

A REPORT OF THE  
PROSECUTION PERFORMANCE  
MEASUREMENT PROJECT



American Prosecutors  
Research Institute

# *Performance Measures for Prosecutors:*

## Findings from the Application of Performance Measures in Two Prosecutors' Offices

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This project was supported by Grant No. 2004-PP-CX-0002 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, or the National District Attorneys Association and the American Prosecutors Research Institute.

The American Prosecutors Research Institute is the research and development division of the National District Attorneys Association.

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*Performance Measures  
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Two Prosecutors' Offices

*April 2007*

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# TABLE OF CONTENTS

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<i>1</i>	<i>Introduction</i>
<i>5</i>	<i>Research Design</i>
<i>13</i>	<i>Findings</i>
<i>17</i>	<i>References</i>



# INTRODUCTION

**H**ow is success measured in prosecution? Is it conviction rates, the outcome of a single high profile case, a low number of plea bargains, or less crime? What information can prosecutors use to justify funding requests, respond to vague criticism of office performance, or to make management decisions?

Until recently, prosecutors lacked any empirically-based guidance that adequately addressed the need for a menu of performance measures that can be used to answer these questions. In 2003, with funding from the National Institute of Justice and the Charles G. Koch Charitable Foundation, the American Prosecutors Research Institute (APRI), the research and development division of the National District Attorneys Association (NDAA), began to tackle this issue by convening a group of experienced prosecutors, policymakers, economists, and academics to develop a performance measurement framework for prosecutors. The resulting Prosecution for the 21st Century performance measurement framework, shown in Exhibit 1, identifies measurable goals and objectives for prosecutors that are linked to a series of possible performance measures.

Unlike previous attempts to define performance measures for prosecutors (see for example, Cole, 1993; Jacoby, 1982; Forst, 2001; Packer, 1968; Roach, 1999 among others), the Prosecution for the 21st Century performance measurement framework is built upon a comprehensive set of goals and objectives that take into account the many different roles prosecutors undertake in their day-to-day activities. Both the traditional case processing and sanction setting roles form the foundation for the first goal to promote the fair, impartial, and expeditious pursuit of justice. Newer roles relating to more proactive problem-solving efforts and community-based prosecution are addressed largely in the second goal, to ensure safer communities. Finally, the idea of the prosecutor as a leader in the judicial system is the basis for the final goal to promote integrity in the prosecution profession and coordination in the justice system. The three goals are defined in a manner to capture the intended results of all the various functions of the local prosecutor—case processing, crime prevention and intervention, and the overall administration of justice—respecting the unique role of the prosecutor and accounting for the continual evolution of the prosecutorial function.

Related to each of these goals is a series of objectives from which a menu of performance measures was generated. The framework is intended to provide a guide for performance measurement in prosecution that may be tailored to the unique situations of individual prosecutors' offices but also broad enough to suggest appropriate measures for more large scale research on prosecution. The performance measures shown in the framework are intended to represent a menu of possible measures that an office might use depending on the office's specific policies and practices. For example, if an office does not place defendants and/or offenders into treatment programs, measures related to placements in treatment programs would not be appropriate.

In 2004, the NIJ provided additional funding to support the implementation of the performance measurement framework in real-life settings to determine if there is empirical evidence to support the framework as it was initially constructed and to assess its operational viability. The framework was implemented

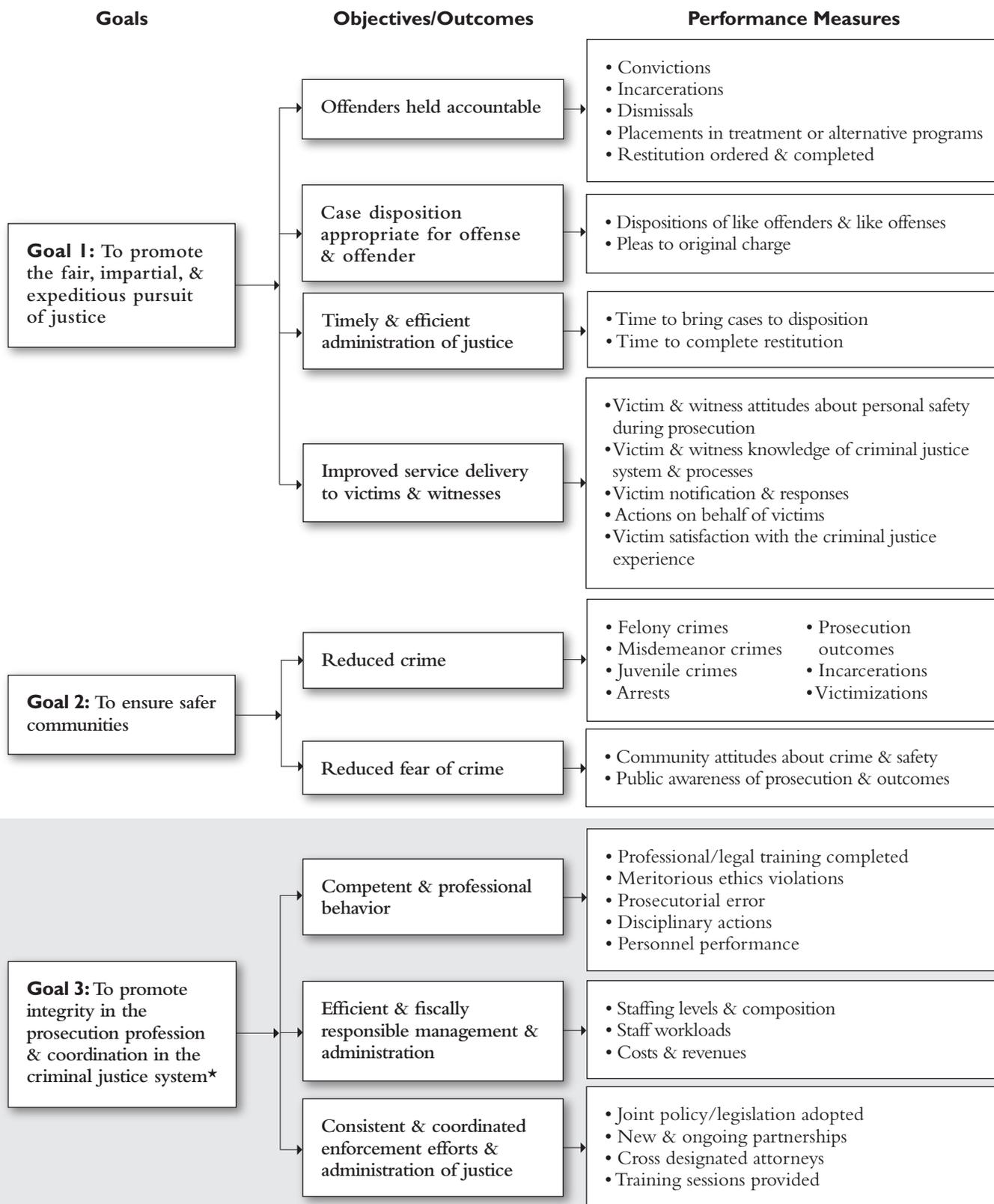
This publication is one in a series from the Prosecution Performance Measurement Project. Other publications in the series include:

