



**APRI**

American  
Prosecutors  
Research Institute

# *Prosecution in the 21st Century*

Goals, Objectives,  
and Performance  
Measures

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The American Prosecutors Research Institute is the nonprofit research, training and technical assistance affiliate of the National District Attorneys Association.

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Measures

*February 2004*

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# ACKNOWLEDGMENTS

Having served almost four and one-half decades in the field of prosecution, I am extremely proud to have been part of this landmark study that includes so many distinguished participants. It is no mean feat to achieve a consensus on prosecution goals in America, and to develop a framework that identifies useful tools and measures for prosecutors to use in planning their work and assessing their performance.

All who participated in this study went far beyond the call of duty and deserve special recognition (a complete list of participants is found in the appendix). It should be noted that study participants donated their time, efforts, energies, and unique talents – a reflection of their dedication to the study and recognition of its importance. This study is recognized as having significant operational benefits for the prosecution profession far into the 21st century.

I wish to acknowledge the distinguished chair of this study, former Attorney General of the United States, Edwin Meese, III. His many years of service as a local prosecutor and as the nation's chief prosecutor, and his leadership in advocating promising ideas and practices to improve our justice system, have ensured that various perspectives and experiences were carefully considered.

Special thanks are owed to professor Charles Wellford, chair of the University of Maryland's Department of Criminology and Criminal Justice, for serving as chairperson of the study's advisory group. Dr. Wellford and Dr. Mark Moore, professor at Harvard University's John F. Kennedy School of Government, contributed in innumerable ways to the study's direction and consideration of pertinent research.

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Thanks are extended to the professional staff of the American Prosecutors Research Institute (APRI) for their dedication and hard work. The study originated with APRI Chief Administrator, Dr. Steve Dillingham, who previously undertook a similar initiative devoted to the criminal justice system while serving as the Director of the Department of Justice's Bureau of Justice Statistics. Director of Research and Evaluation, Elaine Nugent, led the APRI research activities that supported the study. Director of Programs, Debra Whitcomb, assisted in the project in many ways, including reviewing and editing findings. Research analyst, Jeff Capellini, and research assistant, Delene Bromirski, provided critical assistance in researching and drafting this report. Director of Media Relations, Velva Walter, and Executive Assistant, Meredith Tabor assisted study group meetings.

It is important to recognize that this study would not have been possible without financial support from the National Institute of Justice (NIJ) and the Charles G. Koch Charitable Foundation. Numerous senior NIJ staff actively participated in study meetings. Mr. Kelly Young, Vice President of the Charles G. Koch Charitable Foundation, provided valuable guidance regarding results-oriented research and strategic thinking.

Finally, I wish to thank all prosecutors—the “people’s attorneys”—for their tireless work in promoting justice, protecting safety, and improving our quality of life across America. We hope that this study serves to explain your work and support your efforts.

Newman Flanagan  
*President, American Prosecutors Research Institute*

## PREFACE

Over the last few decades, several commissions, groups and initiatives have been established to advance professionalism, integrity, and accountability within government and the criminal justice system. In examining the criminal justice system, legal scholars and researchers have noted the need for operationally relevant goals and performance measures. Meanwhile, governments at all levels are increasingly requiring public agencies to demonstrate performance and accountability. As we enter the 21st century, however, no rigorous attempt has been made to articulate widely accepted goals, objectives and performance measures specific to the prosecution profession.

The National Academies has reported that much has changed in the way modern prosecutors do business. Today's prosecutors are leaders in their communities, concerned with preventing crime, promoting public safety, and enhancing our quality of life, in addition to performing their traditional role of enforcing criminal laws and ensuring the fair administration of justice. Conviction rates, probably the most frequently identified measure of prosecution performance, do not address these varied goals and objectives within a prosecutor's sphere of responsibility.

With input from a select group of local prosecutors, scholars, researchers, and government officials, the American Prosecutors Research Institute completed the first phase in an ongoing process to define the prosecutor's mission, identify viable goals and objectives, establish a format for strategic planning, and develop a set of promising guidelines for measuring prosecutor performance.

This report offers an initial framework for measuring prosecutors' progress toward achieving widely accepted goals and desired outcomes. It also provides a foundation upon which prosecutors and others can build to better understand the workings of the prosecution profession. A companion document will report on future research needs and priorities for the prosecution community.

APRI will continue to work with prosecutors to test, modify, and refine performance measures. We anticipate that this endeavor will lead to the development of a "balanced scorecard" for prosecutors that will serve as a valuable tool for self-assessment and improving practices. Meanwhile, this report represents an unprecedented advance in explaining how prosecutors view their mission, define their roles, and conduct their business.

## EXECUTIVE SUMMARY

Prosecutors are key decision-makers and policymakers in our criminal justice system. They represent our citizenry, strive to control crime, and ensure that justice prevails. There is a strong need to guard against loss of faith in prosecution practices by ensuring that integrity and accountability are integral to the way prosecutors do business. An essential first step is to articulate prosecution goals and develop guidelines for measuring performance and results.

With support and assistance from distinguished prosecutors, advisors, and researchers, APRI examined goals, objectives, performance measures and research priorities for prosecution in the 21st century. This initiative defined the mission of local prosecution as follows:

*Through leadership, the local prosecutor ensures that justice is done in a fair, effective, and efficient manner.*

In accomplishing this mission, the following goals are identified:

- To promote the fair, impartial, and expeditious pursuit of justice;
- To ensure safer communities; and
- To promote integrity in the prosecution profession and effective coordination in the criminal justice system.

