach its potential and satisfy voters when it came up for assessment in 1993, and renewal a few years later.

Today, few would contest the conclusion that McCaskill has exploited these assets and overcome the liabilities. In the process, she has reorganized and built new capacities into the prosecutor's office, increasing the range and value of services it provides to the community. She has tried to make the prosecutor's office more responsive to the community, and reached out to work with rather than against the police. McCaskill is perhaps best known outside of Missouri for the COMBAT (Community-Backed Anti-Drug Tax) program that she renamed and further developed, expanding the scope of its activities both inside the prosecutor's office and out in the community. Along the way, she achieved a nationwide reputation for operating a "mini-LEAA office," a center for innovative and creative efforts to prevent, treat, and reduce drug use and drug-related crime.<sup>1</sup> The COMBAT program is unique in the breadth of its approach and in the degree of authority and power accorded the county prosecutor to lead and coordinate all anti-drug efforts in the community, involving numerous other criminal justice and social service agencies and institutions as well as private citizens. But McCaskill has also developed new measures in the office and community to address domestic violence, sexual abuse, driving under the influence, and to target repeat violent offenders. Locally, she is recognized as an adroit politician, astute manager, and above all "The woman is tough. Not just campaign-rhetoric tough, but take-'em-to-the-wall tough."<sup>2</sup>

To comprehend McCaskill's strategy for achieving these results we need first to gain some familiarity with the context within which she has operated—Kansas City, and Jackson County, Missouri—and the administration of her predecessor, Albert Riederer.

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<sup>1</sup> COMBAT is currently the subject of a formal evaluation sponsored by the National Institute of Justice and the Ewing Marion Kauffman Foundation, and being conducted by Abt Associates and local partners in Kansas City. As of mid-1998, the evaluation had not yet been released.

<sup>2</sup> Dan Margolies, "Hard Line; Prosecutor McCaskill cuts no slack," *Kansas City Business Journal*, April 22-28, 1994, p.3.

## BACKGROUND

### *Jackson County and Kansas City*

Located at the confluence of the Kansas and Missouri Rivers, Kansas City, Missouri, originated as a boat dock and provisioning center for those traveling further west during the first half of the 19<sup>th</sup> century. Named after the Kanza Indians who lived in the vicinity, the city was incorporated in March 1853. Today the twin cities of Kansas City, Missouri, and Kansas City, Kansas, are part of a large metropolitan area with a population of over 1,500,000 people, and a leading grain and livestock market, commercial and industrial center (in food processing; production of machinery and equipment, chemicals, glass; printing and publishing; automobile assembling; petroleum refining; iron and steel manufacturing), and a major national transportation (especially railway) and distribution hub.

Kansas City is the largest city in Missouri, and covers parts of four counties—Jackson, Clay, Platt, and Cass. Jackson County covers a 605 square mile area in western Missouri along the Kansas border. By 1990, its population at 635,000 residents, approximately two-thirds of whom (435,000; down from 507,000 in 1970) lived in Kansas City; another third lived in sixteen other municipalities and rural areas, primarily in Eastern Jackson County, such as Independence (the county seat, with a population of 112,000), Lee's Summit (46,000), Blue Springs (40,000), and Grandview (40,000). In the county as a whole approximately 76% of residents were white, while 21% were African American; in Kansas City, about two-thirds of the population were white; and approximately one-third were African American (29.4%), Hispanic (3.9%), Asian (1.1%), or Native American (0.5%). Nearly one quarter of Kansas City residents were below eighteen years of age, and almost 12% of families lived below the poverty level.<sup>3</sup>

Historical events in Kansas City and Jackson County, Missouri, earlier in this century—particularly the Pendergast corruption and tax evasion scandals that upset machine politics in the late 1930s—continue to affect local government and politics today.<sup>4</sup> Subsequent reforms would remove local control over the Kansas City Police Department, replacing it with direction from the state level, and would restructure local and county government to prevent the consolidation of political power in the hands of a single individual or body. In Kansas City itself, as the influence of wards and precincts in the city was reduced, economic and commercial growth moved out of the central city, to “neighborhoods” such as the country club plaza area developed by J. C. Nichols. Neighborhood associations then formed to protect the “quality of life” in local communities, eventually replacing ward and precinct organizations: they remain active today. These different forces together have provided a decentralizing influence on the city and county that many believe is not all to the good: until recently, they have posed considerable obstacles to preclude any single public official from garnering sufficient power and authority to address issues such as public safety or crime-related problems that require broad-based solutions. At the same time, within the county there has always been a tension between Kansas City (or western Jackson County) and eastern Jackson County, the latter with its smaller towns and municipalities, more rural areas, and often different lifestyles and public safety problems. At times sentiment in the east has been strong enough to raise the specter of secession and the formation of a new “Truman County.” Even the

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<sup>3</sup> 1970-1988, Statistical Abstract, 1990, Bureau of the Census.

<sup>4</sup> See David McCullough, *Truman* (New York: Simon & Schuster, A Touchstone Book, 1992), ch. 6.

nature of crime, and crime rates, are specific to different locations within the county, posing a challenge to the county prosecutor's efforts.

Within Jackson County, the governing body today is the county legislature, comprised of six representatives elected by district, and three at large.<sup>5</sup> At present, seven Democrats and two Republicans sit in the legislature, not an atypical ratio: Republicans generally are elected from the eastern part of the county, representing smaller towns and rural areas, while Democrats usually represent Kansas City. With recent demographic trends showing a loss of population in Kansas City, Republican candidates are picking up a larger share of votes, and trends indicate their influence increasing. The county executive, currently Democrat Katheryn Shields, is elected by popular vote.

Kansas City has an elected mayor, with a council manager form of government. The current mayor, Democrat Emanuel Cleaver, was first elected in 1991, and re-elected in 1995.<sup>6</sup> Originally from Texas, Cleaver came to Kansas City as the director of the local chapter of the Southern Christian Leadership Conference, and won a seat on the city council in 1979. A Methodist minister with strong ties to the African-American community in the city, he is also a close political associate of McCaskill, sharing many of her priorities in prosecution, most notably domestic violence. As mayor, Cleaver sits on the Board of Police Commissioners (along with four appointees of the Missouri governor) which, by Missouri statute, is responsible for providing police service for the city. Mayor Cleaver chaired the Board of Police Commissioners previously, although he did not hold this position at the time of the study. The Board selects the chief of police for the Kansas City Police Department. Clarence Kelley, recruited from the Federal Bureau of Investigation (FBI), was appointed chief in 1961. By the 1970s, Kelley had turned the KCPD into one of the most dynamic and well run police organizations in the United States, the site of the first experiment ever conducted in policing, the *Kansas City Preventive Patrol Experiment*, and of the first department-conducted systematic research, the *Response Time Analysis*.<sup>7</sup> Each of these studies challenged what were then considered to be core competencies of policing. Kelley later became director of the FBI.

#### *Jurisdiction of the Prosecutor's Office and the Courts*

Under Missouri law, the Jackson County Prosecutor is charged with the prosecution of felonies and misdemeanors. The office has a bifurcated structure, with its primary and larger base of operations located in Kansas City, and a second, smaller office in Independence. Within the state court system, Jackson County makes up the Sixteenth Judicial Circuit: the western division sits in Kansas City; the eastern division sits in Independence, and hears cases originating in a number of jurisdictions—Blue Springs, Independence, Lee's Summit, Grandview, Raytown, Grain Valley, Sugar Creek, Lake Tapawingo, Lone Jack, Buckner, Greenwood, Lake Lotawana, and Levasy.<sup>8</sup> Ordinance violations in Kansas City that carry sentences of less than six months in jail, or a

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<sup>5</sup> Jackson County Missouri, *Constitutional Home Rule Charter* (10/95).

<sup>6</sup> Under city-mandated term limits, Cleaver was in his last term during the study.

<sup>7</sup> George L. Kelling, *The Kansas City Preventive Patrol Experiment*, Washington D. C., Police Foundation, 1974; Kansas City Police Department, *Response Time Analysis: Volume II – Part I Crime Analysis*, Kansas City, Mo., 1977.

<sup>8</sup> Cases also originate from unincorporated areas, through the Missouri State Highway Patrol, State Water Patrol, Sheriff's Office, Conservation Department, and Jackson County Drug Task Force.

maximum fine of \$500, are prosecuted by the City Attorney's Office, in the Municipal Courts.<sup>9</sup> In practice, misdemeanor prosecution traditionally occurs at the city level, while 95% of cases processed by the JCPO are felonies. The Prosecutor's Office follows post conviction remedies, but does not handle appeals as this is carried out by the Attorney General's Office.

The county prosecutor has no authority to prosecute juvenile offenders: responsibility lies instead with the Juvenile Officer and Director of Family Court Services for Jackson County, who is appointed by the Circuit Court and who employs a team of prosecutors, in the Family Court. Part of the 16<sup>th</sup> Judicial Circuit, this court sits in Kansas City, and has exclusive jurisdiction countywide over actions including divorce (and related determinations, including child custody), adoption, prosecution for delinquency, abuse, neglect, and termination of parental rights.

*The Prosecutor's Office during the 1980s: Albert Riederer and the Origins of COMBAT*

McCaskill's predecessor, Democrat Albert Riederer, was first elected Jackson County Prosecutor in 1980. During the 1980s, Kansas City and nearby communities experienced a surge in drug-related crime, including homicides, and problems associated with drug abuse. Crack cocaine was the key drug. One of every two arrests involved a drug user, and 80 percent of all crimes involved illegal drugs.<sup>10</sup> During the 1990s, a newer drug—methamphetamine—took roots in eastern sections of the county, posing serious dangers from toxic substances used in manufacturing the drug, and new challenges to law enforcement authorities.

The decade of the 1980s was one of change in the prosecutor's office, arising out of competing tensions in prosecution itself, as well as the increase in drug-related crime. As Riederer recalls this period, at least some prosecutors around the country (including him) were beginning to feel that they should be doing more than responding to crimes committed and processing cases; yet the governing ethos for rank and file prosecutors was that "business at home" had to be taken care of first—being tough on and prosecuting offenders. Riederer tried to attend to both. From early on in his tenure in office, he worked toward professionalizing the prosecutor's office, developing high standards and legal practices among his attorneys, creating conditions for retaining the best assistant prosecutors, and building a sense of independence from and resistance to outside pressures, including the police. In particular Riederer sought to establish the prosecutor's office as a check on the police department rather than being driven by it—cases would not be filed, regardless of what police sought, unless the reviewing prosecutor believed they met the "beyond a reasonable doubt" standard. Needless to say, Riederer did not endear himself to the Kansas City Police Department in this regard.

At the same time, Riederer became increasingly interested and involved in problem solving, specifically in the area of crime suppression. He participated in the John F. Kennedy School of Government's Executive Sessions for State and Local Prosecutors, convened at Harvard University from 1986-1990, in which prosecutors and researchers discussed new trends in prosecution

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<sup>9</sup> With regard to traffic violations, where the State Highway Patrol issues tickets in unincorporated areas of the county, primarily in Eastern Jackson County, these cases are prosecuted by the JCPO. Similarly, Sheriff's cases are handled by the JCPO for cases originating outside a municipality. County ordinance violations are prosecuted by the county attorney, and heard by county councils.

<sup>10</sup> "COMBAT: Progress Report to the Jackson County Legislature," Office of the Prosecuting Attorney, Jackson County, Missouri, 17 July 1995:1.

involving problem solving and the development of a new prosecutorial "mission."<sup>11</sup> When the impact of drug-related crime became more pronounced in Kansas City and elsewhere, Riederer 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, such as the Church Community Organization, 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.<sup>12</sup> 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. Riederer was sympathetic to the message. He committed the prosecutor's office to work with the Ad Hoc Group Against Crime, made up of leaders and representatives from the African American community in Kansas City, to close down drug houses and reduce drug sales by relying on nuisance abatement and forfeiture laws and working with citizens and the police to pressure landlords to remove drug dealers.<sup>13</sup>

During the 1988 election, for Riederer's third four-year term, the primary topic for discussion was drugs and drug-related crime and violence, and in particular, what the county prosecutor could do about these problems. In the face of dramatic increases in drug cases, both the courts and the prosecutor's office were in a state of near gridlock. Riederer would concentrate on these issues soon after being re-elected: when he did so, the first, and continuing impediment to developing new solutions seemed to lie in funding. Riederer's own background included a master's degree in the law of taxation, and he naturally turned to an examination of specific purpose taxes in Missouri as a first step in addressing drug problems. During the next year, he worked to develop and pass enabling state legislation for a tax that could be enacted by voters at the county level to support enhanced prosecution and law enforcement efforts—including, at the initiative of a state legislator, prevention and deferred prosecution (a drug court) programs. The state legislature passed the legislation in April 1989.

By this time Riederer was having second thoughts, however: convinced by community organizations and civic associations that were pushing the need for treatment, and recognizing that the legislation was not broad enough, since it lacked provisions for treatment, corrections and juvenile programs, yet could reasonably be expected to increase the number of cases moving through the circuit courts, he foresaw problems from the beginning. Rather than return to the state legislature and redo the entire piece of legislation, Riederer decided to seek a ¼ cent addition to a general-purpose county sales tax already in existence. A spirited debate ensued within the community and the county legislature over the substance of the proposed legislation. After the prosecutor's office led a "Fight Back" campaign to promote acceptance of the tax initiative, the legislature finally approved placing it on the November 1989 ballot, along with a sunset provision that would require renewal in seven years.<sup>14</sup> Under provisions of the legislation the county

<sup>11</sup> See Zachary R. Tumin, "Summary of Proceedings: Findings and Discoveries of the Harvard University Executive Session for State and Local Prosecutors (1986-199)." Unpub. ms. Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, Harvard University, Cambridge, MA.

<sup>12</sup> The Kansas City Church Community Organization is still very active: see Glenn E. Rice, "KC services get C-minus on residents' report card," *The Kansas City Star*, March 3, 1997.

<sup>13</sup> Harvey Simon, "*Kansas City and the Ad Hoc Group Against Crime*," Case No. C16-91-1023.0, Case Program, Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, Harvard University, Cambridge, MA, 1990.

<sup>14</sup> See County Legislature of Jackson County, Missouri, Ordinance #1771 (September 11, 1989) (enabling legislation), and Resolution #8010 (September 18, 1989) (setting out proposed expenditures for the Anti-Drug Tax Fund).

prosecutor would be a member of a Fiscal Commission that would receive 50% of funds to administer the corrections, rehabilitation, juvenile and circuit court portions of the program. At the same time, the prosecutor would receive directly, and disburse, 50% of the funds for prosecution (criminal and deferred), crime prevention, and investigations (specifically to the Kansas City Police Department, and Jackson County Drug Task Force).

To the surprise of many in the prosecutor's office, the initiatives passed: the Jackson County Anti-Drug Sales Tax, as it was first known, took effect on April 1, 1990. By the end of 1990, the first expenditures had been made for police, prosecution and juvenile and circuit courts; by late 1991, rehabilitation, deferred prosecution, and prevention expenditures also had commenced.<sup>15</sup> Having worked to develop and pass the drug tax legislation, Riederer was then faced with the equally daunting task of implementing the initiatives. Within the prosecutor's office, he created a special trial team of sixteen assistant prosecutors to prosecute all drug-related crimes. A separate "Docket O," dedicated to drug cases, was created in the circuit court in April 1991 to prevent the development of a backlog, with drug tax funds paying private attorneys to represent drug defendants. Riederer also organized the Drug Abatement Response Team (DART) that would work with police to close down drug houses and eliminate other centers of drug activity in specific neighborhoods, and upgraded the computer capacity of the prosecutor's office. In response to the concerns raised by local community groups, Riederer appointed "neighborhood prosecutors" from his office who, in addition to their usual litigation and case processing responsibilities, were assigned to work with neighborhood associations in specific areas to follow up on prosecuting offenses from these areas, and where feasible to work with police to help citizens address particular crime problems. Riederer believes that the neighborhood prosecution program did not really catch on at that time, however, because the culture of the prosecutor's office was oriented so strongly toward processing cases. While a few prosecutors worked well in this role, moving into local neighborhoods, communicating frequently and easily with local citizens and police, and following up on community concerns through both prosecution and other means, other prosecutors did not pursue these activities.

The early days of the Anti-Drug Sales Tax were a heady, if hectic, period. The availability of new funds brought concerns for fiscal accountability—one of Riederer's major worries, and entirely understandable since he was responsible for disbursing and/or spending a large portion of the drug tax funds. Inside the office, he hired two drug tax administrators (who had a small staff), and began to equip prosecutors with computers, software, and training that had been sadly lacking. Outside the prosecutor's office, there was no formally organized treatment structure in existence. On the whole, most informants believe that Riederer was a visionary, whose principal strengths lay in developing a broader and more comprehensive approach to drug-related crime and other local problems than had been taken by previous prosecutors; in developing the new ideas and legislation that led to the passage of the sales tax; and in his sense of fiscal integrity and desire to ensure that tax funds not be used improperly. Yet when the Anti-Drug Sales Tax actually passed, catching many by surprise, Riederer and his staff were not fully prepared to develop the new structures that the tax would eventually support and that would be required to initiate full-fledged prevention and treatment components.

Claire McCaskill had arrived on the scene earlier as an assistant prosecuting attorney, working briefly under Riederer in the early 1980s. Beginning in 1982, she then served three terms in the

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<sup>15</sup> For an account of the origins and development of COMBAT, see Gregory Mills, *Community-Backed Anti-drug Tax: COMBAT in Jackson County, Missouri*, NIJ Program Focus, 1996, NCJ 160937.

Missouri General Assembly as an elected representative. In 1988 she filed in the Democratic primary to run for Jackson County Prosecutor, but then withdrew when Riederer also ran. He won the primary. Deterred only temporarily from reaching the prosecutor's office, McCaskill decided to run instead for the county legislature: serving from 1990 to 1992, she used her position to prepare for a move in the next election. In particular, she focused on the drug tax budget, learning it from the inside out, perhaps better than anyone else in government at the time. She fully understood the potential inherent in the drug tax program: the money was there to upgrade prosecutors' salaries; she would plan a drug court; she would expand prevention and treatment initiatives; and she would reach out to better inform the community about how drug tax monies were being spent. More than anything else, she could envision a comprehensive program of integrated, mutually reinforcing components. By the time of the 1992 campaign, she was ready. This time Riederer chose not to run, and McCaskill became the Democratic candidate for Jackson County Prosecutor.

### *The 1992 Campaign for Jackson County Prosecutor*

McCaskill's opponent in the 1992 campaign was Republican Pat Peters, a deputy prosecutor in Jackson County, popular in the office and known as a tough and competent trial attorney. Peters portrayed himself as the "professional prosecutor," and McCaskill as the "politician." The major issues addressed in the campaign were repeat violent offenders, and questions regarding the effectiveness and operation of the anti-drug tax program. It was the general election that mattered to those in the prosecutor's office because Peters worked among them, while McCaskill was an outsider. Politically, however, the primary was the key race, where McCaskill faced Mike Schaffer, another former deputy prosecutor. Schaffer raised McCaskill's prior experience, especially in the county and state legislatures: she was accused of being a "hack," moving from office to office.

In characteristic fashion McCaskill responded directly to all the charges, turning criticisms into attributes in her favor: she argued that public service itself was a plus, regardless of the particular office; in fact, as a county legislator she had gained a detailed knowledge of the drug tax and current programs financed by it. She was familiar with the problems she would face as a prosecutor, and had established her priorities: repeat violent offenders among them. Trying to stay away from the gender-based "is she tough enough?" debate, McCaskill explained that she would be aggressive with violent offenders, but would also favor alternatives where they might be more effective—such as deferred prosecution through the drug court. The Fraternal Order of Police endorsed McCaskill: her "tough talk" on offenders may have gained her some credibility with them, but it also could not have hurt that she had represented the union in private practice. The polls showed this support reassured people that she was tough, even though a woman. McCaskill won the final election with 62 percent of the vote.

## THE JACKSON COUNTY PROSECUTOR'S OFFICE UNDER CLAIRE MCCASKILL

### *A New Administration: First Moves*

McCaskill took office with a full agenda for expanding and further developing the Anti-Drug Sales Tax program, for addressing several other substantive areas in prosecution—domestic violence, sexual abuse, and repeat violent offenders, and for changing the "culture" of the prosecutor's office. Instituting these changes would require initially: (1) winning over prosecutors in the office;

(2) introducing greater diversity among staff both by bringing non-lawyer professionals into the office to address drug-related problems in new ways, and by opening up key positions to minorities and women; and (3) creating positive relationships outside the office with city and county officials, police departments, the courts, and the media. The first steps McCaskill took were indicative of the shape her overall strategy would assume, both in form and in substance, over the next few years.

