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

September 1998

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

This project was supported by Grant No. 95-IJ-CX-0096, awarded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.
CONTENTS

I. INTRODUCTION 5

II. BACKGROUND: RESEARCH ON PROSECUTION AND PROSECUTION PRACTICES 8

III. METHODOLOGY 16

A. CONCEPTUAL FRAMEWORK 16
   1. Variables 16
   2. Gauging the Nature and Degree of Change in Prosecution Strategies 17

B. RESEARCH METHODOLOGY 18
   1. Exploratory Case Studies 18
   2. Selection of Sites for Comparison, Analysis and Generating Hypotheses 18
   3. Convening Meetings to Discuss Changes in Prosecution 21

C. DATA COLLECTION AND PREPARATION OF THE CASES 21

IV. CASE SYNOPSES 24

A. AUSTIN (TRAVIS COUNTY), TEXAS 24
B. BOSTON (SUFFOLK COUNTY), MASSACHUSETTS 25
C. INDIANAPOLIS (MARION COUNTY), INDIANA 27
D. KANSAS CITY (JACKSON COUNTY), MISSOURI 28
E. LOOKING ACROSS THE SITES 29
   Table 1: Site Characteristics 30

V. THE NATURE AND EXTENT OF CHANGE IN PROSECUTION STRATEGIES 32

A. THE TRADITIONAL STRATEGY OF PROSECUTION 32
   1. Mission 32
   2. Source of Authority 32
   3. Organization 32
   4. Tactics 33
   5. Context 33
   6. Outcomes 34

B. THE EMERGING SHAPE OF PROSECUTION – THE COMMUNITY PROSECUTION MODEL 34
   1. Mission 34
   2. Source of Authority 34
   3. Changes in the Organization 35
   4. Tactics 35
   5. Context 36
   6. Outcomes 36
   7. Why “Community Prosecution” as the New Model? 36

C. OUR KEY FINDING 37
### VI. THE IMPETUS FOR CHANGE

#### A. INEFFECTIVENESS OF THE JUSTICE SYSTEM

1. *Perceived Ineffectiveness of the Justice System to Respond Effectively to Worsening Crime and Quality of Life Conditions*
2. *Demands from Citizens*

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

#### C. BUILDING ON INNOVATION IN PREVIOUS ADMINISTRATIONS

#### D. PERSONAL MOTIVATIONS AND CONVICTIONS

### VII. THE CHANGING SHAPE OF PROSECUTION

#### A. THE MISSION OF THE PROSECUTOR

#### B. THE PROSECUTOR’S SOURCE OF AUTHORITY

1. *Bases of Authority*
2. *Campaigns for Re-election*

#### C. THE SHAPE OF THE ORGANIZATION

1. *The Organizational Structure*
   a. Common Structural Elements and Special Features
   b. Structures in Change
2. *Administration/Personnel*
   a. Leadership and Change Agents
   b. The Culture of the Prosecutor’s Office
   c. Personnel Issues
   d. Strategic Planning
   e. Funding

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

1. *The Balance between Case Processing and Other Tactics*
2. *Case Processing*
   a. A Core Function
   b. Selective Prosecution: Changing Standards
   c. Using Civil Law and Civil Remedies
3. *Developing Partnerships*
4. *Problem Solving to Prevent and Reduce Crime*
   a. Developing the Capacity and Implementing Problem Solving
   b. Examples of Problem-Solving Initiatives
5. *Managing the Message*

#### E. THE CONTEXT FOR PROSECUTION

1. *Prosecutorial Leadership*
   b. Breaking down Boundaries
2. *The Prosecutor and City Government*
3. *The Prosecutor and the Courts*
   a. Court Organization and Operations: Implications for Community Prosecution
   b. Court Responses to Elements of Community Prosecution
4. *District Attorneys/County Prosecutors and Other Prosecutors*
   a. The State Attorney General
   b. The U.S. Attorney
   c. The City Attorney/Corporation Counsel
5. Prosecutors and the Police  
   a. The Impact on Case Processing  
   b. The Changing Relationship to the Community  
   c. Contributions to Policing  
   d. Conclusions  

F. Outcomes  

VIII. CONVERGENCE AMONG SITES AND 1998 UPDATES  

A. New Efforts and Programs in Community Prosecution  
B. Refining Existing Community Prosecution Initiatives  
C. Strategic Planning and Changing the Culture  
D. New Community Justice Programs and Multi-Agency Initiatives  
E. Institutionalizing Community Prosecution  

IX. CONCLUSIONS  

A. Weighing the Risks and Liabilities of the New Strategy  
B. Key Findings  
   1. What changes are occurring in prosecution strategies?  
   2. In what form does community prosecution exist as an operational strategy? How is it implemented?  
   3. Are these prosecutorial strategies congruent with community policing?  
   4. How can we measure the effectiveness of community prosecution in dealing with specific problems?  