- *Prosecution in the 21st Century: Goals, Objectives, and Performance Measures*
- *Ensuring Public Safety: How Do Prosecutors Measure Up?*
- *Do Lower Conviction Rates Mean Prosecutors' Offices Are Performing Poorly?*

To access these publications, please visit NDAA/APRI's Office of Research and Evaluation webpage at: [http://www.ndaa-apri.org/research/research\\_home.html](http://www.ndaa-apri.org/research/research_home.html)

PERFORMANCE MEASURES FOR PROSECUTORS

**Exhibit 1: Full Prosecution for the 21st Century Performance Measurement Framework: Goals, Objectives, and Performance Measures**



\*Goal 3 was not tested as part of this study.

in two prosecutors’ offices, representing two different prosecution philosophies. The first office is more traditional in its approach to prosecution, focusing on holding offenders accountable and case processing with some additional efforts focused on addressing and preventing certain types of crime, such as gang and gun violence, domestic violence, child abuse, and truancy. The second office is more community-oriented, having implemented and embraced a community prosecution approach to crime which involves proactive problem-solving, partnerships with the community, and use of techniques other than criminal prosecution to address certain types of crime and public safety issues. Exhibit 2 summarizes the key characteristics of both offices that participated in the study.

**Exhibit 2: Key Characteristics about Study Sites**

Characteristic	Site #1	Site #2
Jurisdiction	Single county	Single county
Total Population	873,000	810,946
Total Budget	\$10,500,000	\$13,572,816
Total Staff	174	307
Total Attorneys	88	97
Felony Cases Closed	14,046	12,000
Misdemeanor Cases Closed	115,617	30,000
Prosecution Approach	Traditional	Community Prosecution



## RESEARCH DESIGN

The study was designed to answer a number of questions that could help advance efforts within the prosecution community and in the research field to measure prosecutor performance. The key research questions were:

- Are the proposed goals and objectives outlined in the Prosecution for the 21st Century performance measurement framework logically related?
- Are data available for different performance measures that can be used to assess prosecutor performance toward goal attainment?
- Are the data elements for the operationalized performance measures reasonable indicators of office performance?
- Do the performance measures and objectives group together in a way that is logical and empirically defensible?

APRI worked closely with both sites, through on-site interviews and data assessments, to select appropriate performance measures for their offices based on the policies and practices in place. (Exhibit 3 shows the final performance measures selected for each site.)

Each site provided monthly data to APRI on the identified performance measures for analysis. In addition, APRI designed and administered a public safety survey to facilitate the collection of data related to the public's perception of crime, fear of crime, and prosecutor performance, as shown in Exhibit 3.

Ultimately, the study focused on two of the three goals proposed in the framework. After lengthy discussions with the prosecutors' offices participating in the study, a decision was made not to include performance measurement data to assess the promotion of integrity in the prosecution profession and coordination in the justice system. The rationale for excluding this goal was both philosophical and practical. From a philosophical perspective, the prosecutors' offices were most interested in understanding how their offices were performing in terms of "doing justice." From the practical perspective, the data needed to measure performance related to integrity and coordination simply were not usable.

In addition, although the context and environment in which prosecutors' offices operate is important and generally impacts the types of policies and procedures that are implemented, neither were the focus of this particular study. Additional study of performance measures and the context of prosecution is an important step for future work in this area.