Within the prosecutor's office, McCaskill faced obstacles that had to be overcome immediately so that she could move on to address her substantive goals. At first, stabilizing the office--overcoming distrust that carried over from the campaign and earning the confidence of her staff--was the immediate priority. To convince her staff that she did know how to run a prosecutor's office in spite of having worked only a few years as a young prosecuting attorney, she spent considerable time with upper management, provided a lot of reassurance, and tried a few cases herself. As does any new prosecuting attorney, she made changes among executive staff, and weeded out those few carryovers from the previous administration who she did not believe would be productive and work well within her office. But she also retained as senior staff a number of Riederer loyalists, at least some of whom have since become trusted advisors.

In a conscious effort to bring diversity to top management, McCaskill took two steps: first, she appointed to supervisory and executive positions a number of minorities and women from both inside and outside the office. To avoid charges that she was sacrificing quality in the name of diversity, when one of her minority appointments did not work out in a supervisory position, McCaskill removed the individual. The message was clear: qualified minorities and women were welcome, but if they did not produce, they would not stay in the office.<sup>16</sup> Second, McCaskill appointed non-lawyers to executive positions. Soon after taking office, she hired James Nunnally, a skilled public health professional, to head the new administrative division of COMBAT (in a conscious effort to draw attention to and revitalize the drug tax program, McCaskill had renamed it COMBAT, the Community-Backed Anti-Drug Tax, and developed a new logo) and guide the prevention and treatment components. She appointed Nunnally, along with the Director of the Victim and Witness Services and the Chief of the Family Support Division of the office, to the executive staff. These new appointments sent a message to personnel inside the office: McCaskill valued not only seasoned trial attorneys, but innovative and creative newcomers who brought other skills to bear on the range of problems she would address as prosecutor. Furthermore, she would look for solutions to these problems both inside and outside the courtroom--through aggressive prosecution, and through diversion, prevention and treatment.

Outside the office, McCaskill set about creating the ties that would nurture collaborative ventures with other city and county agencies. For example, she turned to building a bridge to the Kansas City Police Department, to repair the negative relationship that had grown up between her predecessor and the department. Two actions by her laid the groundwork for gaining considerable credibility and support from the police. First, McCaskill followed up in office on her campaign promise to aggressively prosecute repeat violent offenders by changing office policy on the armed criminal action (ACA) issue. Under Missouri law, armed criminal action constituted an ancillary charge--a separate count (in addition to an underlying charge) that could be filed if a weapon had been used in the commission of a crime--that carried with it a mandatory three year prison term,

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<sup>16</sup> Prosecutor Riederer reports that he also made it a priority to hire women and promote them to significant positions--for example, as trial team leaders and Chief Warrant Officers--within the office. Many of these individuals worked for McCaskill after Riederer left office.

with no probation. Because of the high volume of cases involving crimes against the person, this charge was increasingly being dropped if the offender would plead guilty to the underlying charge. When McCaskill became prosecutor, she immediately changed this policy: no ACAs would be dropped in any case without prior permission from her, the Deputy Prosecutor, or Chief Trial Assistant (for the drug or non-drug division, as applicable). The police were jubilant. McCaskill then lobbied for and helped secure passage of state legislation (which took effect in 1994) requiring that an offender serve at least 85% of an imposed sentence for the most serious felonies—arson, first degree assault, kidnapping, forcible rape, forcible sodomy, murder in the second degree, first degree robbery.<sup>17</sup> In November 1993, she took another step toward improving prosecutor-police relations by creating the position of police liaison, a six-month rotation for a senior trial attorney with filing experience who would be housed in the Kansas City Police Department (KCPD). The police liaison would review all cases (warrants and “in custody”) involving crimes against persons (robbery, assault and battery, homicide), decide whether to file, be readily available to consult with officers needing legal advice, and on call for homicide investigations. Prosecutors continue to serve in this position today, and often find it a difficult experience: isolated from their fellow prosecutors, they must “prove oneself constantly” to police with whom they work, in particular justifying their decisions not to file cases. Police officers recognize the discretion prosecutors exercise over filing decisions: when a police liaison is new, it is natural to test him or her in order to find out what the policies will be. In spite of these tensions inherent in the role of police liaison, McCaskill has maintained the program. Along with her aggressive prosecution of repeat violent offenders, it has brought her substantial support and credibility in the KCPD that spills over into other areas.

McCaskill’s policy in dealing with KCPD, as with other external agencies, would be guided by principles of honesty, directness and candor—and a resolve never to “badmouth” them in public. From the very beginning, she demonstrated this same sense of forthrightness with the press and public, whether the issues involved prosecution, or were personal and close to home. During her first year, the prosecutor’s office bungled a case in which police had invested considerable resources: a man who ran a late-night party house that was very troublesome to the neighborhood was allowed to plead guilty, and was given probation after the police department had worked the case really hard. McCaskill and her staff had not gotten the information about how important the case was to police. Instead of defending the office, she simply said to the press: “we really screwed up, made a mistake, and it was our fault.” The issue just went away.

#### *Reinventing the Image of the Prosecutor: A New Mission*

From the beginning, McCaskill has presented herself as a no-nonsense, hard-line prosecutor, especially when it comes to repeat violent offenders. “We want to be able to tell the community we’re hammering these people. There’s this belief they’re being immediately paroled.” Evidence (such as her policies on armed criminal actions, and repeat offenders in domestic violence cases) suggests that she is tough and aggressive. At the same time, she recognizes that prosecuting and winning more cases won’t solve every problem: “The question . . . is what should we do with these people—the possessors and rock slingers who are disrupting neighborhoods? To merely arrest them and put them on probation is pretty meaningless.”<sup>18</sup> Being tough gives McCaskill the

<sup>17</sup> RSMo 556.061; RSMo 558.019 (1994).

<sup>18</sup> Margolies, “Hard Line; Prosecutor McCaskill cuts no slack.” *Kansas City Business Journal*, April 22-28, 1994, p. 3.

breathing room to set up the prevention and treatment alternatives that she also sees as valuable without being vulnerable to charges of doing “social work.”

McCaskill’s sense of mission for a prosecutor emerges more completely in the nature of her leadership of the Jackson County Prosecutor’s Office, in her shaping of the structure and functioning of that office, and in the role she has defined for herself within the larger community. As embodied in the organizational structure, administrative processes, in the culture and operations of the prosecutor’s office, the “business of prosecution” is about public safety—that is restoring, preserving (such as through landlord training programs, neighborhood prosecution efforts) and proactively maintaining public safety (through COMBAT prevention programs) in the community. The basic functions of the office, when taken together, constitute a broad, problem-solving approach that blends crime prevention, public health measures (the diversion program in Drug Court), crime reduction (DART activities), and punishment for repeat and violent offenders (through aggressive prosecution); that focuses on creating a safe environment within the home and family (for example, through prosecution of domestic violence and sex crimes, and working with victims) as well as in schools, on streets and in other public places (as neighborhood prosecutors working with citizens, the Truancy Project, and landlord training programs); that takes account of “low-level offenses” (such as driving under the influence) as well as index crimes. Finally, the “business” carries with it a responsibility to bring the public into the problem-solving process, and to foster the development of a problem-solving capacity where one does not already exist in the community—in specific neighborhoods, among treatment providers, and in collaborative efforts that bring together prosecutors and police with other criminal justice agencies and actors. Keeping the public fully informed at all times of what specific steps the prosecutor is taking to carry out this mission, why and how they are performed, and what the outcome is—whether it be in individual cases prosecuted, treatment efforts, or large-scale prevention initiatives that involve other criminal justice agencies—is an important part of the prosecutor’s duty to the public as McCaskill sees it.

Within the Jackson County Prosecutor’s Office (JCPO), this comprehensive mission of prosecution is most visible in the operations of COMBAT. Yet it underlies no less the activities of the non-drug division, particularly in those substantive areas that McCaskill has designated as high priority—domestic violence, sexual abuse, driving under the influence, and juvenile safety and crime. Not surprisingly, most lawyer and nonlawyer staff within the COMBAT divisions of the office share this general sense of mission; so too, however, do most staff within the non-drug divisions.

#### *Leading the Prosecutor’s Office*

Within the prosecutor’s office, McCaskill has created an ethos of excellence and professionalism on the job; of dedication to public service; of pragmatism and a spirit of compromise when it comes to collaborating across boundaries with other criminal justice agencies (the police, corrections, the mayor’s office); and of the need to seek and develop solutions for problems apart from prosecution alone. Her staff see her as a “hands-off manager” who invests in and demands a lot from them, but who then steps back and expects that they will perform as competent professionals. McCaskill delegates responsibility for day to day office operations, and substantial discretion in the application of policy, to executive (and to some degree mid-level) management. She has included both former Riederer loyalists and newly recruited staff, assuring that her actions are seen as equitable. Among those remaining from Riederer’s administration is Deputy Prosecutor Mark Jones (who worked under Riederer as head of the criminal division, chief trial assistant, and head of the homicide committee), who oversees the day to day operations of the

office, troubleshoots when she is away, and serves as a key policy advisor and “traffic cop”—dealing with any and all problems that work their way up to the top of the organization (problems with defense attorneys or judges, policy determinations on crime, as a senior liaison with the police department, overseeing special investigations involving police corruption). A small group of executive staff meet with McCaskill at least weekly to discuss operations, problems, and advise her in policy formation. They act with considerable autonomy, authority, and discretion in their respective domains; as do most executive staff, and her mid-level managers—among them the heads of the domestic violence, sex crimes, and DART units.

Being a “hands off” manager does not mean that McCaskill is out of touch with what is happening in the office. She deliberately selects and tries three or four cases a year, to maintain courtroom skills and both internal and external credibility as an aggressive prosecutor, and has taken a very active role in specific cases, especially those having broader implications than one specific outcome—“minefields” or media cases dealing with policy and community direction. In these instances McCaskill will “jump in and work with the line prosecutors!” She also oversees the execution of specific projects, such as the food stamp fraud during the early 1990s flooding (see below). She carefully follows the progress of new prosecutors, and regularly creates opportunities for personal contact with staff throughout the organization, including those at lower levels and in satellite offices. Staff recognize her interest and perceptiveness: most mid- and low-level assistant prosecutors will first approach a trial team leader, former supervisor, or other senior prosecutor in the office for advice or help with a problem, yet they see McCaskill as receptive if they want direct contact with her—and some do.

In line with the broad mission of prosecution she espouses, McCaskill has recruited COMBAT administration staff to provide another set of skills and perspectives within the office, and to reach out to the community. Perhaps recognizing that a key element in COMBAT’s success would ultimately lie in bringing treatment and prevention providers into a genuinely cooperative venture with police and prosecutors, upon taking office she put together a diverse and highly qualified collection of individuals with varied backgrounds. Top COMBAT administrator James Nunnelly, with long experience in public health, would work toward bringing recognized professional concepts into prevention and treatment programs in COMBAT initiatives. Nunnelly “made the Drug Court happen” by developing policies requiring as a condition of funding that prevention and treatment programs establish linkages to law enforcement. He also was able to bring thirty prevention contractors into a cohesive group with common goals and accountability standards. Deputy Administrator of COMBAT Pat Glorioso, who had served previously as an ombudsman in Jackson County and in other local government capacities, would act as liaison between COMBAT and local city and county government. Both she and the director organize coalitions, conduct research and attempt to develop programmatic solutions to community identified problems. Glorioso’s experience enables her to maneuver through local and state legislative processes and the local political environment, to facilitate the development of private-public partnerships.

Chief of planning, development and communications for COMBAT, Kristen Rosselli’s background is in private sector marketing with Hallmark. She is well versed in product management and program development, and brings these skills to bear on behalf of the JCPO. Rosselli organizes many of the collaborative crime prevention efforts by building coalitions that involve KCPD, the mayor’s office, other governmental and criminal justice agencies, and members of the community—such as the Paseo Corridor and Lincoln Gardens initiatives described below. She is also one of two key media experts in the office—Rosselli’s job is to generate media awareness, and acts as a community liaison for McCaskill, thereby keeping the public informed about the impact

of office programs. Other COMBAT administration staff hired by McCaskill would similarly bring skills and experience to bear upon the development of a truly broad-based approach to drug-related crime and social problems in the county.

If McCaskill's approach to managing most office operations is "hands-off," this does not apply to the budget, where she is seen by staff as a "micro-manager," who even "governs through the budget." This is not surprising: upon taking office as prosecutor, McCaskill already knew the COMBAT budget in detail, and had planned the changes she would make, including raising salaries in the office. She has since built a capacity within the office for locating opportunities for funding of city and county programs from state, federal and private sources (many of which she identifies by reviewing government announcements), and works with staff to develop programs that involve collaboration with the mayor's office or some other agency where such partnerships are required (such as in domestic violence). Staff (including prosecutors) both in and out of the COMBAT administration write grant proposals for projects to leverage outside dollars by making use of COMBAT grant match funds over which McCaskill has control. These funds are available for use in matching grants received from outside funding from federal, state or private sources: authority to disburse these funds provides McCaskill the power to choose and foster partnerships in the community. McCaskill has also developed the Bad Check Unit into a moneymaking "service to businesses" that will collect \$1,000,000 in 1997, at least \$500,000 in profits that are used to support the computer staff of the office, computer hardware and software, all office travel, and auto expenses.

#### *Changing the Organizational Structure*

When McCaskill became prosecuting attorney for Jackson County, her plans for expanding and further developing the Anti-Drug Sales Tax program led to a major restructuring of the prosecutor's office itself. Underlying the changes she would make were two primary policy objectives: aggressively prosecute repeat violent offenders; and expand and develop the prevention and treatment components of COMBAT. The most significant structural changes involved the division of criminal prosecution into drug and non-drug divisions, and the creation of a drug tax administration section, to oversee prevention and treatment initiatives and activities. Other changes reflect her priorities (within divisions) in areas outside of COMBAT—such as her attention to reorganizing the Family Support Division internally, and raising its status within the office. The current structure is shown in Appendix A.

McCaskill herself regards the five major divisions of the prosecutor's office as: criminal drug prosecution; criminal non-drug prosecution; drug tax administration; family support; and the Independence unit (which is actually a separate office geographically, but is integrated functionally with the Kansas City office). In addition, she has designated two groups of "executive staff," one a subset of the other. The "full" executive staff is comprised of the head of each of these divisions, plus the deputy prosecuting attorney, the operations administrator, the director of victim services, the chief investigator, the public affairs administrator, the head of the Kansas City warrant desk, the director of the management information systems unit, and the police liaison prosecutor. Meeting every two weeks, it provides a forum within which broad, office-wide policies are discussed and activities integrated, including those undertaken out of the office and in the community. The "small" executive group, including the deputy prosecuting attorney, and the division heads of drug prosecution, non-drug prosecution, and family support, meets weekly. This group brings together McCaskill's core advisors on policy, personnel issues and day to day operations having to do with prosecution activities in the office.

### Criminal Drug Prosecution Division

The Criminal Drug Prosecution Division is comprised of two trial teams in Kansas City; the Independence Drug Unit; DART (Drug Abatement Response Team); SATOP (Substance Abuse Traffic Offender Program); the Drug Court (deferred prosecution and diversion); and a warrant officer.

The Drug Court, created late in 1993, is a diversion and treatment program available to offenders who are drug users, and who are not disqualified for having been charged with, or having committed or been convicted of, a number of violent crimes, or having possessed or sold in excess of specific amounts. During 1996, McCaskill approached the State Legislature for authorization of a magistrate position (commissioner) for the Drug Court so that whatever changes (or strains) might occur on the bench, the existence of the Drug Court itself would not be threatened. She was successful. Cases come from the entire county, and may be reviewed for Drug Court screening at any time between arrest and final disposition. The screening process consists of a three week comprehensive assessment to determine eligibility and appropriate level of treatment. Once accepted, an offender signs a written agreement with the Drug Court judge, and then begins a one year period of individually determined treatment, ranging from a twelve step program to residential, in patient treatment, and other types of activities. In July 1996, the Judge Mason (Day Report) Center opened, to provide a site for central intake and assessment for all Drug Court reviews, as well as a location for intensive day treatment. The Drug Court commissioner monitors performance in accord with the signed agreement, and may require the client to appear before him regularly. Failure to comply with the agreement, or being charged with a new offense, results in termination of the client's participation in the Drug Court, and immediate prosecution. Upon satisfactory completion of the program, charges against the offender are dismissed.

In the Kansas City office, drug cases not accepted for Drug Court go to the warrant officer, who again reviews them, decides whether to file, and handles them through preliminary hearings, including making a plea offer. If no plea agreement is reached, a case moves on to arraignment and one of the trial teams. The same basic procedure is followed for drug cases filed in Independence, and tried there.

SATOP is a state-mandated program, begun in 1994, that in addition to prosecution in the state courts, requires treatment for repeat offenders who drive while under the influence of alcohol or drugs.

DART, originally created in 1991, is headed by an assistant prosecutor, and carries out a number of activities aimed at closing down drug houses and other sites of intense drug-related activity such as methamphetamine labs. DART operates countywide, in collaboration with the Street Narcotics and Drug Enforcement Units of KCPD (as well as specific patrol divisions) and various city agencies such as the Fire Department and the City Housing Codes Inspector in Kansas City; and the Eastern Jackson County Drug Task Force and other municipal agencies in eastern Jackson County. Both criminal suits and civil actions (such as forfeiture and nuisance abatement) are pursued, and the unit offers training to landlords and property owners seeking to prevent and reduce drug activities on their property.

### Criminal Non-drug Prosecution Division

The Criminal Non-drug Prosecution Division includes two general crimes trial teams, plus the Sex Crimes Unit, and a Domestic Violence Unit. There are also two warrant desks--for Kansas City

and Independence--and the (KCPD) police liaison. Kansas City Warrant Desk prosecutors are located in a separate building out of the main office. Warrant desk attorneys review nonviolent and property crime cases, as well as many violent crimes, decide whether to file, and conduct preliminary hearings, presenting a plea offer at the time. The KCPD police liaison reviews and files in-custody and selected cases involving crimes against the person (assault, robbery, homicide). Homicide cases are usually reviewed by the county homicide committee before indictment.

A Sex Crimes Unit, which handles cases through vertical prosecution, has operated in the prosecutor's office since 1983. Sex crimes from the entire county are prosecuted in Kansas City (a grant has just been obtained to build this capacity into the Independence office as well), with attorneys in the unit reviewing cases and conducting everything from pre-filing interviews through trial. Domestic violence cases from Kansas City are also prosecuted vertically through the Domestic Violence Unit.

#### COMBAT (Anti-Drug Tax) Administration

The COMBAT Administration Division has been expanding and evolving since McCaskill took office. The most significant changes in its internal structure and functions occurred as a result of alterations in the overall COMBAT program that followed the review of the program undertaken in 1993, midway through the first seven year period of authorized operation. Concerns emerged over possible conflicts of interest for certain members of the Fiscal Commission, primarily the two representatives of public health organizations, who were in a position to influence decisions regarding distribution of funds at the same time that they represented treatment providers who might be seeking funding. Additionally the advisory panel conducting the review concluded that greater input from the community should be sought, that coordinated public policies needed to be established, and greater integration achieved, for the prevention and treatment components of COMBAT.<sup>19</sup> In 1995, the Jackson County Legislature authorized changes in the Fiscal Commission to be implemented upon renewal of the drug tax by the voters. Early in 1996 these changes took effect: the county executive appointed seven members to sit on a new COMBAT Commission, along with three ex-officio (non-voting) members—McCaskill, the KCPD chief, and the chairman of the Eastern Jackson County Drug Enforcement Task Force. The COMBAT Commission thus took the place of the former Fiscal Commission, which had been chaired by McCaskill and composed primarily of criminal justice agency heads, along with the directors of two major drug treatment facilities. The COMBAT Commission has responsibility for administering and disbursing funds for prevention as well as treatment initiatives funded by COMBAT.<sup>20</sup> The transition process is underway, with COMBAT administrator Nunnely and his staff assisting.

McCaskill believes it was time to have the community assume a larger role in setting policy and overseeing operations for COMBAT. Furthermore, she was not sorry to see oversight of the competitive RFP processes by which prevention program operators are selected to receive funds pass out of the prosecutor's office, since it meant that she would be relieved of having to say "no" to community groups. Most importantly, with the changes that were implemented, she was left with control over the grant match fund--10% of COMBAT revenues (as opposed to 7.5% for

<sup>19</sup> "Report to the Jackson County Legislature Anti-Drug Committee," including Appendices A to O, presented by the Special Advisory Panel to the Anti-Drug Committee, December 27, 1993; and "COMBAT: Progress Report to the Jackson County Legislature," Office of the Prosecuting Attorney, Jackson County, Missouri, 17 July 1995.

<sup>20</sup> Ordinance #2490 (Nov. 13, 1995), Jackson County Legislature, Jackson County, Missouri.

prevention that went to the COMBAT Commission). And under the original legislation, she is still viewed as the "leader" of COMBAT efforts in the county.