The *Prosecution Study for the 21st Century* incorporates these core concepts into its initial framework of goals and objectives tailored for prosecutors in conducting the business of prosecution and promoting the interests of justice. These goals and objectives are associated with promising measures that can be useful in strategic planning, monitoring performance and documenting results.

Future research efforts are planned that will test the feasibility and efficacy of the suggested performance measures in differing environments. The experience and lessons gained from testing these measures will lay the foundation for a better understanding of prosecution and its practice during the 21st century.

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# INTRODUCTION

For more than 200 years, the American criminal justice system has evolved and expanded in response to changing patterns of traditional crimes, and to society's decision to confront new forms of behavior with criminal liability and criminal sanctions. The criminal justice system is expected not only to produce practical results in the form of reduced crime and enhanced security, but also to achieve justice in society by holding offenders accountable and applying the force of the law proportionately and fairly. At a time when public accountability is paramount, prosecutors, allied professionals, policymakers, and academic researchers are increasingly asking whether and how officers and organizations within the criminal justice system can themselves be called to account in achieving both the practical goals of reducing crime and enhancing security, and the more principled goals of achieving justice. These interests have combined to put the question, "What does justice mean and how can justice be measured?" at the top of the criminal justice policy agenda.

*Justice must always question itself, just as society can exist only by means of the work it does on itself and on its institutions.* — **Michel Foucault** (1926–1984).<sup>1</sup>

Prosecutors are key decision-makers and policymakers in our criminal justice system. They represent our citizenry and strive not only to control crime, but to ensure that justice prevails. The prosecution business has a strong need to guard against potential loss of faith in its practices by ensuring that integrity and accountability are integral to the way prosecutors do business. Although prosecutors endorse concepts of fairness, efficiency, and effectiveness, they lack practical guidance on how best to measure and achieve these goals. There is a need within the prosecution community to articulate prosecution goals and to develop better tools for measuring performance and results.

## ***Beyond Convictions: The Need for Comprehensive Measures***

The performance of justice organizations is often measured in simple, practical terms: crime rates, conviction rates, and sometimes recidivism rates. Without question, the actions of law enforcement, prosecutors, courts, and corrections have an effect on crime and victimization. However, relying exclusively on crime, conviction, and recidivism rates to evaluate and define justice overlooks many critical roles and activities of justice practitioners.<sup>2</sup> Moreover, for prosecutors, such traditional measures often do not adequately address the interests of victims and the community, nor do they adequately explain prosecutorial discretion and decision-making.<sup>3</sup>

In the early 1990s, the Bureau of Justice Statistics (BJS) and Princeton University undertook the first major effort to move beyond the notion that justice is best measured by crime rates, conviction rates, and recidivism rates.<sup>4</sup> This endeavor laid out goals for the criminal justice system based on four civic ideals or principles:

1. Doing justice,
2. Promoting secure communities,

<sup>1</sup> French philosopher. "Vous Êtes Dangereux," in *Libération* (Paris, 30 June 1983; repr. in Didier Eribon, *Michel Foucault*, 1989; tr. 1991. *The Columbia Dictionary of Quotations* is licensed from Columbia University Press. Copyright © 1993, 1995 by Columbia University Press. All rights reserved.

<sup>2</sup> Bureau of Justice Assistance (1993). *Performance Measures for the Criminal Justice System*. U.S. Department of Justice, Office of Justice Programs: Washington, DC. NCJ-143505.

<sup>3</sup> Forst, Brian. (2001). *Measuring What Matters in Prosecution*. National Institute of Justice Commissioned Report. APRI White Paper. American Prosecutors Research Institute: Alexandria, VA.

<sup>4</sup> Bureau of Justice Statistics (1992). *Rethinking the Criminal Justice System: Toward a New Paradigm*. U.S. Department of Justice, Office of Justice Programs: Washington, DC. NCJ-139670.

3. Restoring crime victims, and
4. Promoting non-criminal options.<sup>5</sup>

The four goals of the criminal justice system identified by the BJS-Princeton Study were articulated broadly, allowing universal application across all parts of the criminal justice system. These goals were not developed to apply explicitly to prosecution.

In the 1960s, Herbert Packer, a law professor at Stanford University, articulated two distinct models of criminal prosecution. The first—the due process model—focuses on the structure and operations of law and the criminal process. The second model—the crime-control model—focuses on repressing criminal conduct through enforcement, arrest, conviction and punishment. Both general and specific deterrence are emphasized.<sup>6</sup> As the role of the prosecutor has evolved, these models do not identify or address expanded prosecutorial responsibilities, such as assisting and protecting victims, engaging in crime prevention activities, and asserting a more prominent role in addressing factors that may contribute to criminal behavior.

In the late 1990s, an examination of prosecution roles was conducted by the Kennedy School of Government at Harvard University through its Executive Session on State and Local Prosecution. This endeavor identified and described roles of prosecutors:

1. The *pure jurist (case processor)*, whose goal is efficient and equitable case processing;
2. The *sanction setter*, whose goals are rehabilitation, retribution, and deterrence;
3. The *problem solver*, whose goal is to prevent and control crime;
4. The *strategic investor*, whose goal is to bolster the efficacy of prosecution by adding capacities; and
5. The *institution builder*, whose goal is to restore the social institutions that help to control crime.<sup>7</sup>

The Kennedy School models were descriptive in nature and did not articulate specific goals for the purpose of strategic planning, accountability, or performance measurement. While these roles capture a broad range of prosecution activities, they do not adequately identify measures and outcomes in prosecution. Furthermore, recent work by the National Academies demonstrated that the field of prosecution is changing and that many changes have been undocumented.<sup>8</sup> These changes suggest a need to revisit how best to conceptualize justice and measure practices in prosecution.<sup>9</sup>

### **The Changing Role of the Prosecutor**

It is accepted practice that prosecutors are ethically bound to enforce laws, seek appropriate punishment for the convicted, and “seek justice,” which includes the promotion of public safety, system integrity, and protection of the rights of victims and the accused.<sup>10</sup> Prosecutors are also charged with guarding against wrongful convictions. In fulfilling these responsibilities, prosecutors wield tremendous discretionary power with important consequences at various stages of the process. Depending on the circumstances, prosecutors must decide whether to pursue a case, which charges to file, how to proceed with plea negotiations, how to try the case, when to continue or terminate

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<sup>5</sup> Ibid, p. 10.