Ideally, testing the validity and reliability of the performance measures would have included similar measures collected from comparable time periods across sites for a period of at least 12 months. However, due to the difficulties of gathering information, ensuring that it accurately reflected the intended outcomes and accommodating other priorities in each office, we were only able to access six months of data in some cases in order to complete the project on schedule. Additionally, due to the organizational structure of each office as associated with community prosecution-related activities, as well as limitations on the availability of data, comparisons of similar measures are only possible to a limited extent.

Problems with data availability and accessibility were the biggest challenge to the study, and ultimately one of the key findings. Specifically, prosecutors have limited access to data for assessing performance. As such timely submissions and definitional clarity were issues encountered in both sites, limiting somewhat, the ability to define core measurements that should be readily available in many different sites.

**PERFORMANCE MEASURES FOR PROSECUTORS**

**Exhibit 3: Final Performance Measures by Office<sup>1,2</sup>**

Goals	Objectives	Framework Performance Measures	Operationalized Performance Measures	Site #1	Site #2
<b>Goal 1: Promoting the fair, impartial, and expeditious pursuit of justice</b>	<b>Objective:</b> Holding offenders accountable	Convictions	Ratio of convictions/cases charged	Ratio of felony convictions/felony cases charged Ratio of misdemeanor convictions/misdemeanor cases charged	Ratio of felony convictions/felony cases charged Ratio of misdemeanor convictions/misdemeanor cases charged
		Incarcerations	Sentence length	Number of life sentences imposed*	Average prison sentence for Court Watch cases (in years)
			Average # of years felony offenders sentenced to incarceration	Average prison sentence A felonies (in years) Average prison sentence B felonies (in years)	
		Dismissals	Ratio of public intoxication arrests to cases charged		Ratio of public intoxication cases charged/public intoxication arrests
		Placements in programs	Ratio of offenders sent to community court vs. total offenders in traditional court		Ratio of offenders sent to community court/offenders sent to traditional court
			Drug court completion rate	Ratio of offenders sent to drug court/offenders completing drug court**	
			Decreased truancy		Truancy rate
	Restitution ordered & completed	Not studied			
	<b>Objective:</b> Case disposition appropriate for offense/offender	Pleas to original charge	Ratio of pleas to lesser charge/pleas as charged	Ratio of pleas to lesser charges/pleas as charged for No Deals and SPU cases	Ratio of misdemeanor pleas to lesser charges/misdemeanor pleas as charged
		Dispositions of like offenders and like offenses	Not studied		
	<b>Objective:</b> Timely & efficient administration of justice:	Time to bring cases to disposition	Case disposition time	Number of hours for case processing/number of dispositions	Median detention time
		Time to complete restitution	Not studied		

\*Data not provided for every interval of the study (i.e. each month).

\*\*Variable excluded from analyses due to insufficient variation.

\*\*\*Ratio measure missing either denominator or numerator value.

<sup>1</sup>Data for the performance measures in shaded cells were not collected for this study.

<sup>2</sup>Goal #3 was not studied and thus is not included in this table.

RESEARCH DESIGN

Goals	Objectives	Framework Performance Measures	Operationalized Performance Measures	Site #1	Site #2
Goal 2: Ensuring Safer Communities	Objective: Reduced crime	Felony, misdemeanor, & juvenile crimes	Gun, gang, & robbery crime rates	Number of gun crimes/month Number of gang-related crimes/month Number of robbery reports/month	
			Rate of gun carrying among felons	Ratio of felony cases involving guns/total number of felony cases***	
			Rate of gun carrying among juveniles		Ratio of juvenile felony cases involving guns/total number of juvenile felony cases***
			Juvenile violent crime rate	Ratio of crimes involving juveniles/county juvenile population	Ratio of crimes involving juveniles/county juvenile population
			Solicitation rates		Ratio of reported incidents/arrests for solicitation Number of repeat offenders
			Violent crime rate		Ratio of felony crimes against persons/county population
			Drug crime rate/ drug-related crime rate		Number of reported felony drug crimes
		Arrests	Not studied		
		Prosecution outcomes	Ratio of nuisance actions/calls for service	Ratio of nuisance actions taken/calls for service for property/violent crime***	Ratio of nuisance actions taken/calls for service for property/violent crime
			Drug offender recidivism rate	Ratio of drug court defendants who complete drug court/number of defendants re-arrested**	
	DV and SPU recidivism rate		Ratio of repeat DV offenders/total number of DV cases filed		
	Incarcerations	Not studied			
	Victimizations	CFS for nuisance crimes		Number of calls for public nuisances	
	Objective: Reduced fear of crime	Community attitudes about crime & safety	Ratio of vacant homes to calls for service		Ratio of vacant homes/calls for service***
		Public awareness of prosecution & outcomes	Public safety index	Public safety survey	Public safety survey

\*Data not provided for every interval of the study (i.e. each month).