Nevertheless, these changes led to alterations in both the structure and functions of the COMBAT Administration Division in the JCPO. At the present time, apart from the administrator, deputy administrator, and director of planning and development (whose responsibilities were described above, and who continue to be involved in working directly with prevention and treatment providers in the community), a program data coordinator oversees the collection of data amassed by treatment providers through a uniform assessment document and from prevention providers on clients served. A treatment services administrator monitors intake and assessment, as well as treatment services offered at the Judge Mason Center and in conjunction with the Drug Court. Finally, a grants administrator is in charge of identifying proposals, and opportunities for funding from outside the community, with an eye toward matching these up; she also administers local funds that have been allocated.

Now that responsibility for distributing funds for prevention initiatives has moved out of the prosecutor's office, and now that McCaskill herself is neither the chairperson nor a voting member of the commission that does control these processes, the outstanding long-term questions are: what functions regarding prevention and treatment will continue to be performed within the COMBAT Administration Division of the JCPO? How will treatment and prevention providers be made accountable to working with police and prosecutors? How will a public health perspective continue to inform the selection of programs for funding when that process is managed by a commission made up of community members who are not public health specialists, as are those who work in the COMBAT Administration Division of the prosecutor's office? Up to this time, because of the strength of her past and present positions in COMBAT, the power of the prosecutor's office, and the recognized skill and expertise of COMBAT Administration staff such as James Nunnally, McCaskill has been able to maintain a substantial degree of informal influence in the operations of the COMBAT Commission. The future is uncertain. These issues will no doubt be considered in the formal evaluation of COMBAT currently underway.<sup>21</sup>

#### Family Support Division

The Family Support Division, made up of three trial teams in the judicial enforcement section plus a five team administrative enforcement section, has two primary functions: to establish and enforce support orders (including medical support), and to establish paternity for the purpose of establishing rights for a child (including support). The Sheriff's Department works with the division on specific cases—KCPD is not involved. The division brings civil suits on behalf of the state to establish paternity. The prosecutor has discretion to file nonsupport actions either as criminal suits or civil contempt of court suits: no written policy exists, but civil suits are generally filed where criminal suits cannot be (such as where arrears are sought but children are too old to receive current payments). Only non-AFDC cases are handled; the State Division of Child Support processes cases involving AFDC recipients. Numbers of cases filed have increased more than 400 percent in the last three years, reaching over 600 during 1995.

The changes that McCaskill has made in this division since taking office have expressed its importance in organizational terms. Previously, prosecutors in the division earned wages generally lower than were paid in the rest of the office; morale was low; and many in the office viewed it as "dumping ground" for prosecutors who did not succeed as litigators in other divisions of the office.

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<sup>21</sup> See note 1.

McCaskill restructured the division, reclassified prosecutors and support staff, raised salaries, and moved the division to a new and better physical facility, attempting to integrate it with the rest of the office to a greater degree. Although the division remains somewhat remote from core operations of the prosecutor's office, morale has improved. The final status and functioning of the division remain an unfinished agenda for McCaskill.

#### Independence Office of the JCPO

Eastern Jackson County, for which Independence is the center of operations for the prosecutor's office, is a mixture of rural and suburban areas, with smaller cities and towns of various sizes. The Independence office (including a drug prosecution unit; a warrant desk for non-drug crimes; and the Bad Check and Tax Collection Units for the entire JCPO) deals closely with the Eastern Jackson County Drug Task Force and the various policing and law enforcement agencies operating in that part of the county. T.K. Rigby, the assistant prosecutor who heads the office, thus fills a key position, representing McCaskill and the JCPO in a setting very different from Kansas City.

The success of the Independence office, which is geographically distinct but in many ways functionally integrated with the Kansas City office, appears to be based upon two factors: first, McCaskill's willingness to designate authority (her "hands-off" management style); and second, the personal confidence and strong sense of trust that McCaskill has in Rigby. Part of the basis for this trust is Rigby's low-key (and sometimes unanticipated by defense attorneys) adroitness and skill in the courtroom; she is also highly respected as a supervisor by assistant prosecutors who have worked for her; and she "fits the style in Independence." The result is that Rigby has the autonomy and flexibility to respond to local crises aggressively and forcefully. On more than one occasion, Rigby has been able to react to concerns raised by a local police agency by mobilizing her own staff and bringing in division heads from the Kansas City office within a matter of two or three days. The good working relationship between the Independence office and the Kansas City office has also contributed to managing tensions that have arisen over the allocation of resources and priorities within COMBAT operations to Eastern Jackson County, and to reducing "city versus suburban or rural" conflicts in the county.

Prosecution of drug and most non-drug crimes is carried out by prosecutors at Independence. The Independence Drug Prosecution Unit works closely with the Eastern Jackson County Drug Enforcement Task Force, which coordinates narcotics investigations for the thirteen police departments of Eastern Jackson County and handles larger and more complicated cases (receiving half the COMBAT funds allocated for police investigation in the county), as well as directly with the police departments, which handle smaller cases. One assistant prosecutor serves formally as a liaison from the JCPO to the Drug Task Force, dividing her time between an office at the Task Force (where she is available to give advice, and review and make filing decisions on cases) and the Independence Office (where she prosecutes Task Force cases). All drug cases are heard by a single judge in Independence.

Sex crime cases that originate in Eastern Jackson County are handled by the Kansas City office (through vertical prosecution), as are arsons, and cases involving juveniles (handled only in the Family Court). Victim witness counselors are provided for operations at Independence as they are needed and available from the Kansas City office. The Bad Check and Tax Collection Units carry out all operations for the entire county from Independence. The Bad Check Unit operates as a "small business:" when McCaskill took office, it collected \$30,000 in a year; in 1997, this figure was close to \$1 million. The Unit deals with approximately 45-50,000 commercial and individual bad checks per year, attempting to facilitate collection. With a letter sent from the prosecutor's

office, collection rates are approximately 80 percent: although a few bench trials were conducted, no jury trials were held in 1996. The Tax Collection Unit, acting on behalf of the State of Missouri, collects delinquent individual income taxes, filing civil suits where necessary.

In addition to these five major divisions, several other special units exist in the JCPO:

#### Victim and Witness Services

The director of victim services, who is a member of the executive staff in the JCPO, supervises a staff of six advocates: two work with the warrant desk; two with homicide survivors (one of whom also coordinates volunteer and intern services); one in sex crimes; and one with domestic violence victims.

#### Investigators

Eleven investigators are employed by the prosecutor's office: a chief investigator; one assigned to DART; three to drug prosecutions; and six to non-drug prosecutions. Investigators primarily assist in preparing cases for trial, since 90 percent of investigative work on the cases is done by KCPD.

#### Management Information Services

The JCPO's computerized information system consists of a relational database with separate modules developed for different units in the office, both COMBAT (such as DART and the Drug Court) and non-COMBAT related, to which everyone in the office has access. Known as "Informer," the system tracks all case information beginning with filing, and can produce case processing and other types of statistical data as required for use in the different divisions. Criminal records are included only insofar as they are contained in police reports. However, during 1996 the system was being expanded to permit communication with Criminal Records at the Circuit Court. Four staff, a coordinator plus one each assigned to oversee hardware, programming, and data quality control, work in the office.

#### *Shaping Administration and Personnel Practices*

##### A New Organizational "Culture"

McCaskill's personnel policies are extensions of the values that she has emphasized in reshaping the culture of the Jackson County Prosecutor's Office. For a prosecutor in office less than five years, she has shaped the culture of her organization to a remarkable degree. Almost to a person, every assistant prosecutor and staff person interviewed in the office described McCaskill as inspiring a long-forgotten sense of idealism ("not since John Kennedy . . .") and pride in the role of prosecutor. She demands their best work, but does not stifle them; establishes priorities (such as domestic violence) that they see as important; and is "fair" and direct in her dealings with staff. She will also "take the heat" from the media and in the community, and stand behind them. Finally, staff appreciate that the respect McCaskill has earned in the community and with various police departments rubs off on them, increasing their own sense of self-esteem in dealings outside the office.

McCaskill also gains support from staff by being prepared to take risks—at times appointing relatively inexperienced prosecutors or other staff members, many minorities and/or women, to challenging positions that give them an opportunity to prove themselves. Using a combination of intuition (McCaskill doesn't even think twice before responding that she can "smell" potential), and shrewd judgment based upon the individual's prior record of hard work, commitment, and competence, she takes a chance. Many of these individuals prove themselves admirably, not only

succeeding in the job at hand, but moving on to other key positions in the office. For example, when Kansas City, along with many other midwestern areas, experienced serious flooding during the summer of 1993, McCaskill asked Assistant Prosecutor Kathy Finnell, previously a public defender who was relatively new to the prosecutor's office, to carry out food stamp prosecution. Working closely with McCaskill, the job grew for Finnell: she developed charge codes and oversaw an amnesty and eventually prosecutions—in what would become a joint city/state/federal investigative effort. The “food stamp fraud lady” received calls for years after, from around the country, even though she had moved on to work with the Grand Jury, then to a trial team position in the drug prosecution division (where she was a neighborhood prosecutor for a tough, inner city area), and eventually to head up the DART unit for eighteen months. A competent litigator, Finnell's additional strengths lay in problem solving and communicating—with patrol officers in the KCPD, with code enforcers for the city, with city prosecutors, with municipal court judges. She knew how to bring them all around to see the importance of what she was doing, and to commit themselves to working with her.

There is clearly room in the office for individuals who are oriented more toward a view of prosecutors as tough litigators; but they must produce, and they must operate within set parameters that include showing sensitivity to and being able to work with victims; establishing positive relationships with police; being aware of community interests in the treatment and outcome of individual cases; and acknowledging treatment and prevention as part of a continuum of possible solutions to crime problems. For example, assistant prosecutors in the drug prosecution division are encouraged to become neighborhood prosecutors. Some accept these responsibilities and maintain the role even when they move out of drug prosecution and into another position in the office; others do not. McCaskill tolerates difference, so long as the individual can work as part of a larger problem-solving process.

At the same time, McCaskill works at winning the loyalty and trust of her employees. She is anything but aloof (moving easily from clipping newspaper coupons for the next grocery store trip one minute to dealing with a tough policy situation the next), and creates occasions regularly to have direct contact with executive staff, line prosecutors and support staff alike. Day-long retreats are held yearly for COMBAT administration personnel (including Drug Court and Judge Mason Center staff), and for the larger executive staff group. The retreats are aimed at reviewing previously established goals, assessing progress, planning, discussing problems that have arisen and changes in programs, and receiving direction from McCaskill herself. At office-wide meetings every two to three months, she dispenses awards for years of service to the office, not only from assistant prosecutors, but secretaries and other support staff, and praises contributions made by office employees. Office-wide picnics with families are held during the summer. Staff are encouraged to attend the annual COMBAT day and a picnic for people graduating from Drug Court and other treatment programs.

McCaskill also conducts periodic anonymous surveys of various groups of staff members as information-gathering measures to get at specific issues within the office (for example, to identify high producers; gripes; specific needs within departments). This past year, surveys of staff told McCaskill that she was not spending enough time “one on one with the troops.” She therefore held a series of roving lunches in the office, meeting informally with groups of secretaries, staff in family support, or other areas, talking with them and asking about their concerns. From other surveys she learned that a new copy machine was badly needed in one department (the old one was replaced, to the delight of staff); and that one member of her executive staff lacked the confidence of assistant prosecutors, and was not as effective a supervisor as McCaskill expected her top

prosecutors to be. The net effect of these activities appears to be that employees feel "valued," that their views are worth hearing, whatever their role in the office. And McCaskill herself has open channels of communication that she can use at any time to obtain information and identify problems, quickly, in order to maintain the functioning of the office and take action where it is needed well before a crisis develops.

### Personnel

The JCPO employs a total staff of 180: 78 prosecutors (including part time); 7 victim advocates; 11 investigators; as well as various types of support staff. McCaskill relies on her Deputy Prosecutor to screen applicants for available assistant prosecutor positions. Hiring is highly competitive, and rarely done for specific positions. Instead, prospective prosecutors are expected to be capable of working in a number of different roles in the office, based upon several criteria: judgment, knowledge of the law, writing skills, desire to work in prosecution, evidence of a commitment to public service generally and to the local community (a more recent requirement), and ability to relate to minorities and other subcultures (since many victims come from these groups). Less than 10% of applicants are interviewed. Most hiring is done at entry level, with about 80% having just completed law school or a clerkship.

Once hired, new prosecutors are carefully monitored by McCaskill herself. They generally rotate through a number of different positions, each lasting about six months: experience on the warrant desk is considered important in developing critical case assessment skills, and many also work on a trial team in the drug unit. Trial team leaders and senior trial attorneys are expected to mentor and train less experienced assistant prosecutors in setting plea terms and sentencing recommendations, as well as in trial techniques, through a "second chair" system in trials and by providing nearly continuous feedback on the job. Opportunities to attend educational workshops and seminars around the country, with expenses paid by the office, are available to assistant prosecutors, particularly those who have been on the job for two to four years and are promising career prospects, as well as for more senior staff.

Compensation scales in the JCPO are generally uniform within the office across litigation and non-litigation components, depending upon whether staff are supervisory or not, and reflect years of experience as well as assessed competence. As in most prosecutor's offices, entry level salaries remain discouragingly low for attorneys, and generally do not rise to private sector levels even with advancement—a major stumbling block to retaining the best as "career" prosecutors. A newly created level of Trial Attorney, with over ten years of experience in the JCPO, will offer significant raises to a small number of staff.

Yearly written evaluations are conducted for all employees, specific to their position and function within the office. Using a rating scale of 1-5 (from unsatisfactory to outstanding), trial team leaders assess assistant prosecutors in a number of performance areas, including specific skills related to trial preparation and execution, as well as their relationships with police and victims and witnesses. Written explanations are required wherever exemplary ratings are awarded, and for areas identified as needing improvement (including specification of plans for three, six, and twelve months). Because McCaskill continually monitors staff performance through her own informal channels, these formal evaluations provide few if any surprises to her. She regularly discusses the performance of new staff with members of her executive staff, chief trial assistants, and trial team leaders, and is accessible to prosecutors who might be having difficulty with a supervisor as well. In 1996, she turned the tables and (anonymously) surveyed staff about their opinions of

supervisors—in this case largely confirming her own assessments of existing problems and strengths.

When employees do not measure up to performance standards on the job, McCaskill's approach is first to encourage improvement and give a warning—talking individually with the employee about the problems that must be corrected. Staff view her as empathetic but firm: some who have experienced personal problems that temporarily interfered with their work have been impressed by the fact that McCaskill herself is a single mother of three, yet still manages to out-produce virtually everyone else. When she warns that personal difficulties cannot excuse poor job performance, they cannot argue that she is setting an arbitrary standard that she does not follow herself.

### *Tactics and Activities*

#### Problem-Solving

Some staff in the JCPO characterize McCaskill as “more service-oriented than result or outcome-oriented” (meaning winning cases or favorable dispositions), and as applying “the tools of prosecution to approach social problems.” But the core functions and activities of the office suggest that McCaskill views prosecution and other types of tactics as equally important components that alone, or in combination, contribute to solving specific problems. McCaskill divides her own time about evenly between the drug tax programs and the non-drug programs in the office, and sees tying the two together as one of her biggest challenges. In many respects this process is already underway. Above all, the philosophy underlying COMBAT and the range of activities supported by drug tax funds provide a model of comprehensive problem solving that prosecutors working in other divisions of the JCPO office ultimately cannot ignore.

Both directly and indirectly, the presence of COMBAT benefits the operations and problem-solving efforts of the entire JCPO. First, within the office, the substantial staff of non-attorney specialists who work in the COMBAT administration constitute a valuable resource for other programs and problem-solving efforts. They bring diverse experience and knowledge from previous work in fields such as public health, social services, government, and business; possess useful skills in grant writing and performance measurement and evaluation; and can link prosecutors with other segments of the community. Second, the COMBAT Administration offers a set of capacities that can be replicated in non-COMBAT activities: for convening participants and then facilitating activities targeting crime prevention and reduction in the community, for collecting data on current treatment programs, for strategic planning of all COMBAT activities countywide, and for continuing to oversee certain administrative aspects of treatment/deferred prosecution projects. Third, when it comes to collaboration between the prosecutor's office and other elected officials and criminal justice agencies—the mayor, the police, the courts, the county legislature—the moral authority and political capital that McCaskill has earned as leader of COMBAT carry over into efforts that are not strictly drug-related. These collaborations enhance prospects for making greater advances in the prosecutor's priority areas, such as domestic violence: working closely with Mayor Cleaver (who shares her commitment), McCaskill has developed a uniform policy and set of practices to integrate prosecutions in the municipal courts by city prosecutors and in the Circuit Court by her own staff. Fourth, crime reduction, prevention and treatment activities funded by COMBAT inevitably have a positive impact in preventing and/or reducing other types of crime and dangers to public safety. For example, DART and KCPD activities targeted at drug houses routinely discover violations of health and fire codes, have an impact on prostitution and other types of crime that cluster around these locations, and often result in reductions in overall violent crime in the entire neighborhood.

Although to a lesser degree than is possible within COMBAT, McCaskill is building a problem-solving capacity into the operations of many units and divisions in the prosecutor's office. Nearly all these efforts involve identifying a problem or set of problems—a specific offense (McCaskill's priorities here have been guns, open air drug markets, domestic violence, and compulsory school attendance), a concentration of crime and quality of life offenses occurring in a specific location, area or neighborhood (such as "meth" or drug houses; the Lincoln Gardens housing development; or the Paseo Corridor), or a particular population that is the source or victim of crime (such as the Truancy Project aimed at juveniles and their parents, or repeat violent offenders, both priorities of McCaskill). A broad range of solutions is then developed to address each problem. Specific tactics include: (1) using capacities that exist within the prosecutor's office (such as prosecution of cases, diversion to Drug Court, developing grant proposals to obtain funding for new programs, developing new legislation, providing training to police); (2) collaborating with police, the city and county, other criminal justice officials, and community groups to develop joint policies and coordinate activities; and (3) working with private citizens, and professionals in the community from outside criminal justice (such as treatment and prevention providers), to initiate efforts aimed at reducing and preventing crime.

#### Core Capacities in the Prosecutor's Office

Several core capacities exist in the prosecutor's office: case processing and the development of policies and guidelines related to pleas and sentencing; providing services to victims and witnesses of violent crimes; developing legislation; and creating new programs and special purpose units within the office, most of which have linkages with community groups and other criminal justice agencies.

***Case Processing and Related Plea/Sentencing Policies:*** As described above, case processing begins with reviewing of cases and decisions about whether to file that take place within drug and non-drug divisions; prosecution of cases by trial teams follows within the same divisions. Within the non-drug division, there is a definite trend toward specialized handling of cases at both the warrant desk and in prosecutions that follow. The head of the Kansas City warrant desk personally reviews all cases presented there that involve prostitution and sex for hire charges; campaign finance cases are also reviewed by a single prosecutor. The Sex Crimes and Domestic Violence Units review their own cases and then proceed through vertical prosecution. Tax Fraud cases are also prosecuted by a single attorney.

Case processing statistics are available from the computer database provided through the Informer system. The following figures provide numbers of new case filings in the JCPO that were assigned a criminal record number, and dispositions, from 1993 through 1996. They do not include bad check cases or traffic cases.

## 1993-1996 NEW CASE FILINGS AND DISPOSITIONS

NEW CASE FILINGS	1993	1994	1995	1996
Cases assigned a criminal record number	5251	6597	7706	8137
Complaints filed in associate circuit court	4966	6221	5150	5969
Total new case filings	5627	6837	5588	6445

DISPOSITIONS	1993	1994	1995	1996
Trials	148	173	137	192
Guilty Pleas	3181	4281	3170	3952
Dismissals	1731	1540	1490	1183
Other	18	22	16	35
Total Dispositions	5078	6016	4813	6972

Office-wide policies, as well as plea policies and plea negotiation guidelines specific to divisions and special units (as described below), reflect McCaskill's basic priorities: taking a tough stance with repeat violent offenders, while in other types of cases selectively permitting different sanctions and responses where they would be more effective. Within the Criminal Drug Prosecution Division written guidelines cover interdiction cases (generally a no probation policy); Drug Court participants who are expelled from or voluntarily drop out of the program; and provide general principles on how to treat defendants with prior drug violation convictions (including enhanced sentences), repeat offenders, violent offenders, and defendants with confirmed gang affiliation. Policies and guidelines are developed by senior staff in consultation with McCaskill: they are intended to be implemented with reasonable discretion exercised by prosecutors in individual cases. The Criminal Non-Drug Prosecution Division has no division-wide written guidelines; however, special units such as sex crimes and domestic violence, as well as the Independence office, develop their own as needed.