<sup>6</sup> Packer, Herbert L. (1968). “Two Models of the Criminal Process,” in *The Limits of the Criminal Sanction*. Stanford University Press: Stanford, CA.

<sup>7</sup> Tumin, Zachary. “Summary of Proceedings: Findings and Discoveries of the Harvard University Executive Session for State and Local Prosecutors.” *Working Paper* No. 90-02-05, pp. 3-10.

<sup>8</sup> Heyman, Philip and Petrie, Carol (eds.) (2001). *What’s Changing in Prosecution? Report of a Workshop*. National Academy Press: Washington, DC.

<sup>9</sup> Ibid, p. 22.

<sup>10</sup> Nissman, David M. and Hagen, Ed. (1982). *The Prosecution Function*. D.C. Heath and Company: Lexington, MA.

the prosecution, and what sentences and alternatives to recommend.<sup>11</sup> In making such decisions, prosecutors are guided simultaneously by interests in controlling crime and ensuring that justice is done. Neither the traditional goals and measures outlined by the BJS–Princeton Study, nor the prosecutorial roles identified in the Kennedy School’s Executive Session, address such key topics and issues as transparency or fairness of prosecution decisions.

Furthermore, in recent years, significant changes have altered the “traditional” roles of prosecutors. One such change has been the advent of “community prosecution”—a proactive approach involving prosecutor leadership, partnerships within the community, and concerted efforts to resolve underlying problems that contribute to crime. Under a community prosecution model, prosecutors emphasize safer communities and crime prevention.<sup>12</sup> In this context, “doing justice” often includes addressing a host of community desires and needs, decreasing citizen fear of crime, improving quality of life for community residents, and resolving problems by means other than just criminal prosecution. These shifts in philosophy and practice have important implications for measuring and evaluating the performance of prosecutors’ offices.

Assessments of prosecutorial success are influenced by the public’s perception of what constitutes justice. In the words of Lord Hewart, a British judge from the 19th century, “Justice should not only be done, but should manifestly and undoubtedly be seen to be done.”<sup>13</sup> In sum, there should be general agreement between prosecutors and their communities about the goals of prosecution and measures of success.

With support and assistance from distinguished participants, advisors, and researchers, APRI convened the Study Group to examine goals, objectives, accountability and research in the prosecution profession for the 21st century. The Study Group developed a conceptual framework to identify key prosecution goals and measures that will help guide future performance and accountability assessments and reforms.

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11 Jacoby, Joan. (1997). “The American Prosecutor’s Discretionary Power.” *The Prosecutor*. National District Attorneys Association: Alexandria, VA.

12 Nugent, M. Elaine, Fanflik, Patricia, and Bromirski, Delene. (in press). *The Changing Nature of Prosecution: Community Prosecution versus Traditional Prosecution Approaches*. Special Topics Monograph. American Prosecutors Research Institute: Alexandria, VA.

13 Lord Hewart (1870–1943), British judge. Ruling on the quashing of a conviction on technical grounds, 9 Nov. 1923, in *Rex v. Sussex Justices*. Quoted in: *King’s Bench Reports, 1924*, vol. 1.

# GOALS: MEASURING WHAT MATTERS IN PROSECUTION

*If we do not maintain Justice, Justice will not maintain us.*—Francis Bacon (1561–1626).<sup>14</sup>

## **The Prosecutor’s Mission and Goals**

Study Group participants defined an overall mission for local prosecutors that encompasses the concepts of justice and leadership, as shown below:

*Prosecutor Mission: Through leadership, the local prosecutor ensures that justice is done in a fair, effective, and efficient manner.*

Implicit in the prosecutor’s mission is the effective and appropriate prosecution of criminal offenses and accountability to the public. To ensure this mission is met, the Study Group defines goals for prosecution, as follows:

- To promote the fair, impartial, and expeditious pursuit of justice;
- To ensure safer communities; and
- To promote integrity in the prosecution profession and effective coordination in the criminal justice system.

The mission and goals are defined to take into account the variable structures, policies, and practices of local prosecutors’ offices without limiting or prescribing local approaches in the administration of justice. The mission and goals serve as a basis for creating a framework for understanding and measuring prosecution activities and results.

## **A Measurement Framework for Prosecution**

The terms “goals” and “objectives” are often used interchangeably. However, goals and objectives are not the same. Goals describe the intended end result—the long-term impact of prosecutorial efforts. Objectives, or outcomes, represent shorter-term impacts, often viewed as “benchmarks” of progress being made toward goal attainment. Goals tend to be general and abstract, while objectives are more particular and concrete. Clearly defined goals and objectives facilitate the measurement of progress, and help to identify activities and practices where changes may be needed.