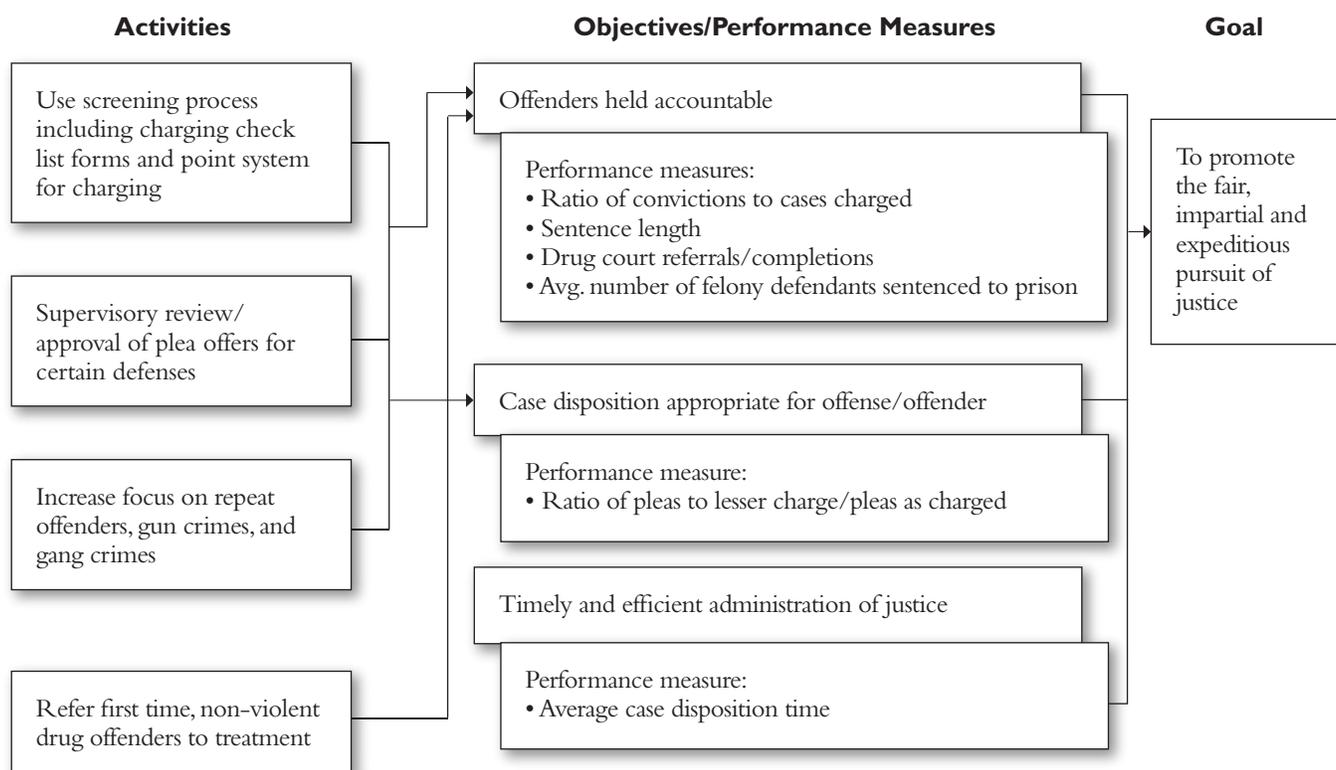
\*\*Variable excluded from analyses due to insufficient variation.

\*\*\*Ratio measure missing either denominator or numerator value.

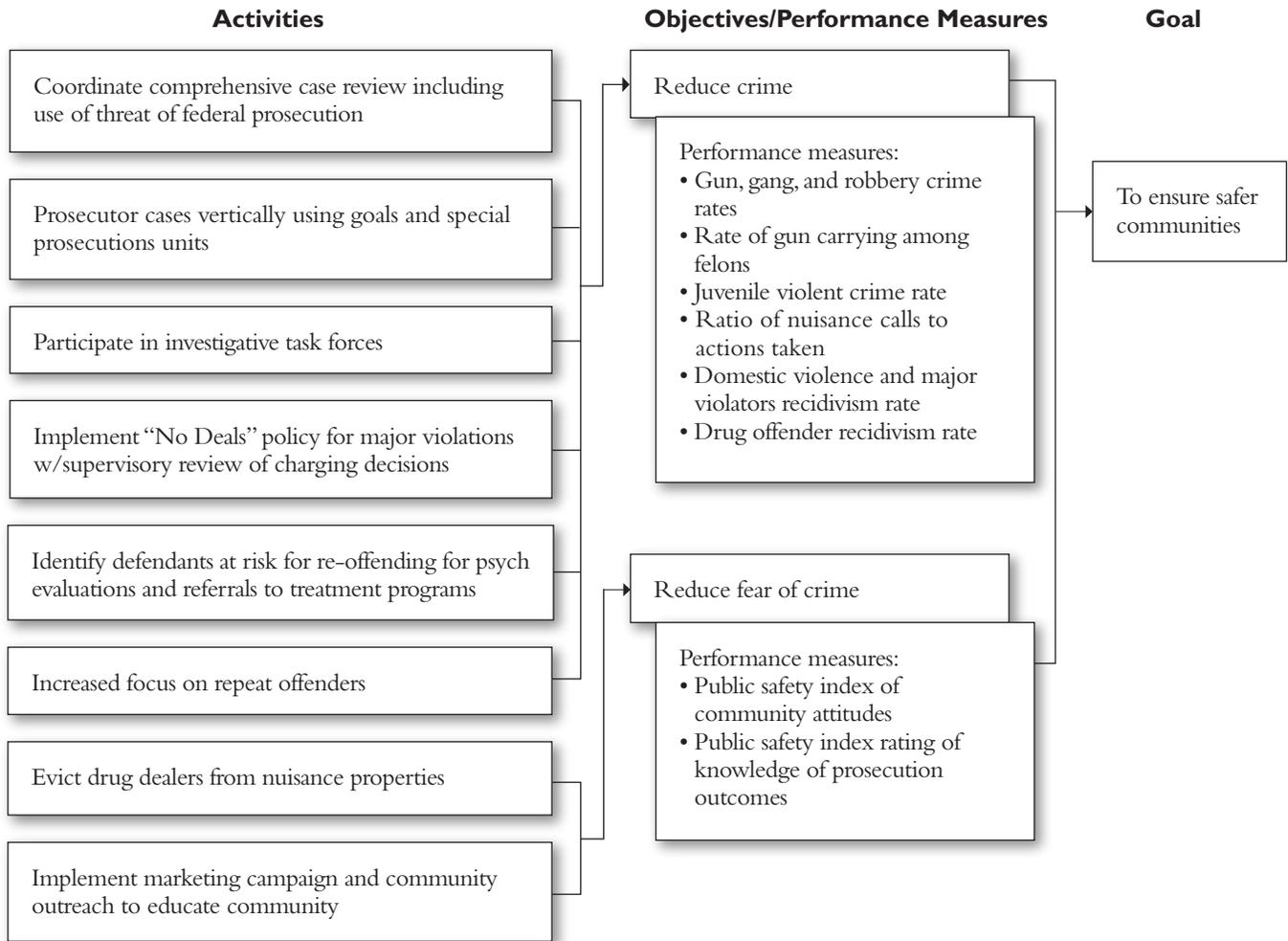
To test the framework, APRI conducted both qualitative and quantitative analyses. The qualitative analysis focused on the development of models for each site, for each goal. The models, shown in Exhibits 4 through 7, link the office activities with the objectives, performance measures, and the goal they are intended to measure. The models were used to guide the quantitative analyses. It's important to note that for the purposes of this study, APRI was only concerned with testing the framework as it related to specific policies and practices in the office, and as such did not collect information about the context (e.g., office characteristics, legislative environment, resources, etc.). Clearly, the context, as has been discussed earlier, is an important element to consider, and should be a significant focus in subsequent studies of prosecutor performance measurement.