Office-wide "mandates" (with less discretion to be invoked by prosecutors in following them) cover four areas. They:

- (1) prohibit dismissal of an armed criminal action count without the consent of the Chief Trial Assistant, the Deputy Prosecutor, or the Prosecutor;
- (2) preclude dismissal or reduction of charges for one of the seven "deadly sins" without prior approval of a Chief Trial Assistant or Chief Warrant Officer, and reduction of a first degree murder charge without McCaskill's agreement;

- (3) prevent reduction of a pending charge, or consideration for probation, for repeat violent offenders (defined as felonies included in the seven "deadly sins" and felonious restraint, armed criminal action, or any attempt of these), and require conviction to be sought on the highest grade of offense supported by the evidence, unless approval has been obtained by the Prosecutor, Deputy Prosecutor, or Chief Trial Assistant;
- (4) strongly discourage prosecutors from filing motions for continuances and notices of engaged counsel that would delay prosecution and movement of cases through the courts.

Pleas at early stages (preliminary hearings and arraignments) are encouraged, with several factors to be considered: likelihood of success at trial; whether the case can be disposed of without "giving away the farm;" sufficient jail/prison time (if applicable) to satisfy the "ends of justice;" and whether the plea falls within the guidelines presented above.

***Working with Victims and Witnesses:*** Since 1993, when a victims' rights amendment to the Missouri Constitution was passed, prosecutors have been required to notify victims before a plea is accepted: this has increased the need for victim advocates' services. Prosecutors regularly consult with them on cases involving violent crimes to make certain that they (the prosecutors) are working effectively with the victims. Aided by volunteers and interns (usually undergraduate students with at minimum twelve hours of classroom training), advocates offer extensive services to victims of the most serious crimes: homicides (family survivors), assaults, kidnapping, robberies, domestic violence, DWI, and in the area of sex crimes. A Coordinator of Volunteers, supported by a state Victims of Crime Act grant and local matching funds, oversees volunteer and intern activities.

Advocates and volunteers initiate contact with victims and witnesses from information provided at the Warrant Desk (except for survivors of homicides, and victims of domestic violence and sex crimes, to whom advocates are assigned), and stay in touch at least through the preliminary hearing--referring individuals for counseling and other services, keeping them informed of court proceedings, and attempting to be available as needed. From July 1, 1994 through March 31, 1995, 560 victims were provided first-time services by the Victim Services Unit on the trial side: of these 139 were assault victims; 133 robbery victims; 103 were survivors of homicide victims; and the remainder were victims of other crimes, including burglary (39). Many more victims were provided first-time service, including 350 victims of sexual assault or abuse, and 800 domestic violence victims.

Victim advocates and prosecutors alike view McCaskill as very "victim-oriented," and perceive both an increase in respect and greater demand for advocates' services in the office during her administration. The director of victim services teaches one component in the orientation to the office received by new prosecutors—clearly a message to them of the importance accorded victims and victim services. Periodic in-house training is also conducted for staff attorneys, to increase their awareness of victim issues and keep them abreast of victim service operations. In addition, the victim services staff give a "traveling heart" award to prosecutors whose work with victims is exemplary. Prosecutors in the office who have received this award express great pride in it.

***Development of Legislation:*** McCaskill herself is one of the top three lobbyists on behalf of prosecutors' interests in the state, and remains an activist when it comes to legislation generally. She draws on a number of prosecutors and other staff from different divisions within the office to help develop legislation in the areas she designates. She regularly appears before the legislature to

advocate passage of the legislation. For the 1997 Missouri legislative session she proposed initiatives that addressed the following issues:

**Witness Immunity** - the highest priority of the Missouri prosecutors association and law enforcement organizations in the state, the proposed law would compel witnesses to testify upon judicial order, and allow incarceration for contempt of court upon failure to testify. It would be especially useful in gang prosecutions, or when a factual witness declines to testify against a family member or friend. The new provision would extend greater protection to testifying witnesses than does the current law.

**Methamphetamine/Drug Trafficking** - proposes legislative changes covering the manufacture, possession and sale of methamphetamine in the state: first, creating a controlled substance would be raised from a Class D to Class B felony; second, extending the list of precursor chemicals to include any and all substances that *could be used* in the manufacture of methamphetamine and providing for additional tracking and records for the sale, transfer or furnishing of these substances; third, classifying as a felony the possession of chemical laboratory apparatuses with intent to use in the manufacture of amphetamines; and fourth, providing an additional felony charge for anyone in possession of a deadly weapon while possessing, selling or attempting to manufacture a controlled substance.

**Child Homicide** - legislation to increase to an A felony action causing the death of a child through child abuse, neglect, or endangerment.

**Domestic Violence** - an act proposing that anyone convicted more than two times of misdemeanor assault, under state and municipal law, be charged with a class D felony for third and subsequent offenses. Where serious injury occurs as a result of the assault, other felony statutes with more severe penalties could be charged.

**Prostitution** - legislation to require HIV testing as a condition of bond for prostitution arrests, to increase the penalty for prostitution after repeated offenses, and to require surrender of a driver's license upon conviction for solicitation of a prostitute from a car.

**Landlord Tenant Initiative** - to allow easier eviction of tenants for drug activity; to permit neighborhoods and prosecutors to bring eviction proceedings before the Circuit Court; and to provide for partial evictions.

**Bounty Hunters** - legislation would make bondsmen liable for the actions of bounty hunters; require licensing and training; and prohibit forced entry on any charges other than felonies.

**Felon in Possession** - legislation to make illegal the possession of a firearm by any felon.

***Development of Special Programs and Units:*** In the operations of special units, case processing is combined with other activities in collaborative efforts to reduce and prevent crime and aid victims. Some depend upon COMBAT funding although they are integrated fully with other operations within the office. Others represent a problem solving orientation being applied outside the realm of COMBAT and drug-related crime. The following represent only a few of the special programs operating in the JCPO.

**Domestic Violence Unit** - Domestic violence has been a high priority for McCaskill from the time she took office in January 1993, when she immediately established a Domestic Violence Unit. At the time, one prosecutor was assigned to work closely with KCPD to file and prosecute all cases. Due to the high numbers of domestic violence cases, the unit was expanded in 1994 to three assistant prosecutors, one investigator, a victim advocate, and secretary. That same year Mayor Emanuel Cleaver, who shared McCaskill's commitment to addressing domestic violence, helped to create the Domestic Violence Task Force, including Municipal and Circuit Court judges, the KCPD Domestic Violence Unit, Battered Women's Shelters, Kansas City's Law Department, the JCPO, Legal Aid representatives, the U.S. Attorney's Office, the Juvenile Justice Center, and

several non-profit victims' service agencies. A separate Municipal Court was allocated, a docket set up, and an assistant city prosecutor assigned to handle all domestic violence cases prosecuted there.

At present, ten detectives in the KCPD Domestic Violence Unit are given all domestic violence cases to work up (KCPD police must call in on all domestic violence cases for advising by one of these detectives), and initially review. Cases that fall clearly within the guidelines for prosecution in the Municipal Court are sent to the domestic violence prosecutor there. A domestic violence prosecutor from the JCPO meets each day with detectives at KCPD to review remaining cases: those "in custody" must be investigated, reviewed, and the defendant charged within twenty hours. Approximately 600 cases per month were reviewed during 1996. Most were sent to the assistant city prosecutor for prosecution in the Municipal Court, meeting applicable guidelines: where the suspect has fewer than four domestic violence arrests; no weapon was involved; no order of protection was in place; and no serious injury was sustained. All others are prosecuted through the JCPO in the state courts. McCaskill has pushed for lowering the number of prior arrests necessary to have the case move to the JCPO for prosecution, and is now proposing legislation to make a third (or subsequent) misdemeanor assault a Class D felony. At the same time, an explicit goal of the unit is to get help for the defendant: a suspended imposition of sentence (SIS) program provides for a two year probation period to allow for referral to appropriate services (along with a conviction that can be used within the criminal justice system to enhance sentences on further charges, but that does not show up on a criminal record for purposes outside the system).

The unit is now headed by Teresa Moore, an assistant prosecutor with considerable experience in prosecuting both domestic violence and sex crime cases. McCaskill has dictated the general policy that guides prosecution in the unit: "prosecute everything you can, and do not dismiss a case because the victim wants it dropped." Victim advocates assist where victims do not want to proceed, and recently the unit has begun to try cases without the victim's participation. Moore herself has developed plea guidelines and a manual for use in the unit; is involved in training all KCPD officers on domestic violence investigations; and has written grant proposals for state and federal funding to support a similar unit in Eastern Jackson County,<sup>22</sup> and developing a capacity in the JCPO for assisting prosecutors in other counties with trials, training, and developing protocols in domestic violence. Late in 1996 McCaskill planned to convene a "Jackson County Community Council" to bring together representatives of criminal justice agencies, shelters, hospitals, schools, and family services in order to coordinate a community-wide plan for insuring victim safety and holding abusers accountable. Among other goals for the council, McCaskill envisioned collecting information on activities in other jurisdictions, improving information systems and data collection, developing victim safety measures, community education and prevention strategies, policy and legislative reforms, training for professionals.

SATOP - The Substance Abuse Traffic Offender Program was created by Missouri law in 1993: the JCPO received a two year SATOP grant (from the Missouri Department of Mental Health) to address screening, prosecution and treatment of multiple DWI offenders in 1994. The goal was early intervention and treatment of substance abuse offenders: it mandated that any repeat offender, or anyone pleading guilty to driving while intoxicated, had to be assessed for alcohol use and placed in an appropriate program for treatment. The JCPO program was one of four pilot programs to be set up. Previously the office had prosecuted repeat offenders, while most "dwi's" were handled in Municipal Court. However, SATOP expanded the office's involvement. Specifically, the prosecutor's office began looking at the KCPD computerized alert record that showed arrests as well as convictions, and eventually moved to a prosecution policy that centered

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<sup>22</sup> An Eastern Jackson County domestic violence unit was in place by the end of the study period.

on the number of arrests of an individual, increasing the number of cases prosecuted. Offenders arrested for the third time within ten years for alcohol related driving offenses are subject to prosecution in state court rather than municipal court, to be fined and sentenced for up to one year in the county jail or up to five years in the penitentiary, and are required to undergo screening and treatment for substance abuse..

SATOP handles all "dwi" cases, and vehicular cases involving drugs and alcohol, including vehicular homicides and assaults.. A single judge handles a docket devoted specifically to SATOP cases. SATOP is not a diversion program, since assessment and treatment follow conviction, with regular penalties applied. However, staff recently submitted a proposal to fund a long-term treatment and monitoring program on the order of the currently existing Drug Court.

DART - The Drug Abatement Response Team is actually more than "responsive:" it has become a proactive problem-solving unit in the prosecutor's office. Created originally under Riederer with a grant from the State of Missouri and COMBAT funds, DART's activities have expanded considerably since 1991. Handpicked by McCaskill as a "self-starter" who would be able to work with all the players in DART, organize a range of activities carried out by DART team, develop new strategies and solutions to problems, as well as communicate easily with community members, coordinator Mike Sanders has had his hands full. During 1996, the DART team attempted to: close methamphetamine labs in motels and private houses in Eastern Jackson County; close crack houses in Kansas City; develop and conduct training programs for landlords and property managers to educate them about how to identify methamphetamine production, screen tenants, and reduce opportunities for drug activity on their properties; initiate a geo-mapping program for creating city-wide maps showing "hot spots" that could be used to coordinate strategies in targeting these areas; devise a strategy for keeping prostitutes out of areas once they had been arrested; and investigate and assess all target properties in a troublesome inner-city section of Kansas City in which public disturbances had required a concentration of activities by KCPD. Using a combination of techniques to address drug-related activity, Sanders and his staff pursue code violations, file for temporary restraining orders as well as nuisance abatement and forfeiture actions, and secure the cooperation of utility companies (such as Southwestern Bell Telephone, and the Water Department) in providing services in a manner that will not facilitate drug activity.

Because Jackson County has experienced one of the highest rates of methamphetamine activity in the country, many of DART's activities are directed toward this problem. Cooperation with federal prosecutors (specifically the U.S. Attorney's Office in Kansas City), the Drug Enforcement Administration and the Environmental Protection Agency has been essential where toxic waste clean-ups pose serious hazards to health and safety, and local and state officials have not been adequately trained or equipped to carry out basic procedures. In addition, jurisdictional disputes—the courts have said the "finder/reporter" of toxic waste is responsible for clean-up—have created disincentives for local police to intervene and enter meth labs. Unfortunately collaboration among different levels of government and political actors developed slowly. As one JCPO staff member observed, "This is an area where the classic struggle between federal and local prosecution could emerge because of additional resources for the methamphetamine problem at the federal level." With some frustration, McCaskill led the way early on in addressing the methamphetamine problem locally. (For example, she attempted to convene a statewide symposium to educate officials and the public about the problems posed by methamphetamine production and sale, and to encourage collaborative planning and policy-making in this area.) As the study progressed, it appeared that federal agencies would ultimately take over. Nevertheless, DART continued to be a valuable tool in reducing methamphetamine production. DART also provided

drug detection seminars for maintenance workers, code enforcers, trash collectors, fire department personnel, and any others who might come in contact with methamphetamine on the job.

Increasingly DART is moving into prevention as a means of addressing local drug problems. Apart from DART's massive campaigns to encourage members of the public to recognize and report centers of illegal drug activity, Sanders has developed a plan to give a DART "seal of approval" to houses in which landlords have anti-drug lease provisions, have attended DART training and maintained a good track record, and code inspectors have approved the property and environmental improvements have been made to reduce opportunities for illegal drug use or sales. A similar approach is planned for motels. Sanders looks ahead to redrafting landlord-tenant laws, and to working with neighborhood groups to encourage them to bring nuisance abatement suits.<sup>23</sup>

Neighborhood Prosecutors Program - Begun under Prosecutor Albert Riederer, the Neighborhood Prosecutor's Program has increased in size since McCaskill took office. Assistant prosecutors serving in the Criminal Drug Prosecution Division are usually assigned to work with a particular neighborhood; frequently, they maintain this link even after leaving the Drug Division. As neighborhood prosecutors, they are to work with KCPD officers assigned to the area, attend crime watch and neighborhood association meetings, and meet representatives of schools, churches and other community organizations. Some neighborhood prosecutors live in the neighborhood as well. They work with citizens and police to address specific local crime and safety issues—contacting DART, SNU (the Street Narcotics Unit of KCPD) if necessary—and act as conduits for citizen complaints to the police or city agencies. As of July 1996, fifteen prosecutors were assigned to twenty-four neighborhoods (two additional neighborhoods were "unassigned"), with several covering two or three at once. Not all these assignments involve a great deal of activity by the assistant prosecutor: in part this appears to depend upon the degree of mobilization among community residents and levels of crime in the neighborhood.

Two of the most actively organized areas are the 49/63 Neighborhood Coalition, to which Drug Court Administrator and assistant prosecutor Molly Merrigan is assigned, and "Old Northeast," covered by assistant prosecutor Joe Marquez. In both "49/63," and Old Northeast, the neighborhood prosecutors work closely with the Community Action Network (CAN) Center, two of six local centers established in Kansas City.<sup>24</sup> The CAN Center in Old Northeast focuses on the Lykins neighborhood, an 81 block area in which 6,000 residents live, and in which the median income is less than half that of the rest of the city. "49/63" is one of the oldest neighborhood organizations in the city: the area includes a broad range of socio-economic groups, including a local university; and the CAN Center is located in a local YWCA. Two community police officers, a community mobilizer (from Project Neighborhood, funded by the Robert Wood Johnson Foundation; whose job is to link drug-users in the area with treatment providers), a crime watch coordinator, and city housing and fire code inspectors are attached to each CAN center. The Street Narcotics Unit and Drug Enforcement Units of KCPD, and DART, also work with the centers. CAN Center participants meet weekly with representatives of local citizen groups to plan activities for reducing local drug activity, and to address other crime and safety problems. The assistant prosecutor prosecutes cases originating in the local area, or at minimum monitors their progress by acting as a liaison to those prosecutors who do, and reporting back to residents in the neighborhood.

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<sup>23</sup> Attorney Larry Hamel of Legal Aid has been working with private citizens and local groups to assist them in bringing nuisance abatement suits.

<sup>24</sup> By 1997 there were nine CAN centers operating. CAN centers were initiated through the efforts of Project Neighborhood and the JCPO.

Feedback from community residents in areas where neighborhood prosecutors are especially active has been very positive, yet the program is limited in scope. Prosecutors must now fit neighborhood responsibilities alongside their "primary" functions within the JCPO. The prosecutor's office is investigating the possibility of expanding on the idea of neighborhood prosecution with a more comprehensive Community Prosecution Project that would assign individual prosecutors to zones and give them responsibility for coordinating all prosecution and law enforcement efforts, including prevention.

#### COMBAT Administration Capacities within the JCPO

In 1993, when the Special Advisory Panel to the Anti-Drug Committee of the Jackson County Legislature undertook an evaluation of progress up to that point,<sup>25</sup> McCaskill appeared before the panel to report on her activities to date both in her capacity as prosecutor,<sup>26</sup> and as chair of the Fiscal Commission.<sup>27</sup> At the time McCaskill had been in office less than a year: nevertheless, she set out several specific goals for the prosecutor's office with respect to COMBAT, including:

1. To achieve the integration of the Anti-Drug Sales Tax Initiatives, both within the tax programs and with agencies and programs outside the tax (especially Juvenile Court and Federal agencies).
  - 1.a To aggressively prosecute drug traffickers in cooperation with Federal authorities.
  - 1.b To create a broad-based community coalition to provide continued resources, coordination and assistance to the initiatives.
2. To improve information gathered for purposes of evaluation and assessment of all initiatives.
3. To encourage multi-agency cooperation.
4. To implement an effective community awareness program.
5. To design and implement a comprehensive deferred prosecution program.
6. To implement the findings and recommendations of the Anti-Drug Sales Tax Special Advisory Committee. . . [which identified the need for better coordination county-wide among the various actors participating in COMBAT, and more involvement by the community]
7. To achieve through matching funds, at least 1 million dollars in grant money for the community.
8. To simplify and improve the bid process for both treatment and prevention contracts.

McCaskill has moved ahead in all these areas. In July 1995, having already worked on the public image of the program by giving it a new name—COMBAT—McCaskill adopted a new list of priorities that could be communicated easily to the community: to jail dangerous criminals and drug dealers; to treat nonviolent offenders who sincerely want to get off drugs; and to prevent children from experimenting with drugs. She would continue to be heavily involved in achieving each one. Jailing offenders, of course, would occur primarily through prosecution and policing efforts. But even after the changes in her own formal roles in COMBAT with the creation of the COMBAT Commission, McCaskill continues to facilitate treatment and prevention efforts through

<sup>25</sup> See "Report to the Jackson County Legislature Anti-Drug Committee," including Appendices A to O, presented by the Special Advisory Panel to the Anti-Drug Committee, December 27, 1993; and "COMBAT: Progress Report to the Jackson County Legislature," Office of the Prosecuting Attorney, Jackson County, Missouri, 17 July 1995.

<sup>26</sup> See "Report to the Jackson County Legislature Anti-Drug Committee," Appendix G.

<sup>27</sup> See "Report to the Jackson County Legislature Anti-Drug Committee," Appendix K.

the prosecutor's office. The locus for many of these has continued to fall within the COMBAT Administration Division.

High on the list of priorities for COMBAT Administrator Nunnely and his staff in all their prevention and treatment-related activities is keeping the community aware of the resources available through COMBAT programs (a newsletter in various languages is published several times a year, and August is the annual COMBAT Drug Awareness Month, with daily activities), and facilitating the development of a problem-solving capacity within various sectors of the community, including drug prevention and treatment providers.

**Prevention:** Although formal oversight over prevention providers has passed into the hands of the COMBAT Commission, COMBAT Administration staff, such as Kristen Rosselli, Director of Planning and Development, continue to facilitate crime prevention and reduction initiatives. Each of the following took place in 1996, and is still underway.

**Landlord Training Program -** Working closely with DART Coordinator Mike Sanders, Rosselli has developed materials for and conducted several workshops in "active management" for landlords and property managers in Jackson County. Workshops may run up to a day or more in length, and are geared to meet the needs of specific participants. For example, where the workshop is attended by property owners from Eastern Jackson County, presentations will include information on identifying methamphetamine labs and activity.

Most programs cover: identifying different types of drug activity; working with police and other criminal justice agents to facilitate investigation and reduction of such activity; current and pending anti-drug landlord legislation (concerning eviction of tenants); availability of civil nuisance (legal) actions and forfeiture remedies; keeping property up to habitable standards and minimizing opportunities for crime on the premises; screening tenant-applicants; hiring employees; rental agreements; and crisis resolution. Representatives of the JCPO, codes inspectors, and police agencies from throughout the county regularly participate.