The measurement framework below outlines critical objectives (outcomes) associated with primary prosecution goals and identifies performance measures that may be used to track progress. This framework provides a useful tool for assessing strategies and practices that contribute to desired outcomes. In short, the framework helps prosecutors answer the following questions:

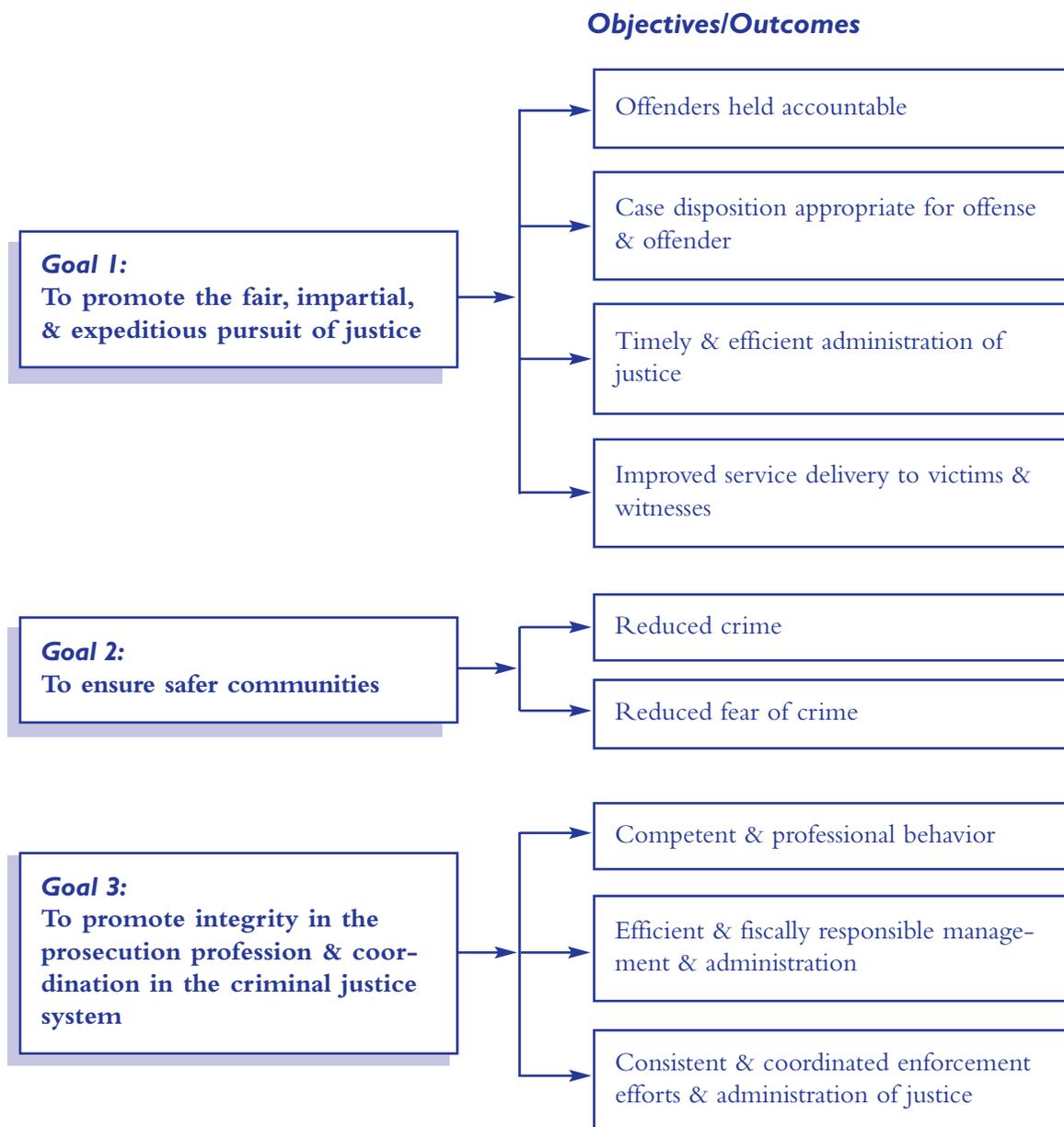
- “What are we trying to achieve?” (Goals)
- “How do we plan to achieve it?” (Objectives / Outcomes)
- “How can we measure whether we are achieving it?” (Performance Measures)
- “What things helped to achieve it?” (Strategies / Practices)

Exhibit 1, on the following page, displays the first step of the measurement framework. It begins with three results-oriented goals, and associates specific measurable objectives with each. To measure whether the objectives

<sup>14</sup> English philosopher, essayist, statesman. Speech for prosecution, as Attorney General, in Overbury murder case, Nov. 1615. *The Columbia Dictionary of Quotations* is licensed from Columbia University Press. Copyright © 1993, 1995 by Columbia University Press. All rights reserved.

(outcomes) are being met, and whether progress toward goal attainment is being made, performance measures are identified for each objective in Exhibits 2, 3 and 4. The entire framework is shown in Appendix A.

## EXHIBIT I PROSECUTION GOALS AND OBJECTIVES



In considering and applying the measurement framework, several reminders are in order:

- The framework is a reference source and tool. It is not meant to be all-inclusive, particularly with regard to performance measures and strategies/practices.
- The framework encompasses both long- and short-term goals, leaving it to the individual prosecutor to assert realistic expectations based on local context and experience.
- It is a “fluid” document. The content and structure can and should evolve over time as conditions change in the criminal justice system and new issues emerge.
- Not all performance measures or strategies/practices will apply to every office because of the many variations in prosecutorial practices across the country.
- The measures contained in the framework are often applied as frequencies, ratios, percentages, or rates. These performance measures are best utilized when examining change over specified time periods. Also, safeguards are needed to prevent measurement manipulation.

Finally, prosecutors should consider and monitor public perceptions regarding prosecutor performance in achieving the identified goals and their associated objectives. Most prosecutors are elected officials, accountable to the citizens of their jurisdictions. For these prosecutors, success in being re-elected is often a key measure of citizen satisfaction and performance. All prosecutors—elected or not—are leaders in their communities and as such they must demonstrate sensitivity to, and understanding of, citizen needs and perceptions.