The quantitative analyses did not focus on how well the offices were performing but rather on statistically testing the framework. APRI used data reduction techniques to determine if the large number of performance measures could be reduced to a number of underlying factors (i.e., the goals set forth in the performance measurement framework). Correlation analyses and factor analyses were used to determine how the measures grouped together and whether they were related to each other. The correlation analyses focused on whether or not the measures within the individual objectives were related to each other and thus measuring the same objective. The factor analyses were performed to determine the extent to which the different objectives and measures for each goal were related to each other.

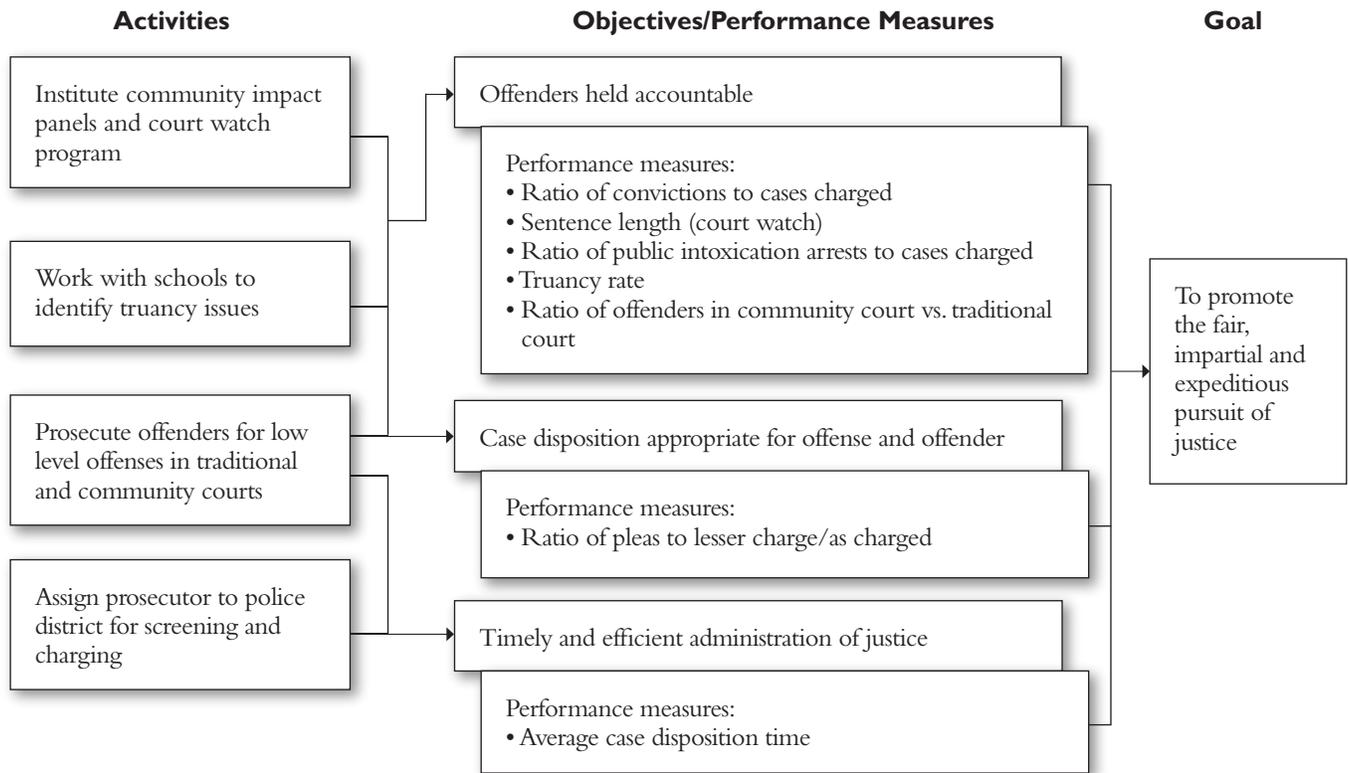
**Exhibit 4: Site #1 Model of Relationship between Activities, Objectives/Performance Measures, and Goal #1**