**Paseo Corridor Drug- and Crime-Free Community Partnership -** Together with representatives of Mayor Emanuel Cleaver, the prosecutor's office (Rosselli) began meeting in July 1996 with business owners and employees, residents and managers of several housing developments located in KCPD's Central Patrol district (Charlie Parker Square, Parkview Homes I and II, T.B. Watkins, Wayne Miner, Guinotte Manor, Chouteau Courts, and Riverview), a fifteen square block area along Paseo Parkway, that were experiencing increasing crime, violence, and quality of life issues. Representatives from KCPD, the Department of Housing and Urban Development Inspector General's Office, U.S. Attorney's Office, Legal Aid, City Prosecutor's Office, and City Attorney's Office joined the effort. The initial project goals were to open up communications and develop better cooperation among participants so that resources and assistance could be channeled into the areas from the City and County. However, a more formal partnership agreement was eventually developed that set out a three-phase strategy by which the group would work toward: achieving safety, security and stability in the area; enriching lifestyles of families and individuals (through education, development and training, and job placement); and empowering the community (by developing local leadership).<sup>28</sup>

**Law Enforcement Collaboration -** Both DART and Rosselli have also worked closely with a new initiative that brings KCPD officers from the various patrol divisions, the Presiding Judge of

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<sup>28</sup> See Postscript and Appendix C for additional information on the Paseo Corridor Partnership.

the Municipal Court, the City Attorney and City Prosecutor, several key prosecutors from the JCPO (including the Deputy Prosecutor) together to concentrate on a number of problem areas in the city: open air drug markets; hourly motels with prostitution and drug activity; crowd control outside convenience stores, restaurants and bars with liquor licenses after 1 a.m.; drug and gang activity occurring in public housing and affordable housing communities (Section 8); and improving support from and communications with the community. At regular meetings the working group "brainstorms," plans strategies for addressing each problem (from prevention through enforcement and prosecution activities), and coordinates activities.

***Treatment and Diversion:*** Drug Court and Day Report Center - The Drug Court (within the Criminal Drug Prosecution Division) continues to grow: in 1996 a full-time Drug Court Commissioner (the only one in the state) was appointed by the Circuit Court to replace the part-time judge who had been assigned to the Drug Court. Approximately 650 active cases were before the court: the new commissioner Marco Roldan, a former police officer and defense attorney, estimates that the number will soon reach 1000.

The Judge Mason (Day Report) Center opened in June 1996 as a direct outgrowth of the Drug Court: it serves as a general assessment and intake center for Drug Court, with full employment counsel, health screening, mental health screening and follow-up evaluation, and substance abuse assessment all available. Yet the Center also fills a need that COMBAT Administration staff saw was not being met by the treatment options available as part of Drug Court Diversion. For those individuals whose substance abuse problems are coupled with a lack of internalized structure and skills that would enable them to participate successfully in outpatient programs (so that they could keep appointments, go through counseling, learn job skills), the Day Report Center offers intensive all-day (or night time) programs to build these skills. The operations of the Center have raised challenging issues for the prosecutors and treatment providers who work with individuals accepted into the program. Prosecutors are grappling with how to treat confidential information with which they come in contact—such as about previous crimes committed by clients; treatment providers may resist tracking and intensive oversight of their activities with clients because it opens them up to evaluation, and also raises confidentiality concerns. Current Drug Court Administrator, Assistant Prosecutor Molly Merrigan, is a trained social worker with previous experience in the treatment community. Although Merrigan can see both sides of the conflict, it has not been easily resolved in the short term.

***Collection of Data on Current Operations:*** Through a newly created research committee, the COMBAT Administration is gathering data from all existing COMBAT initiatives in order to develop a database that may be used as a resource for future operations. For example, Administrator James Nunnally hopes to use these data to determine how the size and number of specific programs should be increased.

***Strategic Planning:*** COMBAT Administration staff have responsibility for leading an ongoing strategic planning process for the entire operation of the COMBAT program, and providing a yearly progress report to the Jackson County Legislature that also includes the plan for the next year's operations. The Strategic Planning Team includes representatives of all the major players in COMBAT—KCPD, drug prosecutors from JCPO, Eastern Jackson County Drug Task Force, the Family Court, the Circuit Court, corrections, the Drug Court and Judge Mason Center, DART, others from COMBAT Administration in the JCPO, and McCaskill herself, who remains the

designated (by the Jackson County Legislature) leader of COMBAT.<sup>29</sup> The Strategic Plan sets out specific strategies and tactics (along with specific performance measures) for each agency that receives COMBAT funds. But the planning process itself, which takes place through ongoing monthly meetings of the Planning Team throughout the year, is perhaps more significant than the document produced: it is the process that provides COMBAT with a coordinated and comprehensive strategy for continued operations, and with a rationalized plan for where it will move in the future.

## THE PROSECUTOR IN THE COMMUNITY

### *The Prosecutor as Community Leader*

At an executive staff meeting in mid-1996, discussion centered around a request from Project Neighborhood for information on drug houses in local neighborhoods: specifically, citizens wanted to know the addresses of drug houses that had been targeted by DART, and actions taken toward eviction or shutting down the houses on code violations. Although not all executive staff agreed with her, McCaskill said "yes." Project Neighborhood's goal—and that of local residents in the neighborhoods—was to keep children safe and away from dangerous places.<sup>30</sup> In this instance, as in others, McCaskill asked herself how the actions of her office, and the prosecutor, appeared to the public. She is concerned not only with individual events or issues, but in a broader sense with constantly communicating to the citizens of the county the goals that she has set and activities that she is carrying out as their elected prosecutor. Retooling the public image of COMBAT is but one example; others are provided below.

McCaskill's sense of accountability to the public extends beyond providing information, however. She has also created opportunities for more contact between staff in the prosecutor's office and "good citizens"—such as through outreach activities aimed at prevention and crime reduction in specific neighborhoods carried out by neighborhood prosecutors, DART, and COMBAT Administration staff, and convening a task force to address domestic violence issues. Just as McCaskill works to stay in touch with staff at every level within the prosecutor's office, so too she reaches out as prosecutor to private citizens in the community. In the same vein, McCaskill constantly builds bridges to other elected officials and community leaders. As she defines her priorities—largely as "problems"—few can be achieved without collaboration, especially with other criminal justice agencies (policing agencies, the courts, corrections, the U.S. Attorney, the City Attorney and City Prosecutor) and the mayor in Kansas City. Although her leadership of COMBAT operations for the county provides McCaskill with power and moral authority in these relationships, her own style of accommodation, compromise, and expression of public support for those with whom she works is equally important.

### *The Media*

When a Democratic campaign-related press conference in Kansas City on assault weapons and gun control by Governor Mel Carnahan and McCaskill was pre-empted last year by the shooting of a

<sup>29</sup> COMBAT: 1996 Progress Report of the Anti-Drug Sales Tax. Presented to the Jackson County Legislature, September 1996.

<sup>30</sup> The decision was affirmative so long as no investigation was in progress, and no citizens would be endangered.

police officer, McCaskill advised Carnahan to cancel his appearance and instead went to the scene of the crime herself, concerned that there be no appearance of politically exploiting a police shooting. Meeting with media and members of the public, she spoke of the tragedy of a police officer being injured, and appealed directly to the shooter to turn himself in. The governor was relieved; and the public and police reassured by McCaskill's handling of the situation. The next day, McCaskill received a call: the shooter would indeed surrender—but only to her. Before long he presented himself at the prosecutor's office.

Not every crisis, and not every event with the press, has had such positive results for McCaskill. Yet virtually all informants describe her as unusually skillful at snatching some measure of victory from the most difficult of situations, even in the full glare of the media. On those occasions when she meets the press directly, McCaskill appears at ease, presenting an accommodating, open demeanor. But behind the "easy" demeanor, McCaskill works at her relationship with the media no less than she does with KCPD and other elected officials. Her basic approach is governed by two principles. First, respond positively to requests for information: say yes when information is sought, and give *more* information than is asked for, if at all possible. Second, be proactive: provide information regularly, a lot of it, even when no specific request has been made. In effect, the press becomes dependent upon the steady flow of information emanating from the prosecutor's office. With this strategy McCaskill has built up rapport between the JCPO and the press that gives the office 'chips' to play when they are needed later—not only at difficult times, but when the office simply wants to get a particular message out.

Two individuals in the office are charged specifically with dealing with the media—first, Rosselli, in the COMBAT Administration section, whose work is described above; and second, Glenn Cambell, journalist and public affairs administrator who has joined the executive staff. Campbell handles the bulk of routine queries from the media; in addition, he prepares daily and weekly communications that are released to the media on a routine basis. Updates (based on the open court record, including the charging and probable cause statements) on all homicides, and other pending cases where questions come in, are faxed to the local media. Pleadings, sentencings, and convictions are broadcast, especially for high profile cases. On a weekly basis, Campbell scans docket information for trials of interest, lists these along with sentencings on prior charges, and broadcasts the list. Where television stations need advance information in order to submit a request to televise a courtroom proceeding (required at least five days in advance, under Missouri law), he attempts to provide it in timely fashion. When a sensitive case is coming up—such as when a sheriff's deputy was charged with sexually molesting a child—Campbell comes to McCaskill and executive staff to talk it through, and decide how it will be handled. He is constantly monitoring what is going on, how it appears to the public, and what to give the media. And the media have come to depend on him, and seek him out, even when McCaskill is not available.

McCaskill describes this "mix" of a marketing professional and journalist as key to how well the office does in creating a perception—and "the perception is reality"—among people in the community of what the office is doing. "We spend a lot of time thinking...prosecutors talk to Glenn when we know what happened isn't good, when we screwed up on this end. The point is, how do we now manage this message to put the best face on it to the public? This process is a key part of the management style." McCaskill recalls that she had wanted to take her executive staff on a retreat the previous year to Big Cedar Lodge. They said "no:" it wouldn't look good to the public, it was an election year, and it was the public's business and money involved. According to McCaskill, her staff had absorbed her message concerning the office's responsibility to the

public, but also had learned from having a journalist around. At the same time, McCaskill says, Rosselli does “earned media,” generating stories “such as a great article on landlord-tenant training,” working with radio stations or the editorial boards of newspapers, being proactive so that misinterpretations don’t grow up that have to be corrected later.

JCPO staff, including those in COMBAT, are convinced that this approach to dealing with the media and the public have paid off: COMBAT Administrator Jim Nunnelly comments that “when they [the media] see so much proactive stuff going on, then when you do make a mistake in the prosecutorial side, they’re not as apt to be so critical because they know that there is a balance.” Deputy Administrator Pat Glorioso believes that “when you continuously talk to the press and have a lot of presence...it demystifies the criminal justice system...then people understand the ups and downs.”

#### *Working with the Police: KCPD and other Jurisdictions*

The county prosecutor’s office by necessity works with policing agencies throughout the county—including not only KCPD, the Sheriff’s Department, and the State Highway and Water Patrol, but numerous others representing smaller towns and municipalities in Eastern Jackson County.<sup>31</sup> Through her control of three million dollars in COMBAT funds to be disbursed in equal amounts to the KCPD and the Eastern Jackson County Drug Enforcement Task Force (comprised of police departments from thirteen jurisdictions to coordinate narcotics investigations), the county prosecutor maintains a degree of leverage by which she can influence policing agencies. But McCaskill has also worked hard to cultivate positive and productive working relationships not only with KCPD, but with the other policing agencies.

#### *The Sixteenth Circuit Courts*

Under the Nonpartisan Plan that operates in Missouri, judges in Jackson County are selected by the governor from a panel determined by the state judicial commission. Circuit court, associate circuit, and municipal judges are part of a single structure. A presiding judge, elected for a two year term, has general administrative authority over the circuit court. The Honorable John R. O’Malley is currently presiding judge of the Sixteenth Circuit. Judges within the circuit generally rotate at six month intervals, moving among civil, criminal, and domestic courts.

Perhaps the overriding factor influencing criminal court operations in Jackson County is the fact that the county is under a federal court order to expand its jail facilities or reduce the number of those held. Although expansion and construction plans are underway, limitations on the number of beds available and rising numbers of inmates (especially as a result of the seven “deadly sins” law mandating that 85 percent of time must be served for serious felonies) caused Judge O’Malley to create a release docket held on Thursday afternoons at the county jail in Kansas City. Acutely

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<sup>31</sup> The political structure of Kansas City and of Jackson County is complicated. Kansas City overlaps four counties; while Jackson County alone includes numerous policing jurisdictions and agencies: KCPD, Blue Springs, Independence, Lee’s Summit, Grandview, Sugar Creek, Raytown, Grain Valley, Missouri State Highway patrol, Missouri State Water Patrol, Sheriff’s Office, Lake Tapawingo, Lone Jack, Buckner, Greenwood, Lake Lotawana, Levasy, Missouri Conservation Department, Railroad, and the Jackson County Drug Task Force.. Because in a study of this size it would have been impossible to include all these agencies, we decided to limit the study to the major urban police department in Jackson County with which the prosecutor’s office deals--KCPD.

aware of the overcrowding situation, circuit court judges feel particularly constrained at not being able to use "shock time" sentences; and in Independence, judges are bothered because defendants whose offenses are deemed worthy of jail time in the Eastern Jackson County setting, many of whom are repeat offenders, are often the first to be set free. Prosecutors share these sentiments.

Given this situation, McCaskill as a tough-on-crime prosecutor might expect to encounter problems with the judiciary. For the most part, judges find her administration aggressive, and at times see plea standards as unrealistic. Nevertheless, they generally respect her "realistic, responsive and quick handling of domestic violence cases," her "strong support of victims," and generally approve of the Drug Court and diversion programs.

### The Family Court

As county prosecutor, McCaskill has no authority over the prosecution of juveniles: this responsibility lies with the Juvenile Officer of the Family Court, who oversees the prosecution of abuse and neglect matters, and status and delinquency (criminal) offenses, under the supervision of the Administrative Judge of the Family Court and Court Administrator for the 16<sup>th</sup> Judicial Circuit. Family Court operations also include extensive prevention and treatment services for juveniles and families, almost a "microcosm" of COMBAT programs. Nevertheless, McCaskill has made juvenile safety, including preventing juveniles from trying and using drugs, one of her highest priorities. She has brought COMBAT Administration capacities in prevention and treatment to bear in developing new programs, and using the authority of her office to prosecute criminal abuse and neglect (of children) cases, she has worked closely with Family Court Director David Kierst to better coordinate child abuse and neglect actions between the JCPO and the Family Court.

During 1996 McCaskill began to pursue an agenda involving reform of the child abuse system in the county. Often the Division of Family Services and the Family Court shared a mission that included extensive case management, counseling to preserve the family, and rehabilitation—a mission that would collide with efforts by the prosecutor's office to prosecute a parent for criminal abuse just when the parent was deemed "rehabilitated." McCaskill proposed to identify a prosecutor in the Sex Crimes Unit of the JCPO to cross-prosecute with a Family Court attorney on those cases being worked on by both agencies: the Family Court attorney would then "second chair" the criminal proceeding, while the JCPO attorney would "second chair" the Family Court proceeding. As a first step, the office applied for and received a federal grant to add a case manager position to support the assistant prosecutor from the Sex Crimes Unit in these cases.

The COMBAT Administration is also contributing to the development of more effective prevention programs for juveniles by collecting information from ongoing drug testing of juveniles. These data, many reflecting patterns of drug use, will be made available to prevention providers in the county as they create new programs and adjust those already being implemented through COMBAT funding.

A wide-ranging program just getting off the ground late in 1996, the Kansas City In-School Truancy Project represents a collaborative effort among the Jackson County Prosecutor's Office, the Family Court and Division of Family Services, the Mayor's Office of Kansas City, the Kansas City, Missouri, School District, the Mayor's Urban Symposium and Tournament, and the Missouri Department of Public Safety, intended to decrease youth involvement in crime and violence by reducing truancy among middle and high school students. Available statistics showed that absentee rates in 1995-96 for middle school students were running at 14.9 percent, and for high school students, 24.4 percent, and only 63 percent of students were graduating from high school. Data

collected by COMBAT Administrator Nunnally on jailed offenders also suggested seven “early warning signs” in the lives of offenders that could serve as points for intervention. The Truancy Project was developed to identify students at risk, and intervene early and effectively, by providing coordinated services to the students and their families. Three pilot middle schools and three high schools are served in the initial project period: at each, parents are notified by an attendance clerk when students have unexplained absences of one to two days; when unexplained absences of two to ten days occur, parents are informed that they must either contact the parent school liaison, or the matter will be referred to the prosecutor’s office for action; and when unexplained absences reach eleven or more days, prosecution of parents may commence for failure to ensure attendance of the juveniles, under the state’s compulsory attendance law. Prosecution is viewed as a last resort: the goal of the project is to encourage parents to take responsibility for their children. All these actions are fully supported by needs assessments, referrals for counseling and other services made available to parents and children, and the development of an comprehensive treatment plan for each child at risk.

#### Municipal Courts, City Attorney and City Prosecutors

The Municipal Courts have jurisdiction over municipal traffic and ordinance violations: in fact, they see far greater numbers of offenders, and at earlier stages, than do the Circuit Courts. Judges and prosecutors alike report that many cases filed as ordinance violations are actually more serious misdemeanors and D felonies—and they may be treated more harshly in Municipal Court, with some going on to Associate Circuit Court judges as de novo appeals.

McCaskill recognizes the importance of the cases handled by the Municipal Courts and of working with Municipal Court judges and city prosecutors (who are part of the City Attorney’s Office): DART cases are frequently filed and heard in the Municipal Housing Court session; most domestic violence cases end up on the docket of the special Municipal Court created to hear them; city prosecutors must be willing to dismiss pending charges against offenders who are being admitted to Drug Court Diversion programs. Municipal Court judges have heard many of the cases arising in connection with the Paseo Corridor project and other similar initiatives—it was only when the current presiding judge, Judge John Williams, was asked to attend meetings and was informed about the goals of the project that he was able to bring the cooperation of the court to helping the project succeed. (Since then, Judge Williams has been invited to participate in other planning initiatives involving the prosecutor’s office.)

Since policies set by the City Attorney and followed by the City Prosecutor reflect the consensus of the city council and the mayor, McCaskill’s strong relationship with the mayor has been an asset in working with city prosecutors in areas such as domestic violence, where their cooperation has been necessary.

#### *Working with the Mayor’s Office*

Mayor Emanuel Cleaver has been one of McCaskill’s closest allies in the community in terms of shared interests and priorities. The Truancy Project, the Domestic Violence Task Force, the designation of Kansas City as an “All America City” in 1994, and as a federal Enhanced Enterprise Community in 1994, and the ongoing Paseo Corridor project are all examples of their collaboration. By working together they have brought substantial federal funds into the community.

## WORKING WITH KCPD: A NEW PROSECUTOR - POLICE RELATIONSHIP

McCaskill inherited a troubled relationship with the KCPD. From the point of view of many in the department, Riederer's attempt to professionalize the prosecutor's office by tightening the standards for case acceptance was viewed as "accepting only cases he could win." Moreover, from the police point of view, Riederer was aloof – never involving them in case decision-making or communicating with the police about ways in which they could strengthen their cases. One police administrator credits McCaskill for "awakening the prosecutor's office from a deep sleep." Moreover, a "line of blame" developed between prosecutors and police: police would prepare their cases as best they thought they could, take them to a line, and slough them off to prosecutors; prosecutors would go to the line, take the cases, and independently make decisions about them. Police would wash their hands of responsibility once they handed over cases, and point fingers at the prosecutors if the case wasn't prosecuted or somehow went awry. Likewise, prosecutors would point fingers at the police, accusing them of poor investigations and shoddy case preparation. By virtually unanimous police opinion, this "line of blame" has been surmounted by McCaskill.

Aside from programmatic developments, McCaskill gets credit from police for "being a great communicator." Phrases like "Claire takes every opportunity to praise the police department," "She sends letters of praise," "If there's a problem, all you have to do is pick up the phone," "Regardless of politics, she speaks out and tells the truth," and, "Claire tells it in ways that are acceptable both to the community and cops" are typical. Yet, she is not seen as pandering: "Claire doesn't put up with a lot of crud." "If a cop shoots a citizen, she comes out. If a citizen shoots a cop, she comes out."