# PERFORMANCE MEASURES

## **Goal I: Promoting the Fair, Impartial, and Expeditious Pursuit of Justice**

Promoting the fair, impartial, and expeditious pursuit of justice encompasses many different facets of the day-to-day operations of a local prosecutor's office. Specifically, this first goal involves holding offenders accountable, ensuring that case dispositions are appropriate for both the offense and offender, administering justice in a timely and efficient manner, and improving service delivery to victims and witnesses. Exhibit 2 suggests several possible performance measures for each of these objectives.

### **Objective: Offenders Held Accountable**

Holding offenders accountable is intrinsic to the prosecutor's mission. Several "traditional" performance measures are associated with this objective: convictions, dismissals, prison sentences. These measures are subject to many factors beyond the prosecutor's direct control—statutes, investigative capacities and judicial practices, to name a few—but prosecutorial policies and practices may influence the measures in important ways.

For example, prosecutor screening and charging policies and practices may have significant implications for case outcomes.<sup>15</sup> At the most basic level, screening policies determine which cases enter the criminal justice system, which may be diverted or assigned for alternative disposition, and which may be deemed unsuitable for consideration. Examining the various tracks for cases brought to the prosecutor's attention may be useful in assessing the effect of screening policies on prosecutor caseload and case outcomes.

How cases are defined and counted also impacts the calculation of convictions and dismissals: offices that count individual charges against a defendant will show very different outcomes than offices that "bundle" multiple charges. Prosecutorial practices in negotiating pleas and dismissing lesser-included offenses also influence measurements and outcomes. Convictions and dismissals, which can be calculated differently among jurisdictions and states, nevertheless serve as benchmarks against which prosecutors can measure changes (increases and decreases) over time. It is key that these measures be defined and applied consistently.

Similarly, while judges actually impose sentences on offenders, prosecutors offer recommendations for judges to consider. Consequently, prosecutor recommendations in sentencing often influence case dispositions, including sentences of incarceration, treatment, or entry into alternative programs designed to address criminal behavior and factors associated with the criminal act.

The measures regarding restitution provide another indicator of a prosecutor's effectiveness in holding offenders accountable. By asking for and enforcing restitution orders, prosecutors can use restitution fulfillment to measure performance of this objective.

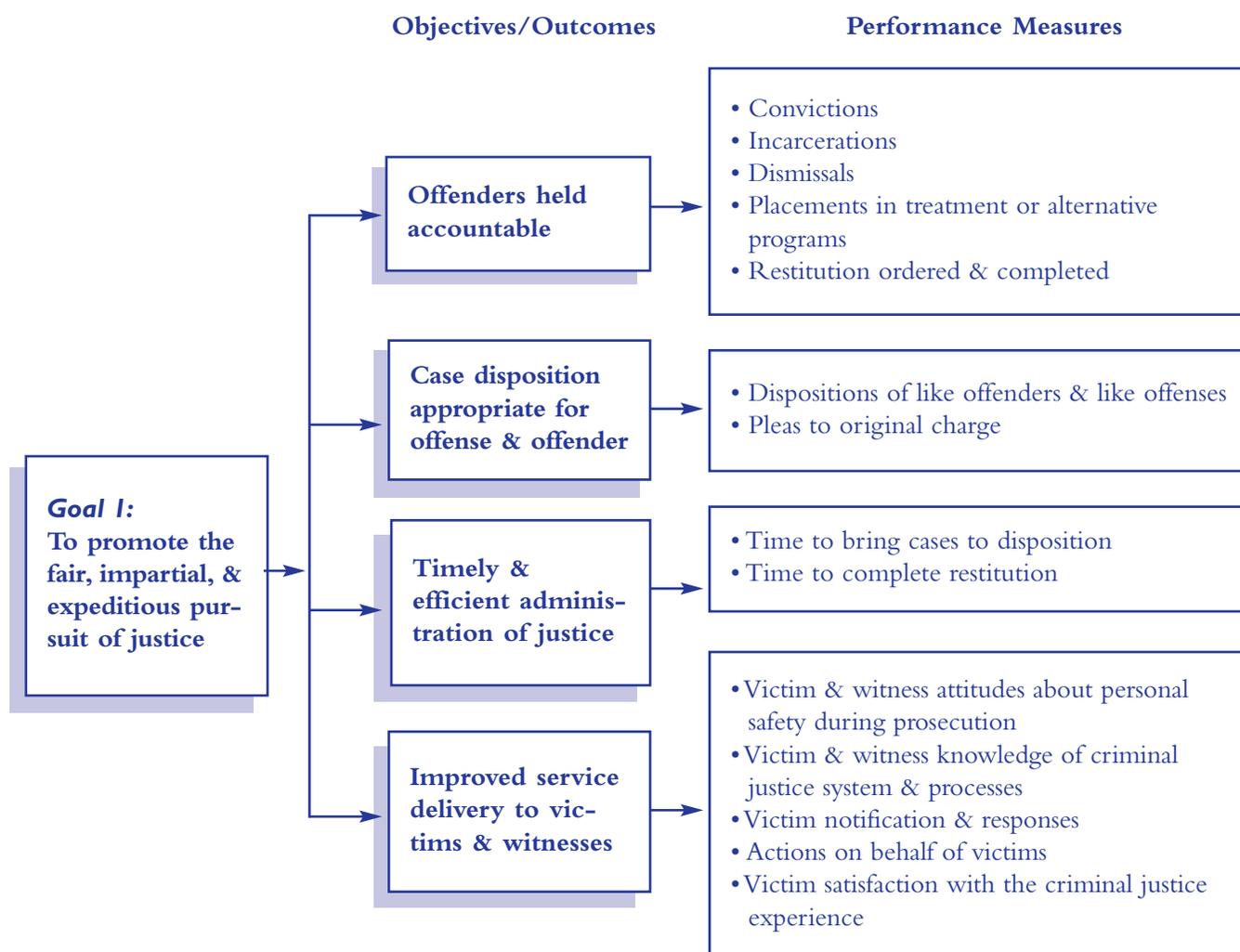
### **Objective: Appropriate Case Disposition**