BIBLIOGRAPHY  

APPENDIX A: AUSTIN (TRAVIS COUNTY), TEXAS, CASE STUDY  
APPENDIX B: BOSTON (SUFFOLK COUNTY), MASSACHUSETTS, CASE STUDY  
APPENDIX C: INDIANAPOLIS (MARION COUNTY), INDIANA, CASE STUDY  
APPENDIX D: KANSAS CITY (JACKSON COUNTY), MISSOURI, CASE STUDY
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. 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;

---

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).\(^2\) 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

\(^2\) 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).³

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.

---
³ 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.4

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

4 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 *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 prossing (McDonald 1979b:32-35; Jacoby 1980:30-33). 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

---

5 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; 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), and guilty plea processes (Remington 1993:110).

---

6 See Vera Institute of Justice 1981; see also McIntyre and Lippman 1971.
7 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. 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

---

8 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—indeed, 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 Schrunk 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). 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,

---

9 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. 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).

---

10 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.
11 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. 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

---

12 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). 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. 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.

---

13 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.

14 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.\(^{15}\)

**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. 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

---

\(^{15}\) 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.

\(^{16}\) 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 SYNOPSIS

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 Lehmberg, 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. 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

17 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. 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,

---

18 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)

<table>
<thead>
<tr>
<th>City/County</th>
<th>AUSTIN, TX (TRAVIS COUNTY)</th>
<th>BOSTON, MA (SUFFOLK COUNTY)</th>
<th>INDIANAPOLIS, IN (MARION COUNTY)</th>
<th>KANSAS CITY, MO (JACKSON COUNTY)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1996 Population</strong></td>
<td><strong>537,484/683,967</strong></td>
<td><strong>552,519/645,068</strong></td>
<td>817,525 (County)</td>
<td>448,474/646,341</td>
</tr>
<tr>
<td><strong>Form of Local Government</strong></td>
<td>City: council-manager; County Commissioners Court headed by an elected Judge.</td>
<td>Strong mayor/Weak City Council</td>
<td>Strong mayor/City Council; Unigov in 1970, merging city/county.</td>
<td>City: council-manager; County Legislature and Executive</td>
</tr>
<tr>
<td><strong>Political Affiliation of Prosecutor</strong></td>
<td>Democrat</td>
<td>Republican</td>
<td>Republican</td>
<td>Democrat</td>
</tr>
<tr>
<td><strong>In office since</strong></td>
<td>1977</td>
<td>1992</td>
<td>1995</td>
<td>1993</td>
</tr>
<tr>
<td><strong>Jurisdiction of Prosecutor’s Office</strong></td>
<td>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.</td>
<td>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.</td>
<td>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.</td>
<td>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.</td>
</tr>
<tr>
<td><strong>Number of Attorneys/Total Staff in Prosecutor’s Office</strong></td>
<td>57/157</td>
<td>125/265</td>
<td>106/258</td>
<td>78/180</td>
</tr>
<tr>
<td>Characteristic of Prosecutor’s Office Leading to Selection of Site</td>
<td>AUSTIN, TX (TRAVIS COUNTY)</td>
<td>BOSTON, MA (SUFFOLK COUNTY)</td>
<td>INDIANAPOLIS, IN (MARION COUNTY)</td>
<td>KANSAS CITY, MO (JACKSON COUNTY)</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>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.</td>
<td>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.</td>
<td>Street Level Advocacy Program, with prosecutors working in police stations and in neighborhoods.</td>
<td>COMBAT (Community-Backed Anti-Drug Tax) Program supporting extensive prevention, treatment, and law enforcement efforts.</td>
<td></td>
</tr>
</tbody>
</table>

| Community Policing Status | 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. |

| Crime Rates 1996: * | Crime Index Total City/County | 42,278/48,566 | 44,711/52,690 | 60,407 (county) | 52,300/57,126 |

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.\textsuperscript{19} 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.\textsuperscript{20}

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

\textsuperscript{19} We use the present tense in describing the traditional strategy, since many offices continue to operate within this model.