As important to most police, especially detectives, is that organizational boundaries have been broken down by a series of administrative moves. In the most general sense, McCaskill has been credited for involving police – administrators, investigators, and line officers – in virtually all of her crucial activities. Specifically, she is credited with overcoming the "line of blame" by assigning prosecutors to work in the police department, by accepting police to work in the prosecutor's office (mutual liaison), by training police, by having a "second chair" for KCPD detectives at all hearings, and by focusing on solving problems, especially procedural problems that were irritants for police. An example: State law requires two city convictions for prostitution before state prosecution is allowed. City prosecutors, however, do not work prostitution. McCaskill intervenes with police, city prosecutors and her office, and the matter is resolved in a manner with which everyone is comfortable. She manages such problems in a way that "even crusty old-line detectives have been won over."<sup>32</sup>

In sum, McCaskill appears to have skillfully improved a crucial area for police: case processing. She has done this by establishing good communications with police, including back-channeling ("You can always get Claire on the phone"); back-channeling criticism of police rather than publicly criticizing them; establishing strong liaison positions; training, and by taking a problem-solving approach to deal with procedural "irritants."

Despite its preeminence as an innovative police department during the early and mid-1970s, the late 1970s and 1980s were troubled years for the KCPD. During 1977, police relations with the

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<sup>32</sup> McCaskill herself says she has tried to give police a clear line as to when the JCPO is prepared to bring charges so they know when to go city or state. But if there is a police problem, she'll listen—change filing guidelines, or whatever.

African American community worsened as a result of a series of gruesome murders of young black women that went unsolved. In 1978, the chief was dismissed by Kansas City's Board of Police Commissioners after spending just thirteen months on the job. The grounds for the firing included charges that he had been insensitive to the needs of the African American community. Although this crisis was managed by subsequent chiefs, the relationship between police and the black community remained unsettled during most of the decade. It flared again in 1990 when three separate incidents of alleged police brutality occurred within months of each other: two ministers alleged that they had been beaten, and a man armed with a barbecue fork was shot nineteen times. The department moved to dismiss one officer involved in the beatings, gave another 120 day suspension, and took no action against the officers involved in the shooting.

In June of 1990, Steven Bishop was appointed the KCPD's Chief of Police and remained in office until December of 1995. Floyd Barch was appointed Chief in 1996. Bishop was widely seen as an innovative chief, especially in his attempts to improve the relations between police and the minority community and to find non-deadly means of force. In 1994, Bishop announced that the KCPD would adopt community policing.

Not unlike other departments, the KCPD had been refocusing its orientation away from traditional policing during the late 1980s and early 1990s. In a survey conducted by the Police Foundation in 1993, for example, the department noted shifts in its strategy that were congruent with the incipient move towards community policing. It reported that citizens and police were working together to identify and resolve community problems; that surveys were used to determine community needs and priorities; that interagency approaches were used to identify problems and resolutions; that they were working with corrections departments; alternate dispute resolution approaches were being used; that patrol officers were making door-to-door contacts with citizens; that foot patrols were being used; that some officers were involved in community organization efforts; that alternate responses to 911 calls were being developed; that investigations were being decentralized; and, that geographically based crime analysis was being made available to officers. Arguably, such reports were as much an indicator of what *should* have been happening as what was *actually* happening; nonetheless, responding as it did, the KCPD gave evidence of a normative, if not actual, shift in its strategy.

For KCPD informants, the inchoate shift to community policing began in 1991, when six officers were assigned to bicycle patrol in three high profile problem areas ("high profile problem areas" included "squeaky wheels" – that is, neighborhoods that were making a lot of noise about their problems and police inattention to them). KCPD staff are in virtual unanimous agreement that the effort worked well, and that the officers were wonderful resources in the targeted neighborhoods. One officer, Jennifer Deegan, received the Police Executive Research Forum's prestigious Herman Goldstein award for her work in dealing with prostitution.

As successful as these modest efforts were, however, other officers resented the attention that the six officers received: "we" do all the work (respond to calls for service), but "they" (bicycle officers), receive all the credit. Consequently, when Captain Gregory Mills took over Central Patrol District – by most accounts the model district for the KCPD's community approach – he decided that it was necessary to retool its efforts. Mills developed and expanded Community Action Network Centers (CANS), and Community Action Teams (CATS). CATs are mobile patrol teams comprised of 32 officers, who usually operate on bicycle, are trained in problem-solving, and are assigned to one of Kansas City's five patrol districts. Within its district, a team is

free to move into virtually any area or neighborhood to solve problems. Once the problems are resolved, the team can move elsewhere to deal with other problems.

To deal with the perception that bicycle officers did not carry their load yet got all the credit, Mills developed the Sector Project Program: every month all officers were to define a problem and formulate a response. In other words, sector officers were to get into the community policing loop as well. Mills viewed his responsibility as providing sector officers with the time and resources to do problem-solving. With the exception of undercover drug activities, officers are allowed considerable discretion in selecting problems and developing responses. Officers, in consultation with sergeants, for example, can propose overtime work, plainclothes assignments, and shift adjustments in response to problems. Moreover, according to officers in the district, Mills has put officers "at the table" in dealings with community groups and other agencies, with the authority to commit the KCPD to problem solutions.

In addition to CANs, CATs, and the Sector Project effort, 25 additional officers funded under the federal COPS program, operate city-wide using whatever mode of transportation best suited to their problem identification and solving activities.

Recapping, the KCPD is shifting to community policing, most aggressively in the Central Patrol District, but in other districts as well. The keystones to the shift, to date, have been CANs and CATs. Structural shifts in the KCPD in support of CANs and CATs have been modest, as have attempts to realign beats with neighborhoods; however, the department has had to invest enormously in restructuring its relationship to the African American community as a result of previous problems. From the standpoint of Central District administrators and officers, the county attorney has played a central role in the enhancement of community, or problem-oriented, policing in Kansas City (at least in the Central Patrol District). First, they describe her as having "political horsepower:" that is, she can call public attention to problems, mobilize resources, and keep attention focused on them. Second, McCaskill provides both organizational ability (can get things done through her staff) and credibility (she can speak with authority). Third, she has improved case processing in ways that have facilitated many law enforcement solutions to problems. Fourth, in problem areas such as the Paseo Corridor she has set policies that police believe essential to problem-solving through case processing, e.g., not accepting plea bargaining and setting high bond levels for repeat and violent offenders. Finally, she has established problem-solving teams that include prosecutors, and from the point of view of the KCPD, these teams have been very powerful and effective.

The police continue to be among McCaskill's strongest supporters. Her overall strategy has had two broad benefits for them. First, her efforts to improve the working relationship between prosecutors and police, as well as to overcome procedural obstacles to police functioning, have strengthened the ability of police to do a basic task – prepare cases for court. In addition, her involvement at a neighborhood level with problems has provided authority, skill, and credibility to police actions – perhaps helping to defuse the problematic relationship between segments of the community and the police. From "crusty" old detectives to administrators to line patrol officers, McCaskill and her community strategy are seen as enormous assets to the KCPD. It is hard to find a McCaskill detractor in the KCPD.

## CONCLUDING THE STORY

In November 1996 McCaskill faced Republican John Osgood, a former U.S. attorney in Oklahoma and Kansas City, for re-election. Although McCaskill did engage in fundraising, in the end neither candidate spent a substantial amount, nor campaigned hard.<sup>33</sup> Osgood disagreed with little of substance in McCaskill's running of the prosecutor's office; he had virtually no chance of winning, and admitted openly that he had run largely to provide a Republican alternative to Democrat McCaskill. His major campaign stances consisted of promises to prosecute public corruption more aggressively; to analyze how the anti-drug tax was spent and target more efforts to stop children from using drugs; and to work more closely with federal law enforcement and federal prosecutors. McCaskill emphasized her record, saying that she would continue to prosecute gun offenses and repeat violent offenders aggressively, and her plans for more aggressive intervention by the prosecutor's office on behalf of abused and neglected children. With minimal campaigning, she won by a large margin--171,711 votes to 71,598. As people say, Claire McCaskill never stops running for re-election.

## POSTSCRIPT: 1997-98 UPDATE

The JCPO continued to move toward greater involvement in community-oriented initiatives and problem solving during 1997-98. Two examples follow here:

### *The Paseo Corridor Drug- and Crime-Free Community Partnership.*

In June of 1998, the U.S. Department of Housing and Urban Development honored COMBAT with a Best Practice award in the category of neighborhood transformation for the Paseo Corridor Project. The Paseo Corridor, with its concentration of assisted housing, and extensive drug and criminal activity, had come a long way. COMBAT Director of Planning Kristen Rosselli's organizing and coordination efforts (also participating were the head of the DART team from the Office, and a neighborhood prosecutor) were matched by six committees established to carry out particular functions: partnership agreement/monitoring, lease/rules and regulations, law enforcement, faith initiative, resident empowerment, and economic development. Participants signed an agreement to formalize their mission—to improve the quality of life for residents, business owners, and employees in the Corridor—and to implement a three-phase strategy. Phase 1 would focus on attaining safety, security and economic stability; Phase 2 on lifestyle enrichment and self-sufficiency; and Phase 3 on community development through economic empowerment.

After one year, significant improvement was noticeable. Crime rates in the Corridor dropped by 50 percent, residents reported feeling safer, and a uniform lease agreement, rules, and regulations were adopted in all multifamily properties. A nearby Weed and Seed area was expanded to include the Corridor. More than twenty-five abandoned buildings that had become foci for drug activity were razed. A neighborhood liquor store moved toward becoming a grocery market. KCPD were denying signature bonds for incidents in the area, and the courts agreed to tougher conditions of

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<sup>33</sup> Joe Lambe, "Incumbent remains county prosecutor." *The Kansas City Star*, Nov. 6, 1996, p. C-3; Michelle Strausbaugh, "McCaskill, Osgood run civil campaign," *Lee's Summit Journal*, Lee's Summit, Mo., Nov. 1, 1996; Joe Lambe, "McCaskill's opponent admits he faces an 'uphill fight'," *The Kansas City Star*, Oct. 31, 1996, City Election Guide, p. 6; "McCaskill and Anderson," *The Kansas City Star*, editorial, p. C-6.

probation for prostitution offenses. Property owners and managers worked toward changing the Missouri Landlord/Tenant law to expedite evictions for drug-related crimes in rental housing, and a training program was set up to teach landlords and property owners how to reduce drug and criminal activity in rental housing. But more than anything else, according to Rosselli, "lines have blurred between public housing residents, those living in privately-owned Section 8 housing, and other inhabitants of this area. Residents have begun looking at each other as neighbors and community partners."

#### *The Neighborhood Justice Prosecutor Program*

Based upon the Indianapolis street level advocacy program, but adapted for the JCPO, the Neighborhood Justice (NJ) Prosecutor Program began in Kansas City in August of 1997. It is supported from normal operating funds, supplemented by a Local Law Enforcement Block Grant awarded to enable prosecutors and police to carry out geographic mapping of crime spots. To start the program, McCaskill created a few new positions in the office, while taking some away from trial teams. She recruited "top people" in the office for the NJ positions—a raise was offered for those selected; candidates had to be able to "think outside the box," be creative and aggressive, have good people skills, be open to trying new strategies, and be experienced trial attorneys.

To head the program, McCaskill turned to Bronwyn Werner, previously chief of the sex crimes unit. Four additional prosecutors are assigned—one each—to geographic areas coinciding with patrol divisions in the Kansas City Police Department (Metro Patrol, Central Patrol, East Patrol, and South Patrol). The prosecutor assigned to South Patrol also covers Eastern Jackson County. Neighborhood Justice Prosecutors develop anti-crime strategies appropriate to their areas. And like Indianapolis's street level advocates, NJ prosecutors concentrate on work with police, city agencies, school officials, and private groups—neighborhood organizations, business and church leaders. However, unlike their Indianapolis counterparts, NJ prosecutors do not screen or file cases. They are also asked to focus more on crime problems and patterns that have an inter-neighborhood impact: for example, in 1998 NJ prosecutors were targeting liquor establishments from which a significant amount of crime originated, applying a "responsible business strategies" approach used elsewhere in the JCPO, and making use of a state statute under which the prosecutor is permitted to file a state liquor control action to take away the liquor license of an irresponsible business. NJ prosecutors were also working on particular cases in which a community-wide impact had been felt—a burglar who victimized a large area, a rash of rapes.<sup>34</sup>

Resources from throughout the JCPO, and some associated with the Family Court, are available to the NJ program. For example, a Child Protection Liaison Attorney, whose job it is to devise strategies to reduce child abuse and neglect, has begun working in East Patrol Division, where the highest number of hot line calls originate. The Truancy Coordinator works with NJ prosecutors to set up truancy projects in schools in their divisions. Similarly, the DART team is cooperating with

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<sup>34</sup>Often these are high profile cases that start when police alert prosecutors to them early on during investigations; prosecutors work closely with the police, and then take the cases to trial (including pleadings). They often emanate from the recently enacted "red file system" that the Prosecutor's Office helped the police to set up: police identify four to ten individuals or businesses that they believe are contributing to the demise of a neighborhood, based upon criteria set out for selecting cases. A notation is inserted into the computer system to indicate that these are red file cases, for which a report must be written whenever police have any contact with the individual. When dispatchers see these notations, they alert police about them.

NJ prosecutors in shutting down drug houses, working with landlords, and addressing environmental crimes in their respective areas. Kristen Rosselli from COMBAT is available to assist with meetings that bring together all the players—federal, state and local law enforcement agencies, probation and parole, the City Attorney and City Prosecutors, the City Court Judge—where collaboration would be useful. In an unforeseen development, through the NJ program as a focal point, these specialists are themselves beginning to collaborate: the Child Protection Liaison Attorney is developing protocols with the Truancy Coordinator for exploring the relationship between truancy and a child being abused or neglected; she is also working with DART to devise a protocol for use with children found in methamphetamine houses, who may be subjects of neglect or sexual abuse.

#### *McCaskill Leaves the JCPO*

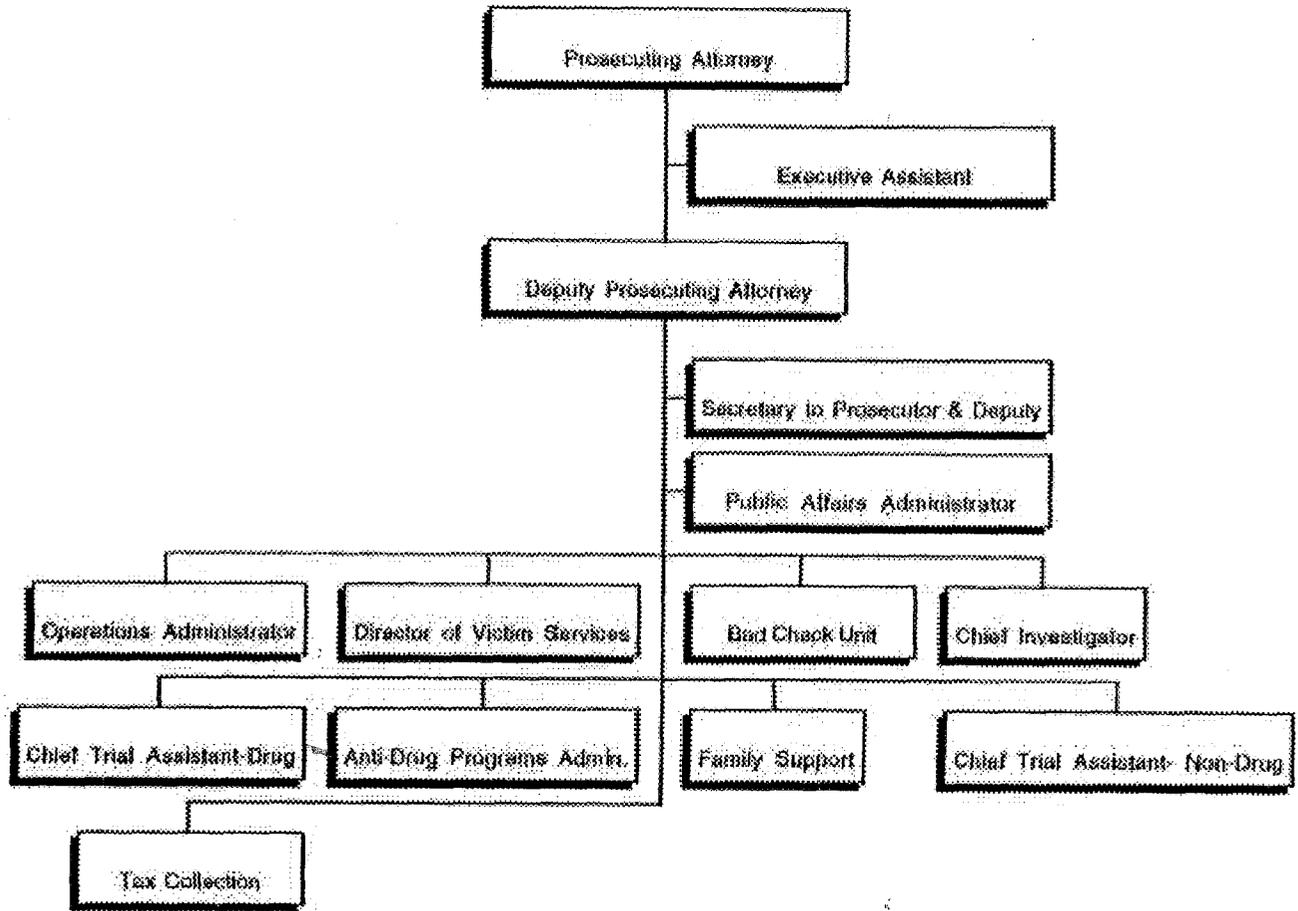
Finally, in 1998, Claire McCaskill ran for State Auditor, and won—she would be leaving the prosecutor's office midway through her term. Internal candidates from the office (of whom staff assumed one would be appointed to replace McCaskill) were expected to continue many current policies. And COMBAT should also provide continuity.

When asked whether they were concerned about a change in direction, or demise of programs, that McCaskill had set in place, several prosecutors responded that things had moved too far for a retreat. One prosecutors working with the new NJ Program was optimistic that it would continue:

...my feeling is that it is becoming such an ingrained part of the police department and our office, and we've had a lot of successes, and it's been a very positive experience...I can't imagine whoever comes into Claire's position is not going to maintain it. I really think there is going to be a lot of public pressure because the neighborhoods love it, and the police department loves it. There is going to be overwhelming pressure on Claire's successor to maintain this same level of activity.