As the community's representative in the criminal justice system, prosecutors are responsible for seeking case dispositions that are appropriate for the offense committed and for the offender. In doing so, prosecutors can guard against allegations of "over-zealousness" and bias, particularly in making charging decisions and recommending sentences. Measures of effective performance include comparisons of like offenders or like offenses with (1) case dispositions and sentencing recommendations, and (2) frequency of pleas to original charges.

<sup>15</sup> Wright, Ronald, and Miller, Marc. (2002). "The Screening/Bargaining Tradeoff," *Stanford Law Review*, Vol. 55, pp. 29-118.

## EXHIBIT 2

### Goal 1: Objectives/Outcomes and Related Performance Measures



A comparison of similar offenders and similar offenses with actual case dispositions and sentencing outcomes can assure the public that like offenders and like offenses are receiving consistent screening, charging, and sentencing recommendations. In certain situations (depending upon offense and defendant’s age, mental and physical capacities, criminal status, etc.), it may be appropriate for the prosecutor to recommend alternative sentencing options to the court. Tracking cases in which appropriate alternative sentencing options are recommended may provide a meaningful measure of the prosecutor’s efforts to ensure appropriate and fair case dispositions. Proper use of risk assessment tools and conformity with sentencing guidelines can help prosecutors determine whether alternative sentences are recommended in a fair, appropriate and consistent manner.

The frequency that cases are disposed of as pleas to the original charge may also serve as a measure of a prosecutor’s ability to file appropriate and fair charges. Implementation of consistent screening and charging policies and practices (including plea/no plea policies) may help to ensure equal treatment for like cases.<sup>16</sup>

<sup>16</sup> Ibid.

**Objective: Timely and Efficient Administration of Justice**

Essential to attaining the goal of fair, impartial, and expeditious pursuit of justice is the prosecutor's ability to administer his or her responsibilities in a timely and efficient manner. Administering justice in a timely manner helps to protect defendant and victim rights, manage prosecutor caseloads, and optimize use of criminal justice system resources. Measures of administering justice in a timely and efficient manner include examining the time taken to bring cases to disposition and the time taken for offenders to complete restitution requirements.

Delays in the criminal justice process can occur for a variety of reasons over which prosecutors may have little or no control. Prosecutors can assist in reducing delay, however, by more efficiently processing cases. For example, effective allocation of staff and office resources may yield efficiencies in case management. Assessing case processing time may help prosecutors determine appropriate caseloads and formulate staffing needs. Likewise, by monitoring the time required for victims to receive restitution payments and intervening as needed, prosecutors might ensure that justice is administered in a more fair and timely manner.

**Objective: Improved Victim & Witness Services**

The fair, impartial, and expeditious pursuit of justice may depend upon a prosecutor's ability to improve service delivery to victims and witnesses.

One measure of this objective is victims' and witnesses' attitudes about their personal safety throughout the prosecution process. This information can help prosecutors develop more effective services (e.g., conditions of pre-trial release, pre-trial detention for repeat and violent offenders, protection services for certain offenses, etc.). Similarly, by determining victims' and witnesses' level of knowledge about the criminal justice system, prosecutors will better understand and respond to victim and witness expectations and needs.

Appropriate measures of a prosecutor's adherence to victim needs and rights requirements include the extent to which victims and witnesses are notified of key events, how frequently they appear, and whether they participate (e.g., by submitting victim impact statements).

Perhaps the most comprehensive measure of improvements in service delivery to victims and witnesses would be an overall assessment of victim and witness satisfaction with their experience in the criminal justice system. Surveys can provide such information.

**Goal 2: Ensuring Safer Communities**

For many prosecutors today, ensuring safer communities reaches beyond mere enforcement of laws. It includes a professional orientation and willingness to engage in activities that protect citizens from crime and secure communities against disorders commonly associated with crime. Two primary objectives in achieving this goal are reducing crime and helping to address the fear of crime. Associated performance measures focus on the prosecutor's role in contributing to reduced crime and enhancing the community's perceptions of safety, as shown in Exhibit 3 on the following page.