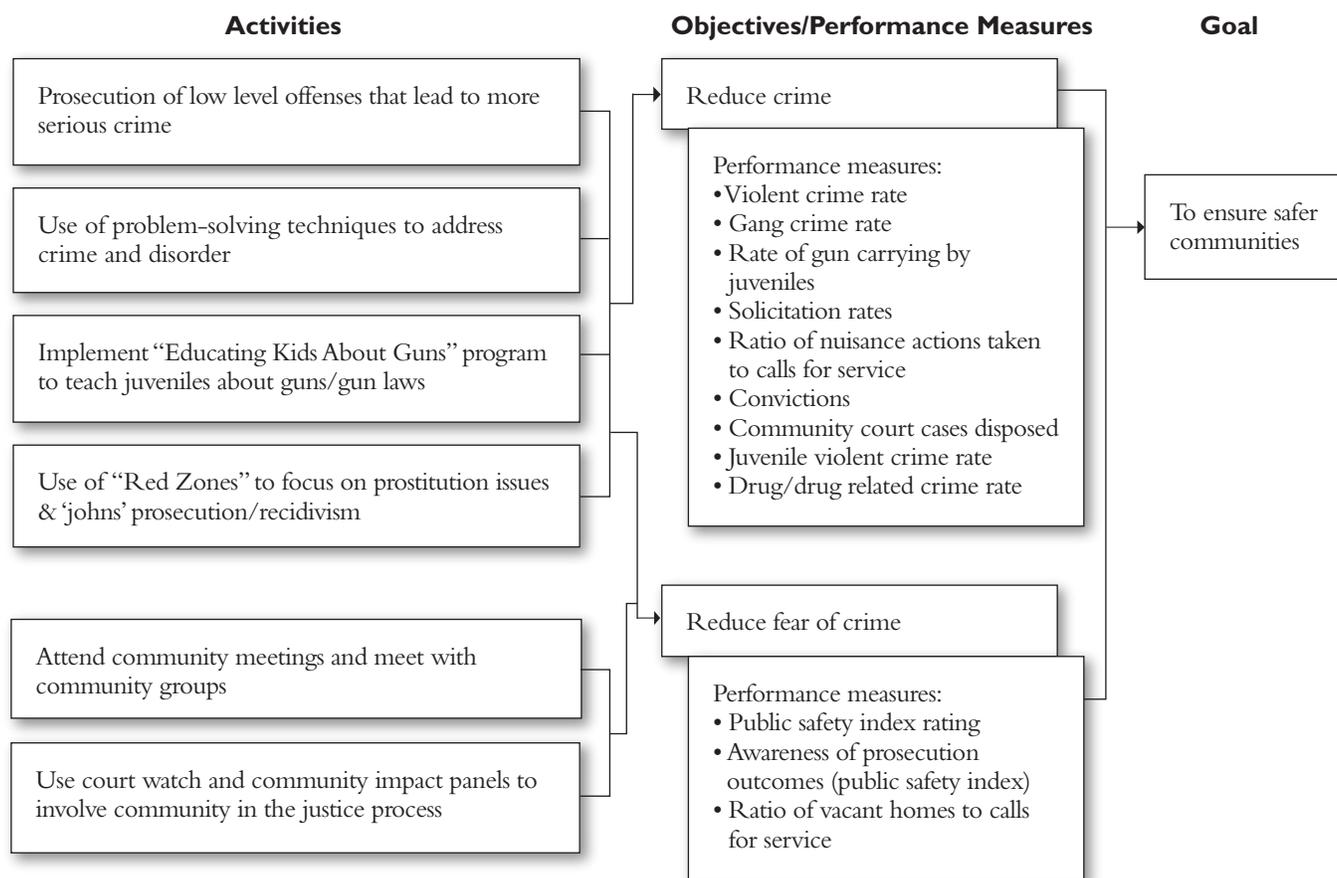
**Exhibit 5: Site #1 Model of Relationship between Activities, Objectives/Performance Measures, and Goal #2**



**Exhibit 6: Site #2 Model of Relationship between Activities, Objectives/Performance Measures, and Goal #1**



**Exhibit 7: Site #2 Model of Relationship between Activities, Objectives/Performance Measures, and Goal #2**





## FINDINGS

Based on the analyses, it would appear that performance measurement related to two of the three goals articulated in Exhibit 1—promoting fair, impartial, and expeditious pursuit of justice and ensuring safer communities—is possible. The factor analyses provide empirical support for several of the objectives in APRI’s proposed measurement framework, but not all. Among the objectives found to be valid are:

- Holding offenders accountable,
- Timely and efficient administration of justice,
- Reduced crime, and
- Reduced fear of crime.