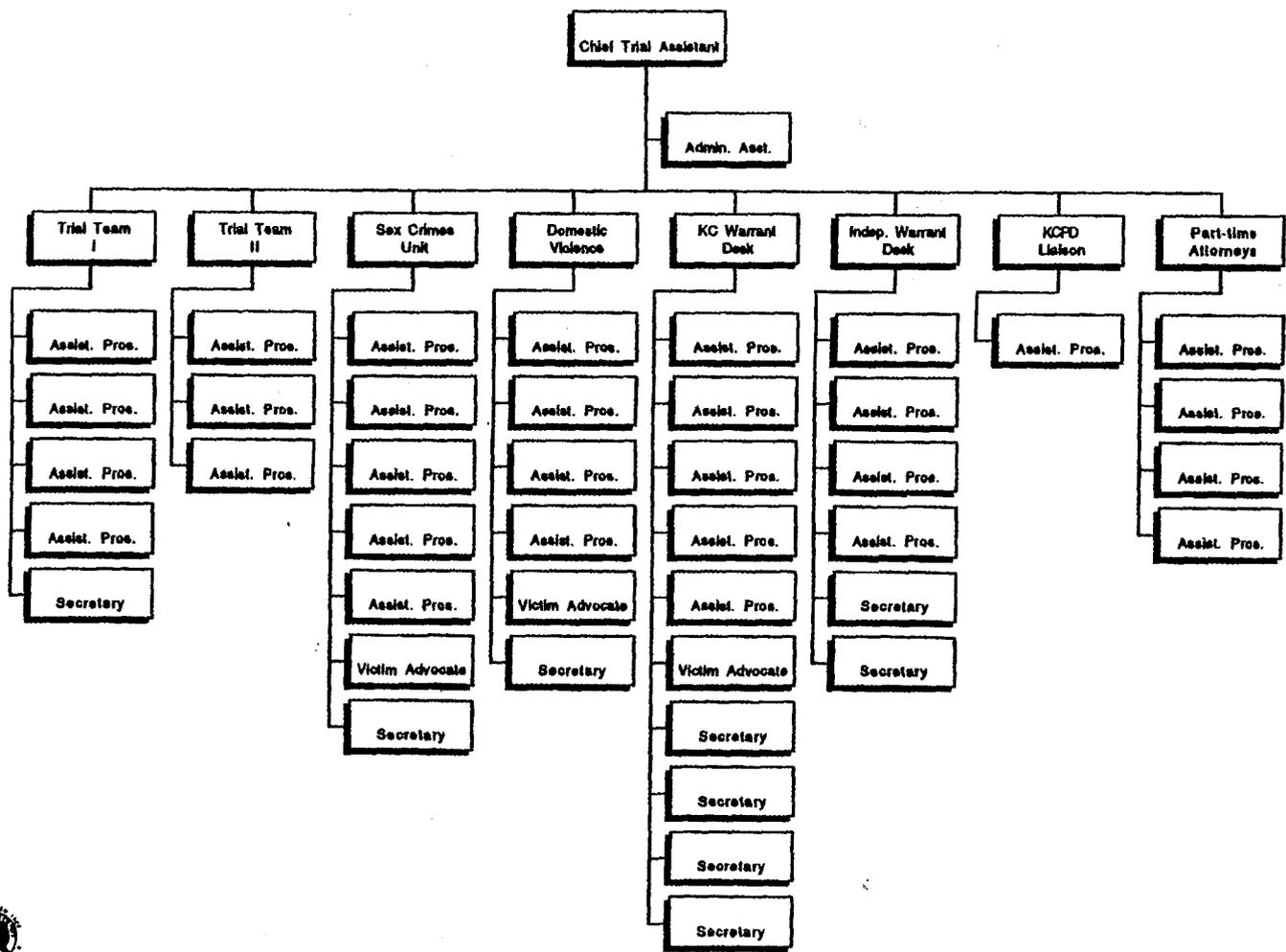
**APPENDIX A:**  
**JACKSON COUNTY PROSECUTOR'S OFFICE—ORGANIZATIONAL STRUCTURE**

# Jackson County Prosecuting Attorney's Office

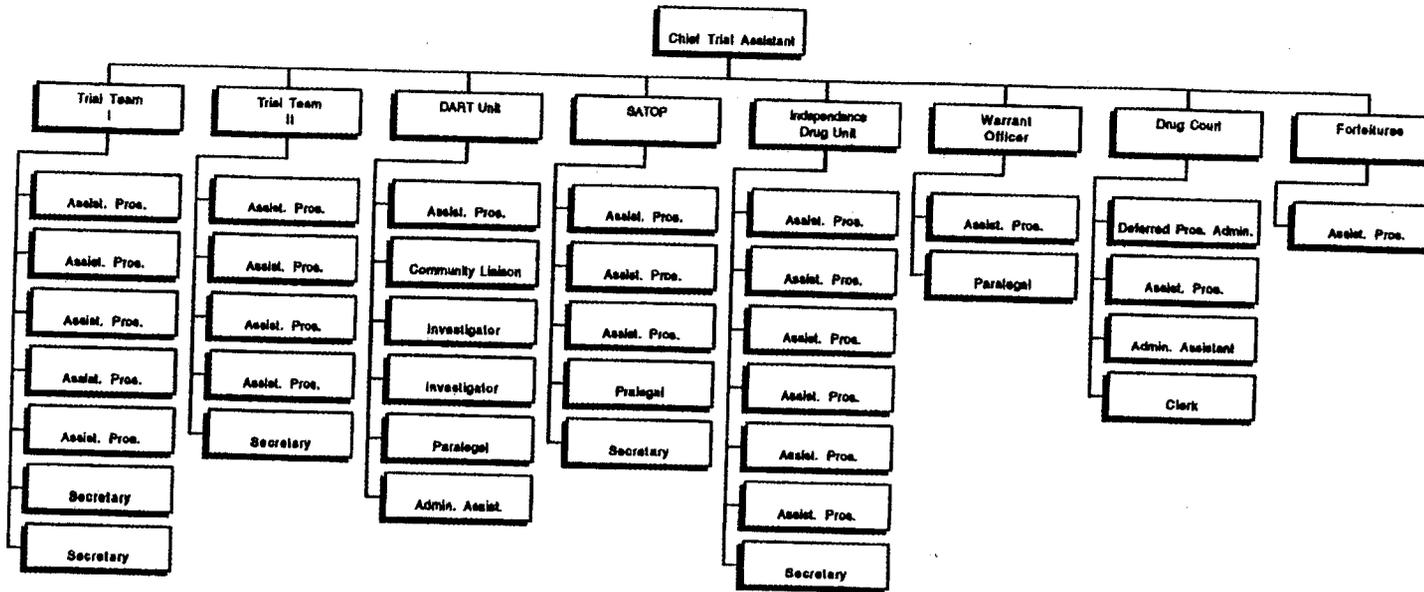


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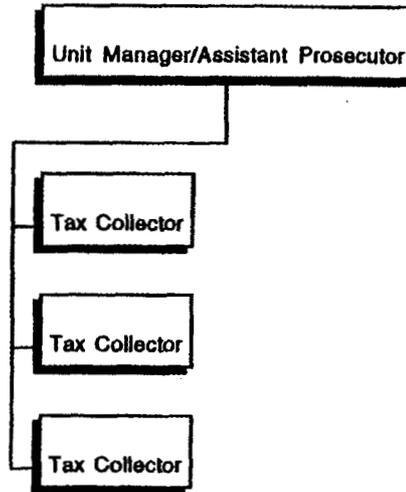
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Criminal Prosecution - Drug



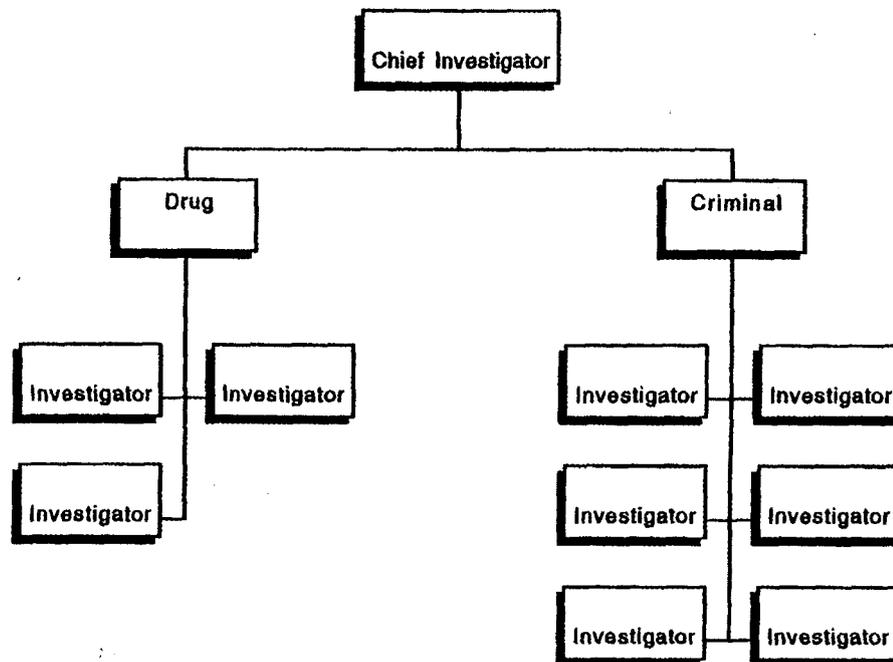
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Jackson County Prosecuting Attorney

02/13/97

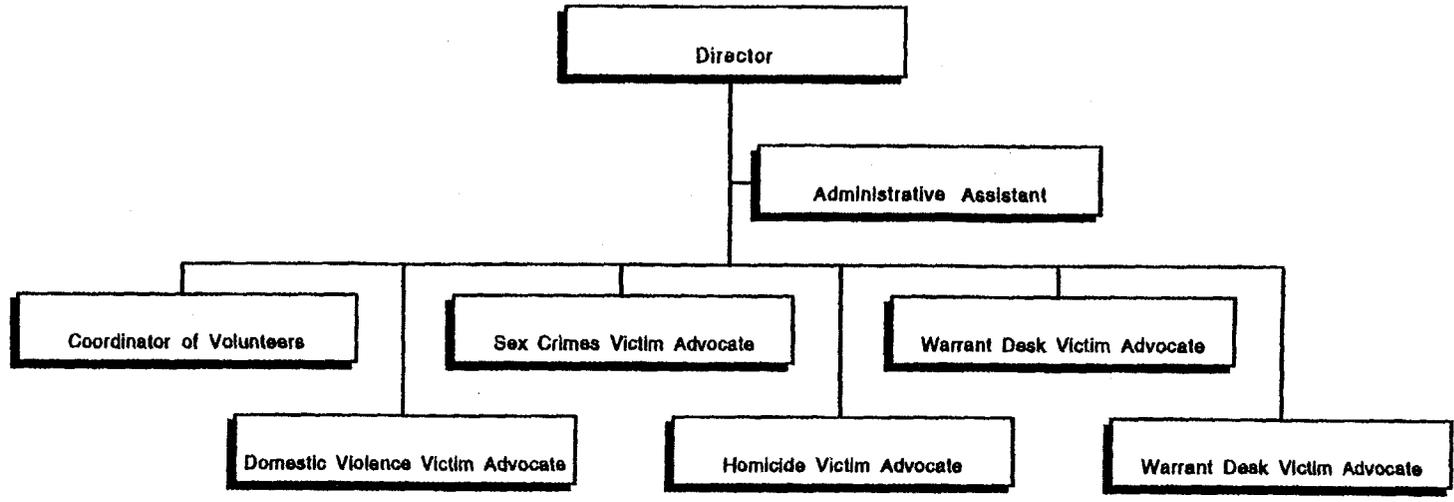
### Investigative Staff



Jackson County Prosecuting Attorney

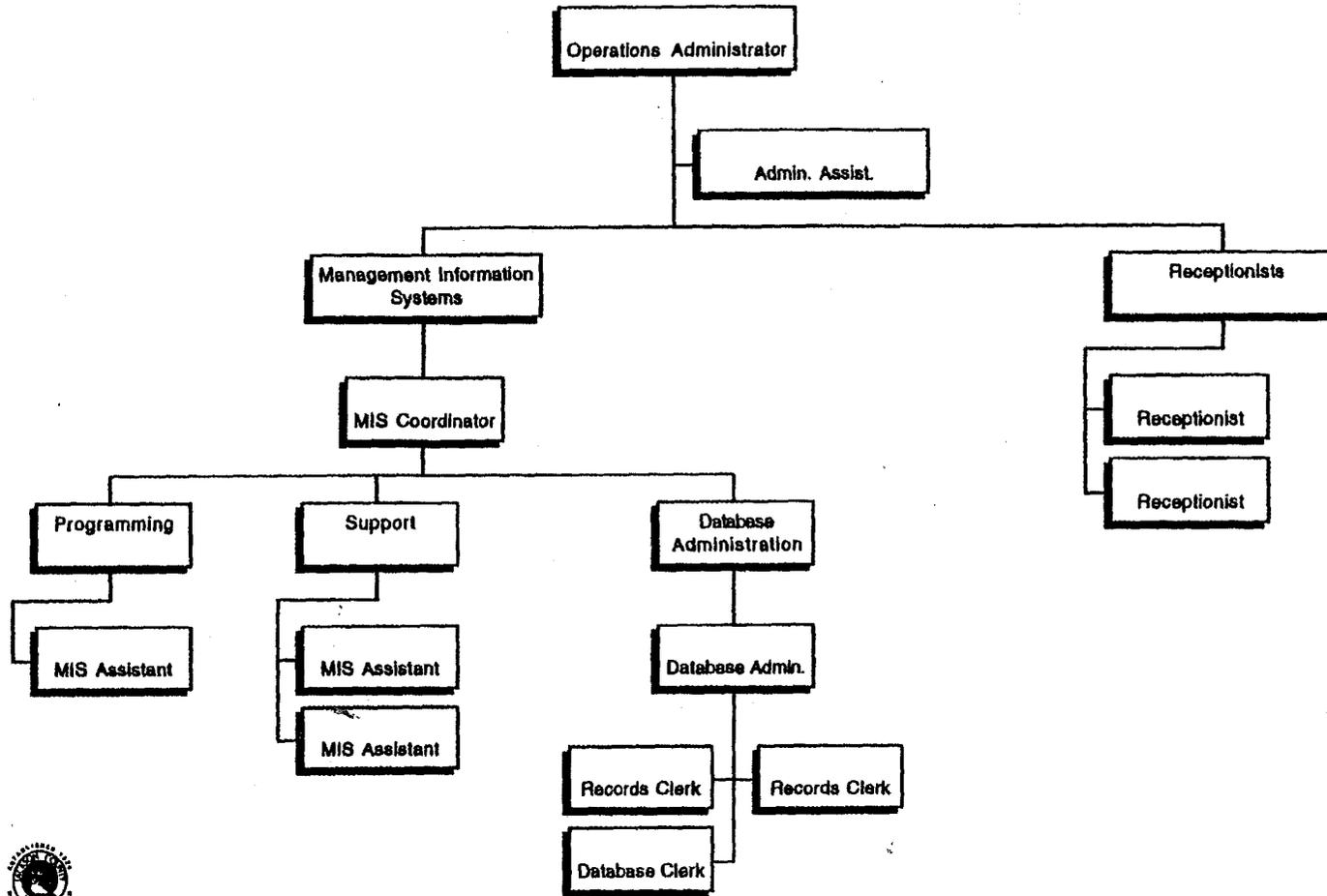
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### Victim and Witness Services



Jackson County Prosecuting Attorney  
06/14/96

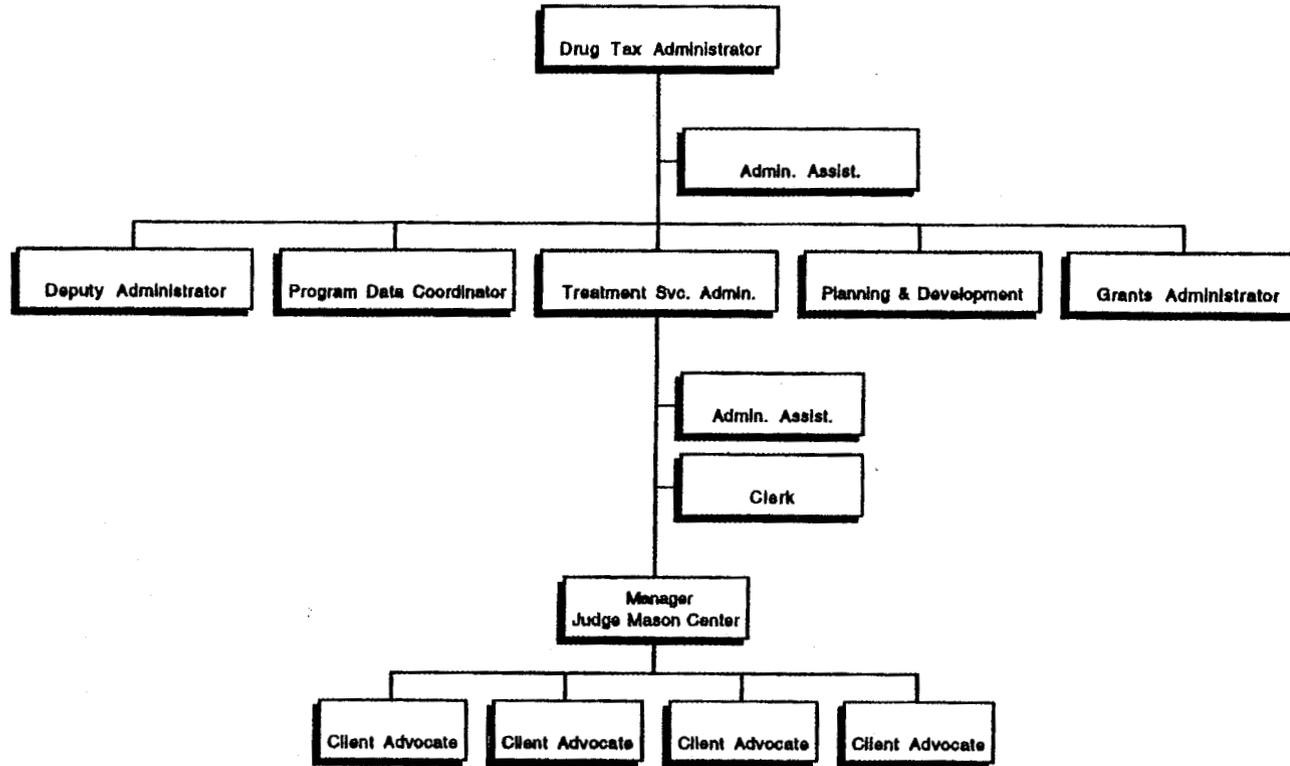
### Administrative Operations



Justice County Farmington Advisory Authority

02/08/97

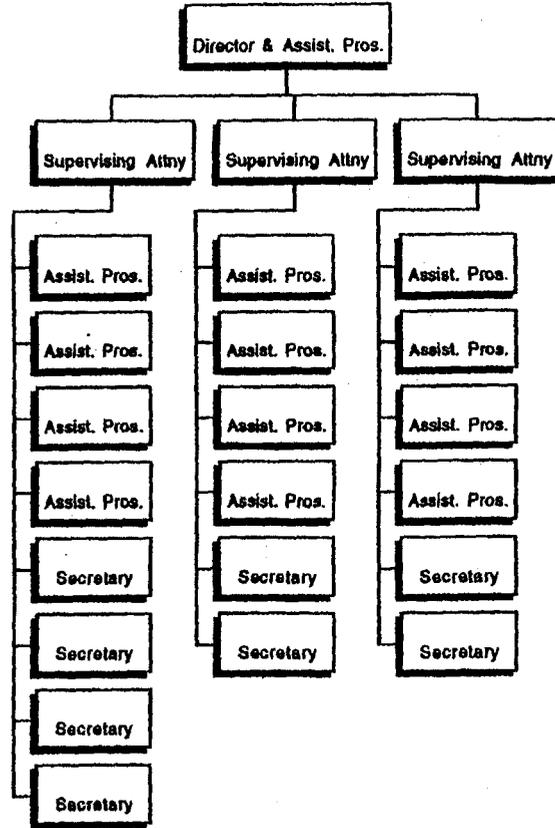
### Anti-Drug Tax Administration



Jackson County Prosecuting Attorney

02/08/97

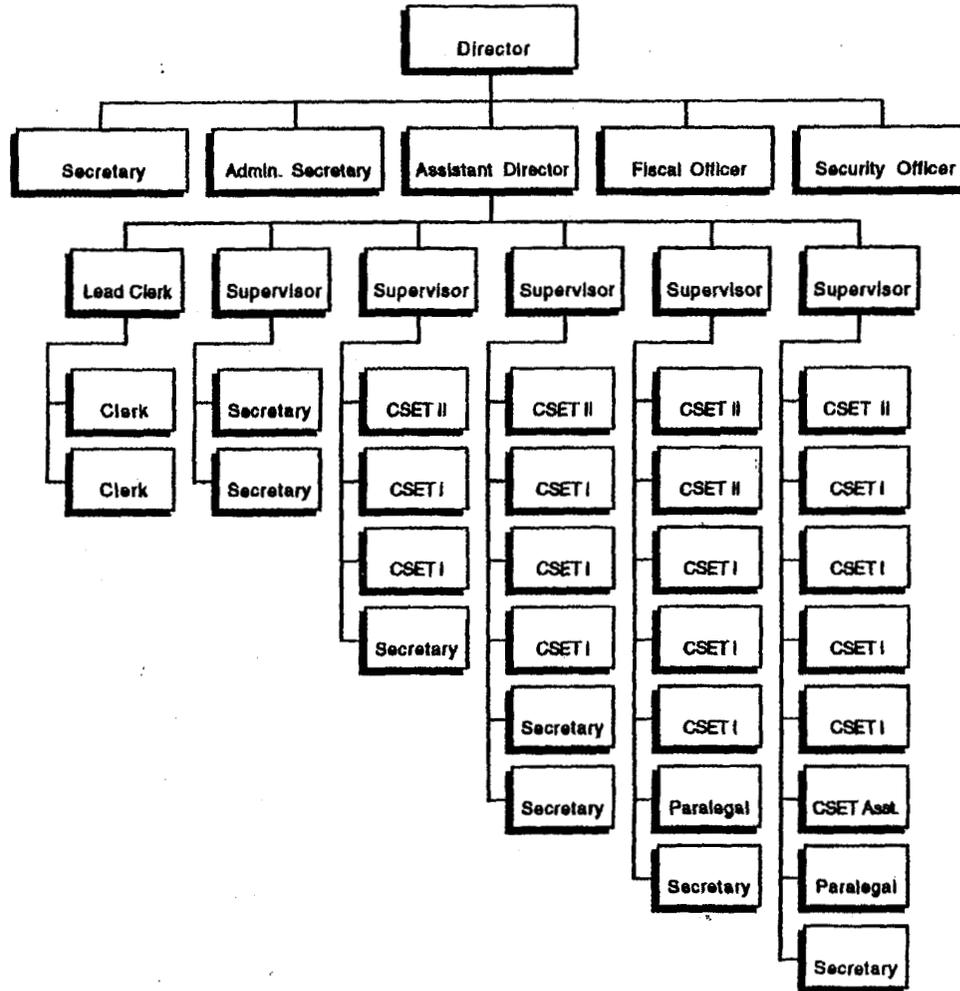
### Family Support Division--Chart 1



Indian Country Prosecuting Attorney

06/2006

Family Support Division--Chart 2



08/10/96

**APPENDIX B:**

**1996 JACKSON COUNTY PROSECUTOR'S OFFICE BUDGET**

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**JACKSON COUNTY PROSECUTOR'S OFFICE EXPENDITURES**

<b>General Crime Prosecution (General Revenue)</b>	<b>\$2,752,221</b>
<b>Drug prosecution (Drug Tax)</b>	<b>\$1,843,307</b>
<b>COMBAT Administration (Drug Tax) ((includes Drug Court, grant match fund etc))</b>	<b>\$ 346,535</b>
<b>Drug Court Operational (Drug Tax)</b>	<b>\$1,164,194</b>
<b>Grant Match Fund (Drug Tax)</b>	<b>\$1,940,324</b>
<b>Family Support (General Revenue)</b>	<b>\$2,527,971</b>
<b>Bad Check (General Revenue)</b>	<b>\$ 747,305</b>
<b>Outside Grant Fund (Both Federal and State Funds)</b>	<b>\$2,901,870</b>
<b>(Cash Matches)</b>	<b>\$310,358</b>
<b>(In-kind)</b>	<b>\$108,096</b>

### JACKSON COUNTY PROSECUTOR'S BUDGET DECISIONS

Upon taking office in 1993, one of the first budgetary reforms Claire McCaskill undertook was the reclassification of support staff positions. This resulted in pay increases of from 25-30% for all legal secretaries, family support technicians and clerks throughout the office.