\textsuperscript{20} 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 Schrunk’s Office responded initially to a group of business owners, concerned about the consequences of crime for viable economic activity in an inner-city area in the downtown. “People who lived and worked in the Lloyd District, like everyone else wanted robbers and burglars caught and punished and rapid police response to emergencies, but they also wanted…something done about prostitution, public drinking, drug use, vandalism, street fights, littering, garbage, and car prowls” (Boland 1998a). When the Lloyd District public safety committee requested the assignment of a special prosecutor to their district “to address their concern about the lack of consequences in the downtown courts for criminal activity that affected district businesses,” and raised the money to support it, this was the genesis of a neighborhood prosecutor program that eventually developed in the District Attorney’s Office.

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.\(^{21}\)

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 1, April 19, 1996).

\(^{21}\) 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
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 Schrunk, of Portland, Oregon, explains how the new strategy of prosecution, with its emphasis on developing closer relationships with citizens, may facilitate this restructuring:

[Government, 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). 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”
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:

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.

---

23 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,24 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).

24 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. 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,

---

25 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). 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). 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.

26 A third is assigned to work on homicides, but this arrangement is closer to a homicide response team model.
27 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 thought 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.

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:

…but 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:

…and 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 Nunnelly, 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. 28

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

28 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.²⁹

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.

²⁹ 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. 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.31

30 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.

31 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).

 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
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.32 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).

32 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.33 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

---

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, 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. 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

---

34 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.

35 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—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.

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—involves 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.37

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

---

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.’”38

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;

---

38 Jackson County Prosecutor’s Office, Strategies to Enhance Law Enforcement and Prosecution Coordination: A Concept Paper by Jackson County, Missouri. 1997.
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 Nunnelly, 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. \(^{39}\)

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.”\(^{40}\)

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

\(^{39}\) Coles, personal communication, 3/18/97.

\(^{40}\) 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).41 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

41District Attorney Martin benefited from a far different police department that 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.


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).

42 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.43 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.44

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

43 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 districts 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.

44 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.45

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

45 Many of these are discussed in Feigin 1998.
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.

---

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…

…and 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.\(^{47}\)

The division of prosecution functions among district attorneys/county prosecutors, city attorneys, and county attorneys varies by site.\(^{48}\) 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.\(^{49}\) 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.\(^{50}\)

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.)

\(^{47}\) The Kansas City Police Department, under Missouri statute, is controlled by a state Board of Police Commissioners. See Kansas City Case Study.

\(^{48}\) We distinguish here and in the discussion following between country prosecutors—the equivalent of district attorneys—and county attorneys who, along with city attorneys, had misdemeanor jurisdiction.

\(^{49}\) 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.

\(^{50}\) 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 felons an advantage: his attorneys are not constantly faced with the presence of felony prosecutors whose work is more highly valued.51

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:

---

51 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).52

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.53 (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

52 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.

53 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
misdemeanors—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). Moreover, prosecutors are

---

54 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.

“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).

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

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…propose[,] 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.\textsuperscript{56} 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.

\textbf{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.

\textsuperscript{56} 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 breaking 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 20th 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 kids 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.\(^{57}\)

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

\(^{57}\) 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:

- Reduce crime and the perception of crime.
- Provide the opportunity for community input into law enforcement activities.
- Create an alternative dispute resolution program to ease burden in court.
- Targeted prosecution with prompt resolution of cases.
- Establish youth worker program to provide outlet for area teens.
- 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). \footnote{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.}

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.
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).
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.
Abadinsky, Howard

Alaska Judicial Council

Alschuler, Albert W.

American Bar Association

American Prosecutors Research Institute (APRI)
1993 *Beyond Convictions: Prosecutors as Community Leaders in the War on Drugs.* Alexandria, Virginia.

Anderson, David C.

Andrews, Kenneth R.
Bazemore, Gordon  

Bittner, Egon  

Blakey, G. Robert, Ronald Goldstock, and Charles H. Rogovin  

Blum, Andrew  

Boland, Barbara  

Boland, Barbara, Paul Mahanna, and Ronald Sones  

Boland, Barbara and Kerry Murphy Healey  

Buchanan, John  

Buntin, John  

Bureau of Justice Statistics  

Buzwa, Eve S. and Carl G. Buzwa

Cahn, Naomi

Carter, Leif H.

Cheh, Mary M.

Church, Thomas W., and Heumann, Milton

Clear, Todd R., and Ronald P. Corbett, Jr.

Clear, Todd R., and David R. Karp

Davis, Kenneth C.

Dawson, Robert O.

Eck, John E., and William Spelman
Eisenstein, James, and Herbert Jacob  

Eisenstein, James, Roy B. Flemming, and Peter F. Nardulli  

Evans, Paul F., and [James] Alan Fox  

Feeley, Malcolm  

Feeley, Malcolm M. and Mark H. Lazerson  

Feigin, Matthew  

Feinblatt, John, Greg Berman, and Michele Sviridoff  

Finn, Peter  

Finn, Peter and Maria O’Brien Hylton  

Flemming, Roy B.  