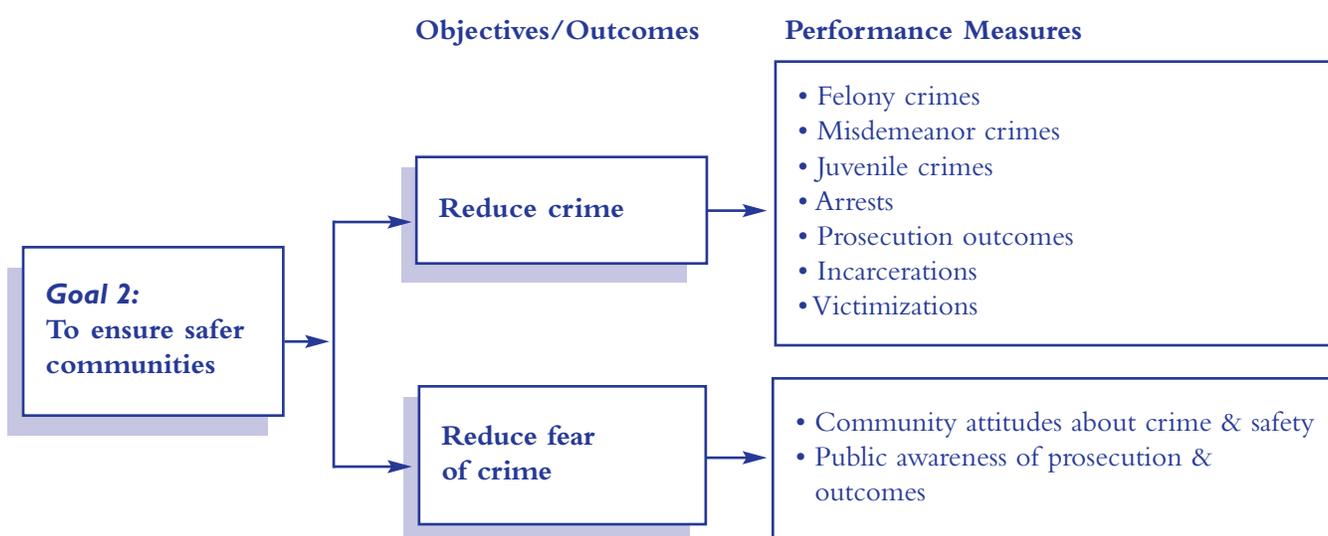
**Objective: Reduced Crime**

Reduced crime is a primary objective toward ensuring safer communities. Of course, prosecutors do not single-handedly influence arrest, incarceration, victimization, or crime rates. They do, however, play a key role in crime reduction efforts that impact community safety. Particularly operating under a community prosecution philosophy, prosecutor leadership is needed in addressing community safety issues proactively and engaging in community outreach in order to identify and resolve many crime problems.

Measures to gauge crime trends typically include: arrest rate, incarceration rate, victimization rate, felony crime rate, misdemeanor crime rate, and juvenile crime rate. Together, these crime measures provide a more complete picture of the level of crime in a given jurisdiction, and may help identify areas within the prosecutor’s sphere of influence. For example, these rates can assist in measuring the effectiveness of a new offense-specific program, such as a specialized gun crime prosecution unit. As another example, by assisting law enforcement in such areas as arrest and search warrant preparation, prosecutors may influence arrest rates, conviction rates and subsequent case outcomes. At the community level, case outcomes may impact crime rates.

### EXHIBIT 3

#### Goal 2: Objectives/Outcomes and Related Performance Measures



Community victimization rates also provide an accurate measure of crime trends by including data from victims who fail to report their victimizations to law enforcement. Various measures may effectively document prosecutor roles in encouraging appropriate use of alternative and treatment programs for offenders, sponsoring educational programs for the community, and instituting community outreach and problem-solving techniques.

#### Objective: Reduced Fear of Crime

Assessment of this objective includes measuring the community’s attitudes and perceptions about crime and safety, and their awareness of prosecution practices and outcomes. Measuring community attitudes can provide useful information to help concentrate prosecutorial efforts in responding to public concerns and promoting safety. Forming partnerships with local groups and reporting frequently on prosecution outcomes are examples of ways in which prosecutors work to address fear of crime in communities.

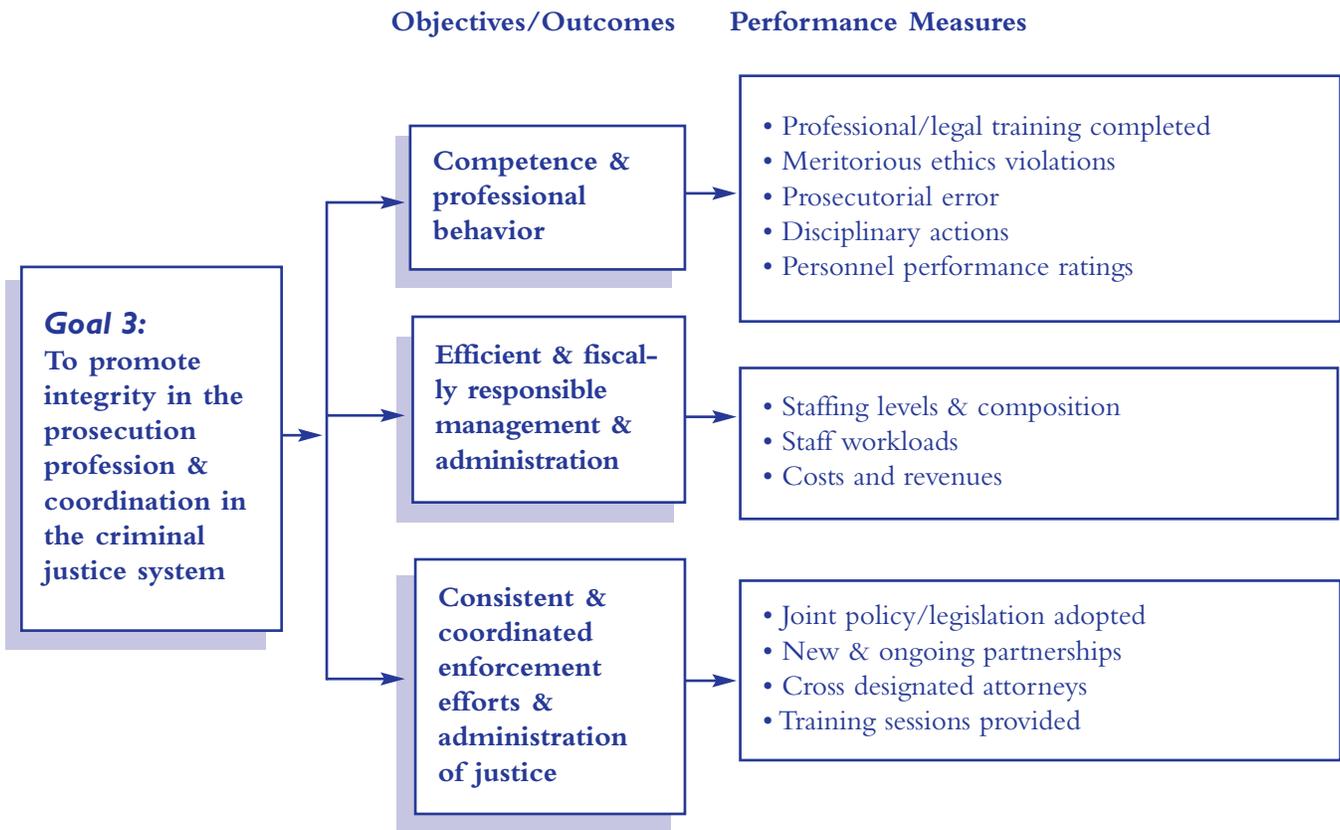
#### Goal 3: Promoting Integrity in the Prosecution Profession & Effective Coordination in the Criminal Justice System