Interestingly, the performance measures that load onto these objectives were correlated within objectives, but not significantly, largely in part to the small number of observations available for analysis. However, there were significant correlations across objectives. Thus, given that measures of holding offenders accountable correlated with measures of timely and efficient administration justice were correlated, it can be concluded that the measures and objectives were measuring the same overall construct. The same was true for the measures of reduced crime and reduced fear of crime, supporting the overall goal of ensuring public safety.

There were some measures that did not necessarily behave in the manner expected. For example, APRI believed that ratio of pleas as charged to pleas to lesser charges would load significantly on a factor that could be described as case dispositions that are appropriate for like offenders/like offenses. In neither of the sites did this prove to be true; in fact, plea ratios loaded onto the holding offenders accountable objective in both sites, although the loading was not statistically significant in Site #1 but was in Site #2.

Recidivism also did not behave in the manner originally expected. Although not explicitly articulated in the proposed framework, measures related to recidivism (drug court recidivists, domestic violence recidivists) were operationalized by the sites as falling under the objective of reducing crime. However, the analyses showed that recidivism was more closely correlated with holding offenders accountable.

The public safety survey designed by APRI was also found to be a valid method for measuring citizens’ attitudes and beliefs about crime and the performance of the prosecutor’s office. The six factors that emerged from the exploratory factor analysis generally behaved in the manner proposed by APRI. These performance indicators also perform uniformly between the two sites indicating that measures from the survey are appropriate in both a traditional prosecution setting and a community prosecution setting.

The one exception with regard to the public safety survey was the extraction of an unidentifiable factor. Measures related to crime rates and prosecutor involvement in the community grouped together, which was not expected. Although this grouping may represent some “residual variation,” it is more likely that it is a construct of something not yet defined. APRI’s hypothesis is that it may be a construct of community involvement with problem solving or community prosecution, but the public safety survey did not include specific questions in this area. Additional measures related to prosecutor involvement in the community and problem-solving efforts should be added to the survey to test if this hypothesis holds.

Overall, the study provided empirical support that the proposed measurement framework is a valid tool for the assessment of prosecutor performance on two primary goals. Also, with minor modification (e.g., adding plea ratios and recidivism to the holding offenders accountable objective), the study confirms a logical relationship between the

measures used by the sites and the objectives articulated in the framework. Based on the study findings, there do appear to be a set of measures that are reliable across sites, suggesting the possibility of a set of core performance measures:

- Sentence length
- Case processing time
- Gun, gang, and robbery crime rates
- Juvenile crime rates
- Ratio of repeat offenders to total offenders
- Fear of crime
- Climate of safety
- Community attitudes about prosecutor effectiveness

Other measures related to ratio of convictions to cases charged and please to lesser charges showed mixed results and should be included in future studies for more conclusive results. In addition, there were two other measures that merit additional study as there were insufficient data or no comparable data across sites for full analysis: reported quality of life crimes, such as prostitution and solicitation, and responses to calls for service to problem properties. Both of these measures capture activities most likely to be associated with a community prosecution approach, and while the study find the measures were reliable in a community prosecution setting, no comparable data were collected in the traditional setting to test reliability.

One of the shortcomings of this study was the inability to test the goal of promoting integrity in the prosecution profession and coordination in the justice system as well as the objective related to victim/witness service delivery. Without performance measurement data to explore these areas, APRI can not judge the utility of the integrity goal or service delivery to victim/witnesses. Logic would indicate the measures articulated in the proposed framework related to victims and witnesses would likely withstand the type of analyses employed for this study. APRI has less confidence about the goal of promoting integrity and the hypothesized correlation with the various objectives and measures promulgated in the original framework. As such, additional research is needed to determine how best to operationalize the measures related to this goal in a manner that would lend itself to analysis.

Among the key findings of the study is confirmation that prosecutors' offices have limited access to data for assessing performance. Historically, prosecutors have balked at the notion that conviction rates and recidivism rates are appropriate measures of their performance. Yet, based on the study and the types of data available in the prosecutors' offices studied, such rates do in fact appear to be valid measures of their performance. However, the meaning of those measures must be viewed in concert with the policies and strategies used to achieve the outcomes they are measuring. Thus, in operationalizing performance measures for a prosecutor's office, it will be important to take into consideration the overall context of the office and its operations to determine which data most appropriately capture the practices as they relate to specific goals and objectives.

In addition, the study demonstrates the importance of collecting data that measure what they are intended to measure and that there is clear understanding of what the data represent. In this particular study, although there appeared to be common performance measures across the sites, there were in fact subtleties in the data that complicate such comparisons. For example, gang crime data are dependent on how the office defines a gang and how gang members are "identified." In Site #1, gang cases included cases in which there were three or more defendants, who may or may not be members of a gang. In addition, the number of juvenile gang crimes was based on self-reports among juveniles who had been arrested as to their gang status.

Based on the study results, APRI believes that the performance measurement framework has value for prosecutors with some adjustment and specific guidance on its usage. First, Goals 1 and 2 are clearly appropriate goals for prosecutors and are best measured with data that support the objectives of holding offenders accountable,

administering justice in a timely and efficient manner, reducing crime, and reducing fear of crime. As tested in this study, data related to convictions, sentencing, pleas, average disposition time, crime rates, repeat offenders, and public perception of crime are valid performance measures for these goals and objectives.