Flemming, Roy B., Peter F. Nardulli, and James Eisenstein  
Forst, Brian

Garofalo, James

Glaser, Barney G., and Anselm L. Strauss

Goldsmith, Stephen

Goldstein, Herman

Goldstock, Ronald

Gottfredson, Michael R., and Don M. Gottfredson

Harrington, Christine

Harshbarger, Scott, Jay A. Winsten, Carolyn Keshian, and Terri Grodner Mendoza

Heumann, Milton

Hynes, Charles J.
Illinois Crime Survey  

Jackson, Robert H.  

Jacob, Herbert  

Jacoby, Joan E.  

Jacoby, Joan E., Heike P. Gramckow, and Edward C. Ratledge  


Jacoby, Joan E., Leonard R. Mellon, and Walter F. Smith  


Jacoby, Joan E., E. C. Ratledge, and H.P. Gramckow  
Kansas City (MO) Police Department

Karp, David R., ed.

Kelling, George L.

Kelling, George L., and Catherine M. Coles
1994  “Disorder and the Court.” *The Public Interest* 116 (Summer): 57.

Kelling, George L., and Mark H. Moore

Kelling, George L., et al.

Kennedy, David M.

Kennedy, David M., Anne M. Piehl, and Anthony A. Braga

LaFave, Wayne R.
1965  *Arrest: The Decision to Take a Suspect into Custody.* Boston: Little, Brown.

Luskin, Mary Lee

Maleng, Norm
Mann, Kenneth
1992 “Punitive Civil Sanctions: The Middleground between Criminal and Civil Law.”

Mastrofski, Stephen, Robert B. Parks, and Robert E. Worden

Mather, Lynn

McCoy, Candace

McDonald, William F.

McDonald, William F., Henry H. Rossman, and James A. Cramer

McIntyre, Donald M.

McIntyre, Donald M., and David Lippman

McLanus, Tina
1992 “Community Criminal Justice: Brooklyn Establishes ‘Community Courts.’”
*Footprints* vol. 3 (Spring/Summer):15-16.
Mellon, Leonard R., Joan E. Jacoby, and Marion A. Brewer

Merry, Sally Engle and Neal Milner, eds.

Miles, Raymond E., and Charles C. Snow

Miller, Frank W.

Mills, Gregory

Misner, Robert L.

Missouri Association for Criminal Justice

Moley, Raymond

Moore, Mark H.

Moore, Mark H., Susan Estrich, Daniel McGillis, and William Spelman

Murphy, Jerome T.

Nardulli, Peter F., James Eisenstein, and Roy B. Flemming
National Commission on Law Observance and Enforcement (Wickersham Commission)  

National District Attorneys Association  


National Institute of Justice  

Newman, Donald J.  

Ohlin, Lloyd E. and Frank J. Remington ed.  

O’Reilly, Bill  

Packer, Herbert L.  

Pound, Roscoe, and Felix Frankfurter  
1922  *Criminal Justice in Cleveland, Report of the Cleveland Foundation Survey of the Administration of Criminal Justice in Cleveland, Ohio*. Cleveland: Cleveland Foundation.

President’s Commission on Law Enforcement and Administration of Justice  

Remington, Frank J.  
Remington, Frank J. and Wayne A. Logan
1991 "Frank Miller and the Decision to Prosecute." *Washington University Law Quarterly* 69 (1):159

Rubenstein, Michael L, Stevens H. Clarke and Teresa J. White

Schatzman, Leonard, and Anselm Strauss

Schulhofer, Stephen J.

Sherry, Arthur H.

Shonholtz, Raymond

Skogan, W. G.

Skolnick, Jerome H.

Skocpol, Theda
1979 *States and Social Revolutions.* Cambridge: Cambridge University Press.

Spradley, James P., and David W. McCurdy, eds.

Stevens, Norma Mancini

Stone, Christopher
Strauss, A. and Corbin, J.

Sviridoff, Michele, David Rottman, Brian Ostrum, and Richard Curtis

Tiffany, Lawrence P., Donald M. McIntyre, Jr., and Daniel Rotenberg

Tonry, Michael

Tumin, R. Zachary

U.S. National Commission on Law Observance and Enforcement

Utz, Pamela

Van Maanen, John

Vera Institute of Justice

Walker, Samuel

Weimer, David Leo
Wilkins, Leslie T.  

Wilson, James Q.  

Wilson, James Q., and George L. Kelling  

Worden, Alissa Politz  

Wycoff, Mary Ann  

Yin, Robert K.  