McCaskill has identified opportunities to generate revenue. For instance, Missouri statutes allow the Bad Check Unit to charge for the collection of back checks for merchants of this County. As a result, this unit is self-sustaining. In fact it has been such a successful operation that McCaskill has shifted items which are necessary to the growth and development of any operation, but often are resented by taxpayers. MIS personnel, computers, travel and continuing education fall into this category. McCaskill has also developed programs to utilize revenue from the collection of back taxes and bond forfeitures. She does not use criminal forfeitures because of the controversial policy, and a difficult state statute directing the forfeiture funds to local school districts.

McCaskill has instituted a practice of spending money to attract additional funding. She has aggressively sought outside grant funding. She has wisely identified areas of funding which she feels will generate more funding dollars in the future. For instance, she implemented a program for the enhanced prosecution of Domestic Violence for two reasons: a) the crime involved deserved more attention and increased prosecution, and b) grant dollars would be available in this area. This policy of early identification of grant availability has paid off. This office received large amounts of funding from the State for domestic violence, whereas St. Louis did not. The difference was probably not need, but that St. Louis did not put in the ground work and establish a program prior to applying for grants.

McCaskill believes that often district attorneys avoid grants because they believe those dollars will go away. She has found that there are always grants. Perhaps they won't be the same ones; but there are always similar ones to fund good programs. She has been able to develop a good team with the right kind of skills to pursue grants due to the drug tax staff. However, if the drug tax did not exist, she would pursue an internship program to accomplish the same goals. She believes you can actively support a grant program without a drug tax.

The Prosecutor knows she cannot advance the office without the confidence of knowing she has the funding to implement innovative programs to address community concerns. She knows the budget gives her the power to be creative. She has not tied all of her programs to the drug tax and has steadily sought appropriate increases in general revenue e.g. Domestic Violence.

**APPENDIX C:**

**PASEO CORRIDOR DRUG- & CRIME-FREE  
COMMUNITY PARTNERSHIP**

**Program Description/Application  
to HUD Best Practices competition**

**Profile of Housing Areas  
Partnership Agreement  
Committee Structure  
March 31, 1997 Status Report**

JOHN J. GURTNER BLUE RIBBON PRACTICES IN COMMUNITY DEVELOPMENT

## **Paseo Corridor Drug- & Crime-Free Community Partnership**

**Kansas City, Kansas**

**CATEGORY: *Neighborhood Transformation***

### **PROGRAM DESCRIPTION**

On February 13, 1997, the Paseo Corridor Drug- and Crime-Free Community Partnership was formed among more than 60 property owners, community and neighborhood organizations, local, state, and federal officials, and resident groups. The Partnership Agreement is an effort to clean up a 15-block area of Kansas City which has a high density of assisted housing with extensive drug and criminal activity. The Agreement focuses on a three-phase strategy: Phase I - Safety, Security and Economic Stability; Phase II - Lifestyle Enrichment and Self-Sufficiency; and Phase III - Community Development Through Economic Empowerment.

### **RESULTS**

The crime rate in the affected area has been reduced by 50 percent and residents feel safe to move about their neighborhoods. A uniform lease agreement, rules, and regulations have been adopted by all multifamily properties in the area. The city has agreed to post "no parking/stopping" signs on a major boulevard which is a known haven for drug activity. The Weed and Seed area covered by the Police Department has been expanded to include the entire Paseo Corridor. Over 25 abandoned buildings, which provided a place for illicit drug activity, have been demolished. A special hotline was established for residents in the Paseo Corridor to anonymously notify police of illegal activities. A neighborhood liquor store began carrying more groceries and changed its name from Spino's Liquor to A & J Market. The local police department began denying signature bonds for incidents in the area. The Courts agreed to stiffer conditions of probation for prostitution-related crimes. Property owners and managers assisted in changing the Missouri Landlord/Tenant law to expedite evictions for drug-related crimes in rental housing. A Landlord Training program was created to teach landlords and property owners ways to reduce drug and criminal activity in rental housing. To date, over 400 Jackson County landlords have attended the training. Lines have blurred between public housing residents, those living in privately-owned Section 8 housing, and other inhabitants of this area. Residents have begun looking at each other as neighbors and community partners.

### **FUNDING**

COMBAT, Jackson County's anti-drug sales tax provides partial funding for Paseo Corridor Partnership initiatives.

### **AWARD WINNING ACHIEVEMENTS**

The Paseo Corridor was once considered one of Kansas City's loveliest boulevards; then it was considered one of the worst crime infested areas. Most recently it was a success story about residents fighting to take back their neighborhood. The Paseo Corridor Drug- and Crime-Free Community

Partnership is a wonderful example of what a private/public partnership can accomplish. The Paseo Corridor has been the spotlight of local press coverage and both the HUD Headquarters Office of Housing and the Office of Investigation plan to use it as a model for communities across the nation.

**Paseo Corridor Drug- and Crime-Free Community Partnership Project**

<b>Profile of Property/Residents</b>	<b>Parkview Homes I/II</b>	<b>Parker Square</b>	<b>Theron B. Watkins</b>	<b>Wayne Miner</b>	<b>Guinotte Manor</b>	<b>Chouteau Courts</b>	<b>Riverview</b>	<b>Total</b>
<b>Total number of units?</b>	213	204	286	74	409	140	221	1547
• <b>Type of Housing?</b>	Affordable Sec. 8-HUD	Affordable Sec. 8-HUD	Public - HAKC	Public - HAKC	Public - HAKC	Public - HAKC	Public - HAKC	27%: 73%
• <b>Occupancy rate?</b>	95%/92%	95-99%	100%	99%	48%	97%	40%	59%
• <b># units not rentable?</b>	32	4 (fire)	214 under construction.	0	211	3	166	630
<b>Number of residents?</b>	84/183	606	243	380	564	382	117	2559
• <b>Children under 18?</b>	8/51	267	139	250	281	232	54	1282
• <b>% children under 18?</b>	10%/28%	44%	57%	66%	50%	90%	65%	50%
• <b>Age range with highest # of children?</b>	0-6/0-6	0-4	6-12	6-12	6-12	0-5	6-12	6-12
<b>Describe avg. head of household? (HH)</b>	57/20 yrs.	35-40 yrs.	41 yrs.	45 yrs.	50 yrs.	35 yrs.	47 yrs.	
• <b>Sex</b>	F	F	F	F	F	F	F	F
• <b>Race</b>	Black	Black	Black	Black	Asian	Black	Black	B
• <b>Marital Status</b>	S	S	S	S	S	S	S	S
• <b># children</b>	1	3	3	2	2	2	1	
• <b># bedrooms</b>	1	3	2.3	4	2	2.5	2	
• <b>Education level-HS/GED</b>	40%/50%	50% GED	N/A	N/A	N/A	HS	N/A	
• <b>% Unemployed</b>	99%/95%	85-90%	90%	90%	50%	90%	50%	
• <b>Government Assistance received</b>	PVI-SSI/ PVII-AFDC/ Sect. 8	SSI/AFDC/ Sec. 8	AFDC/SSI	AFDC/SSI	AFDC/SSI	AFDC	AFDC/SSI	
<b>Other significant information?</b>	PV I. mostly elderly residents	HH over 50 years old w/ children	Outside drug activity	Gang activity	Asian gangs & language barrier	HH between 18-30	232 families in close proximity	

## PASEO CORRIDOR DRUG- & CRIME-FREE COMMUNITY PARTNERSHIP AGREEMENT

We, the Paseo Corridor Drug- & Crime-Free Community Partnership, agree that our mission is to:

Improve the quality of life for the residents, business owners and employees in the Paseo Corridor through a coordinated, three-phase strategy:

Phase I: Safety, Security and Economic Stability

Phase II: Lifestyle Enrichment and Self-Sufficiency

Phase III: Community Development Through Economic Empowerment

### "Quality of Life" Defined

For residents, "quality of life" is defined by the peaceful enjoyment of decent, safe and affordable housing and the ability to positively contribute to the success of the surrounding community.

For businesses, "quality of life" is defined by the ability to operate a safe and prosperous business and to positively contribute to the success of the surrounding community.

For employees, "quality of life" is defined by the ability to perform job responsibilities in a decent and safe business and community environment and to positively contribute to the success of the surrounding community.

### Phase I Defined

Addresses the immediate concerns of the Paseo Corridor community as identified by recent surveys and studies.<sup>1</sup> Phase I is the foundation for Phase II & III and establishes the necessary infrastructure/foundation for this project to be successful. For example, residents need to feel safe before they will come to a community room to attend a residents meeting or learn a new skill to later become more self-sufficient.

- "Safety" is defined as the condition of being safe from undergoing or causing hurt, injury or loss; the feeling of immediate personal safety.
- "Security" is defined by the forces necessary to make this community safe against adverse contingencies.
- "Economic Stability" is defined as enhanced economic viability of the businesses and housing communities resulting from the community's resilience to negative forces.

The focus of this strategy will be: crime prevention and law enforcement efforts, improved property management techniques, public/capital improvements, and responsible business ownership/management.

### Phase II Defined

Addresses the social components of lifestyle enrichment which enable a person and their family to gain control of themselves and positively impact their family dynamics, leading to self-sufficiency. The focus of this strategy will be to transition housing community residents to a more enriched, self-sufficient life through education, development, training, and job placement.

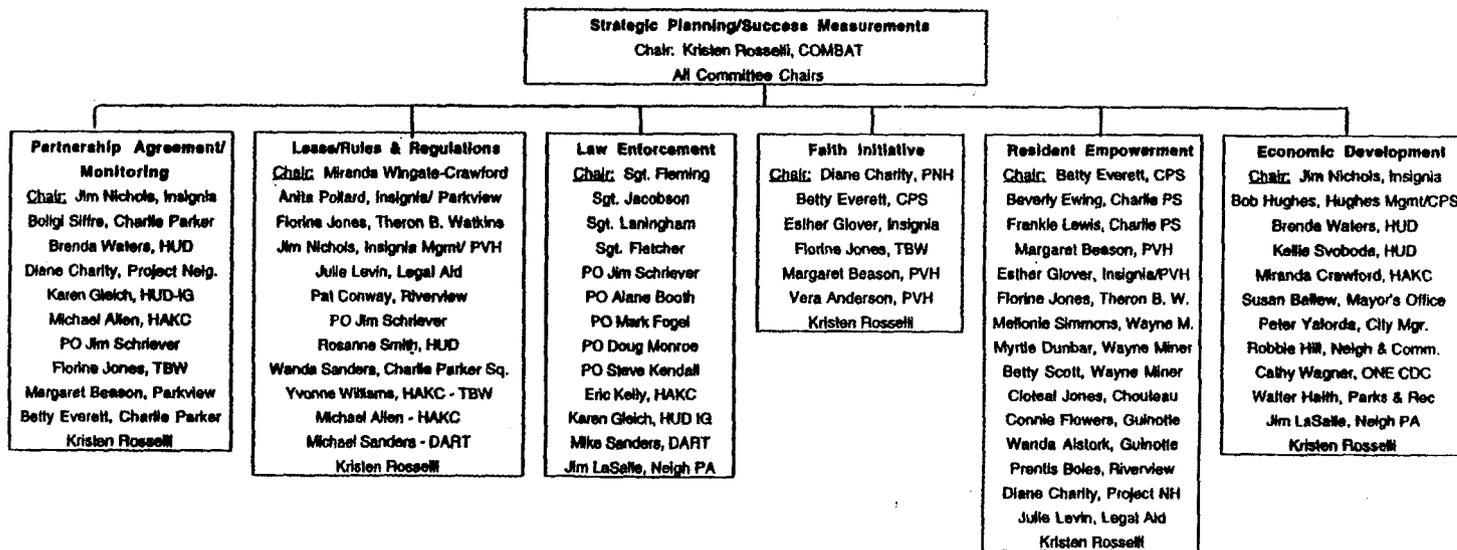
### Phase III Defined

Addresses the business and social components of establishing leadership and economic strength in and as a community. The focus of this strategy will be neighborhood leadership, job development, new business development, and improved economic strength of the community.

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<sup>1</sup> Paseo Corridor Partnership-sponsored resident and business survey, Empowerment Zone data, SPARTA Consulting Firm's assessment of the Housing Authority's Public Housing Communities. December 13, 1996 Draft  
Kristen Rosselli, COMBAT 881-3112

**PASEO CORRIDOR DRUG- CRIME-FREE COMMUNITY PARTNERSHIP COMMITTEE STRUCTURE**



**Partnership Agreement/  
Monitoring Committee**

To develop an agreement between various communities, organizations, businesses, agencies and residents, so as to improve the quality of life within the Paseo Corridor. To monitor the progress against the strategic plan.

**Lease/Rules & Regulations Committee**

To review and develop a uniform policy of House Rules, Lease Agreements, Resident Screening, Resident Orientation, and Eviction Procedures within the Paseo Corridor Housing Communities.

**Law Enforcement Committee**

To identify and coordinate local law enforcement agencies involved in assisting the Partnership in achieving the goals of improving and sustaining the quality of life within the Paseo Corridor.

**Faith Initiative Committee**

To organize a faith driven multi-denominational effort to reduce the perception among residents of imminent danger due to the proliferation of drugs, prostitution, violent crime and elderly victimization by engaging the participation of faith communities (churches) in evangelistic programs in the Paseo Corridor.

**Resident Empowerment**

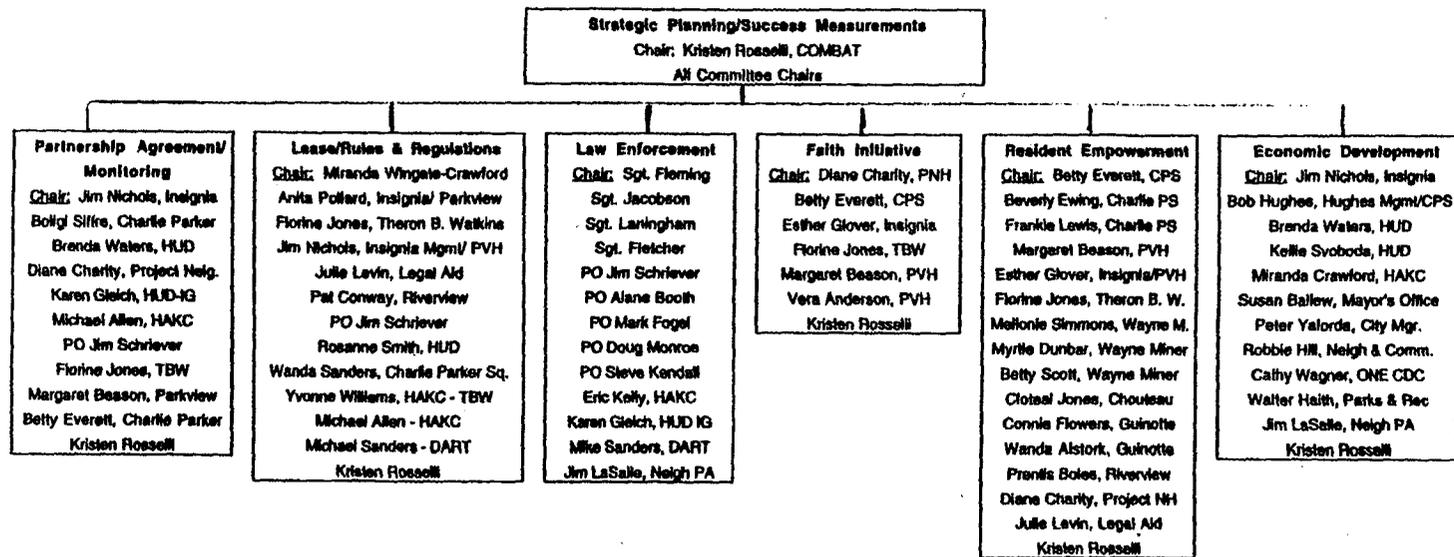
To establish an active line of communication and involvement with the residents living within the Paseo Corridor boundaries by determining needs, seeking input on solutions and generating community leadership.

**Economic Development**

To develop programs and opportunities which will help to establish neighborhood leadership, develop jobs and improve the economic strength of the community.

12/18/98 - DRAFT  
K. Rosselli, COMBAT 881-3112

## PASEO CORRIDOR DRUG-CRIME-FREE COMMUNITY PARTNERSHIP COMMITTEE STRUCTURE



**Partnership Agreement/  
Monitoring Committee**

To develop the basis of an agreement between various communities, organizations, businesses, agencies and residents, so as to improve the quality of life within the Paseo Corridor. To monitor the progress against the strategic plan.

**Lease/Rules & Regulations  
Committee**

To review and develop a uniform policy of House Rules, Lease Agreements, Resident Orientation & Follow-Up, Resident Screening and Eviction Procedures within the Paseo Corridor Housing Communities.

**Law Enforcement  
Committee**

To identify and coordinate local law enforcement agencies involved in assisting the Partnership in achieving the goals of improving and sustaining the quality of life within the Paseo Corridor.

**Faith Initiative Committee**

To organize a faith driven multi-denominational effort to reduce the perception among residents of imminent danger due to the proliferation of drugs, prostitution, violent crime and elderly victimization by engaging the participation of faith communities (churches) in evangelistic programs in the Paseo Corridor.

**Resident Empowerment**

To establish an active line of communication and involvement with the residents living within the Paseo Corridor boundaries by seeking information, input on solutions and generating community leadership.

**Economic Development**

To develop programs and opportunities which will help to establish neighborhood leadership, develop jobs and improve the economic strength of the community.

12/16/96 - DRAFT  
K. Rossell, COMBAT 881-3112

Prepared by: Kristan Russell  
March 31, 1997  
Page 1

Passo Corridor Drug- & Crime-Free Community Partnership (Start 6/20/96)

Profile

- 15 square block area
- Five Public and four Section-8 housing communities, six residential neighborhood associations, one business district, three major highway arteries, two minor highways/street designations,
- Sandwiched between a Riverboat Casino and the upcoming 18th & Vine Jazz Restoration District.

Characterized by:

- High density of low income housing;
- Pervasive poverty;
- Urban decay;
- Disorder;
- Easy access to area;
- Rampant crime & open air drug markets;
- Irresponsible businesses;
- Paralyzing fear;
- Resulting in economic decline.

Extent of partnership:

- Residents (government-assisted housing and Neighborhood Associations)
- Property Management (HUD, Housing Authority, Privately-owned rental/management)
- Law Enforcement (KCPD, City Prosecutor, State Prosecutor, US Attorney's Office, City Attorney's, Municipal Courts, HUD Inspector General, FBI, DEA, ATF)
- Government (Mayor's Office, City Manager's, City Council, Parks & Rec, Neighborhood & Community Development, Human Relations)
- Neighborhood/Community Agencies (Community Development Corporations, Crime Watch groups, Churches, Legal Aid, Fair Housing, Community Mobilization/Wellness)

"Community-Oriented Community" approach - where each aspect of the community has a responsibility to the overall quality of life and economic vitality of this particular area.

Preliminary results:

- Formal signing of partnership agreement (committing time, resources and talents).
- Dramatic change in crime migration pattern.
- Crime statistics show a basic reduction in overall crime on a month-to-month basis, specifically crimes associated with rampant drug markets: (3/97 stats are anticipated to be lower than 2/97)

	9/96	2/97
Robbery	18	7
Assault	47	37
Burglary	29	9
Stealing	62	31