Although these findings might seem to support the development of performance standards based on the core measures identified, setting such standards would be inappropriate at this time. As noted throughout the report, each prosecutor's office in the country operates within a context, which can vary widely. Based on the legislative environment, legal culture of the jurisdiction, crime patterns, politics, resources, etc., prosecutors will implement different policies and practices making comparisons using standards relatively meaningless unless the context is taken into consideration. Moreover, additional research is needed to study the variations in context and the impact on performance measures.

The study findings would seem to suggest that with current data availability, there is limited opportunity to measure performance on objectives related to service delivery to victims and witnesses and promoting integrity in the justice system. What is unclear, given the inability to explore these objectives more closely, is whether prosecutors' performance should be judged against these indicators. Theoretically, it would seem to make sense that prosecutors should have these as primary goals and objectives. However, there remains much work to be done by prosecutors to define and collect data that would allow for performance measurement over time. Moreover, definitional issues with the performance measures (e.g., what constitutes a gang crime, how the office defines and counts a "case," etc.) will preclude comparisons of performance between offices.

The experiences of the two prosecutors' offices participating in this study highlight the challenges of implementing measurement frameworks in a real world context. Obviously, as noted above, there are many challenges with regard to the collection of useful and meaningful data. The precision of the data available is also problematic, particularly with regard to being able to make comparisons across sites. Perhaps more important are the resources available for data collection. As they exist now, case management systems are not designed in a manner that allows for easy data extraction for analytic purposes, leaving prosecutors with the arduous and time-consuming task of tabulating data manually. Given priorities in the offices, it is most likely that the limited resources of prosecutors will continue to be spent on case processing rather than data collection. Any attempt to implement the performance measurement framework on a widely-based scale must resolve these issues.

Clearly, the challenge of performance measurement in prosecution is only partially solved with the development of concrete, measurable goals and objectives. Accessing the data for the performance measures remains largely unaddressed. Furthermore, as prosecutors struggle to maintain their budgets and recruit/retain qualified staff to manage the workload, the dedication of resources to collect performance measurement data will remain a hurdle despite the fact that performance measures can help justify budget requests. Prosecutors need to be educated on the benefits of performance measurement, its utility for planning and budgeting, and the methods for collecting performance measurement data.

Finally, each local prosecutor's office is unique. There is significant variation in how offices are organized. Some prosecutors opt to organize their office into units to handle specific offense types; others focus on functional areas such as charging units, grand jury units, and trial units. Still other offices may be organized according to both offense type and functional area. Smaller offices are less likely to have the luxury of specialization and have less organization. Likewise, the environmental contexts in which prosecutors' offices operate also differ. For the purposes of this study, these factors were not included, but are important in future research on prosecutor performance measures. Nonetheless, the articulation of a variety of performance measures is a critical step toward lending transparency to the prosecutorial function and developing a more in-depth understanding of prosecutors as a whole.



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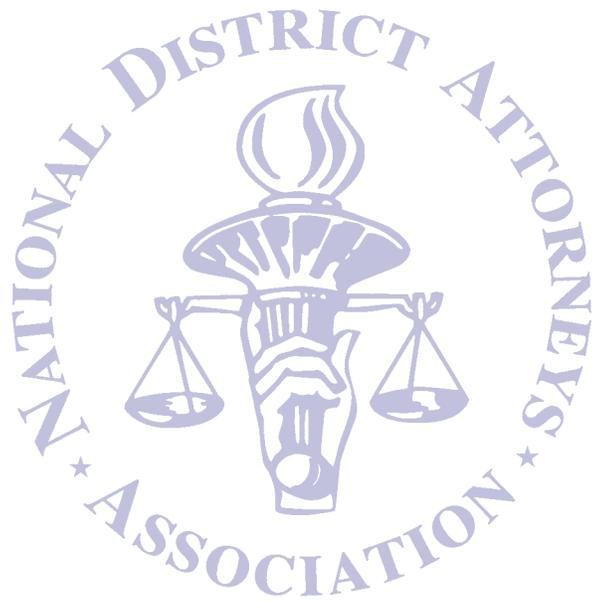
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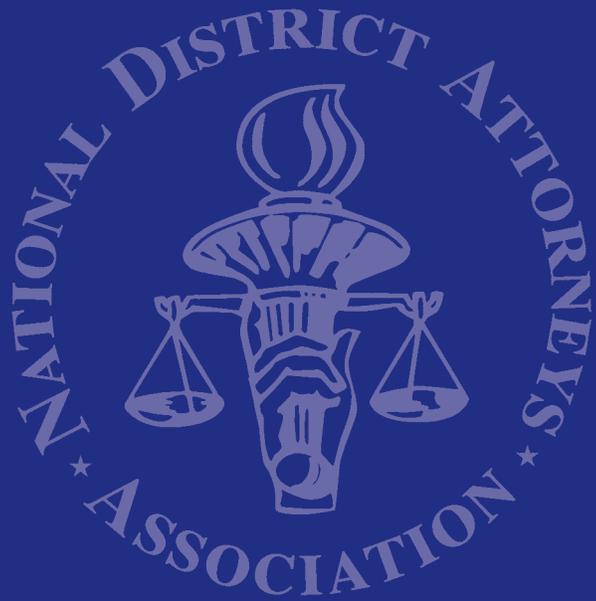






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