Promoting integrity in the prosecution profession and improving coordination in the criminal justice system requires prosecutors to provide ethical guidance, enforce ethical standards, recruit and develop competent staff,

effectively monitor and manage office business practices, and manage vital relationships with other organizations. Specifically, as illustrated in Exhibit 4, this goal encompasses the following objectives: competent and professional behavior; efficient and fiscally responsible management and administration; and well-coordinated administration of justice efforts. Accomplishing this goal is particularly important, because it helps to attain other prosecution goals and outcomes.

## EXHIBIT 4

### Goal 3: Objectives/Outcomes and Related Performance Measures



#### Objective: Competent and Professional Behavior

Competent and professional behavior is necessary to achieve a goal that promotes integrity and coordination. Measures of this objective should document levels and quality of ethics and professional training, the prevalence of legitimate complaints of prosecutorial error, disciplinary actions, and annual staff performance evaluations.

Opportunities for professional training, including ethics training, may be indicative of prosecutors' efforts to achieve this objective. Monitoring trends in documented and legitimate ethical and professional transgressions may provide another useful measure.

Measures of prosecutor behavior may require an analysis of supported claims of prosecutorial error, and the documentation of erroneous claims and harmless error. A related measure is the number and type of disciplinary actions taken in response to instances of unprofessional or unethical behavior.

Additional measures of competence and professional behavior are available in the form of personnel appraisals and an office's capacity to recruit and retain qualified staff. Monitoring changes in well-designed performance appraisals may help prosecutors optimize individual performance while assessing overall staff practices and capabilities.

**Objective: Efficient and Fiscally Responsible Management and Administration**

Especially in today's environment of constrained state and local budgets, prosecutors' financial resources must be properly allocated and effectively managed. In this critical objective, measures of fiscal responsibility include staffing levels and composition, staff workloads, and costs and revenues.

For example, the number of support staff compared to the number of prosecuting attorneys provides an indicator of efficient utilization of resources. An additional measure of appropriate staffing may be the average workload by position.<sup>17</sup> This information guides the prosecutor in making fiscally responsible decisions about staff, office operations and resources.

A basic measure of fiscal responsibility is comparing costs and revenues (or office budget). This measure can provide detailed tracking of budget performance (i.e., deficit vs. surplus) and cost effective allocation of resources. For example, budget review may reveal substantial allocations for investigator or staff overtime. With proper scheduling and notification, prosecutors can help reduce the amount of time investigators spend waiting to testify, in turn reducing the amount of overtime incurred.

**Objective: Consistent and Coordinated Enforcement Efforts and Administration of Justice**

The final objective to promote integrity in the prosecution profession and coordination in the criminal justice system focuses on the prosecutor's role in establishing consistent and coordinated administration of justice practices. Several measures may be useful to assess this objective: joint policy and legislation adopted; new and ongoing partnerships; use of cross-designated attorneys; and training sessions provided to allied professionals in the community.

Prosecutors can have significant impact on the criminal justice system by working with legislators and policymakers. One way to measure the prosecutor's contribution is documenting policies and legislation that are influenced or adopted with the prosecutor's assistance, for example, specific office policies, policies developed with law enforcement agencies, or providing legislative assistance and testimony.

Because prosecutors rely heavily on information and support provided by other agencies, it is imperative that the prosecutor establish partnerships and working agreements with agencies and organizations, including law enforcement, community groups, public and private associations, and the business community. One indicator of how well these partnerships are working may be the number of new and ongoing formal partnerships the prosecutor has developed to help bring consistent and coordinated efforts to the criminal justice community. Other measures may address public involvement trends, volunteer activities, and financial support.

Increasingly, prosecutors are working more closely with their state and federal counterparts to maximize the use of resources and to seek the most appropriate sanctions for certain types of crimes, such as gun crimes. An indicator of the strength of these relationships could be the number of local prosecutors who have been cross-designated as assistant attorneys general or assistant U.S. Attorneys. Cross-designation provides the local prosecutor with flexibility in handling and coordinating cases that may involve local, state and federal justice systems.

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<sup>17</sup> Nugent, M. Elaine; Rainville, Gerard; Finkey, Rebekah; and Fanflik, Patricia. (2002) *How Many Cases Can A Prosecutor Handle? Results of the National Workload Assessment Project*. American Prosecutors Research Institute: Alexandria, VA.

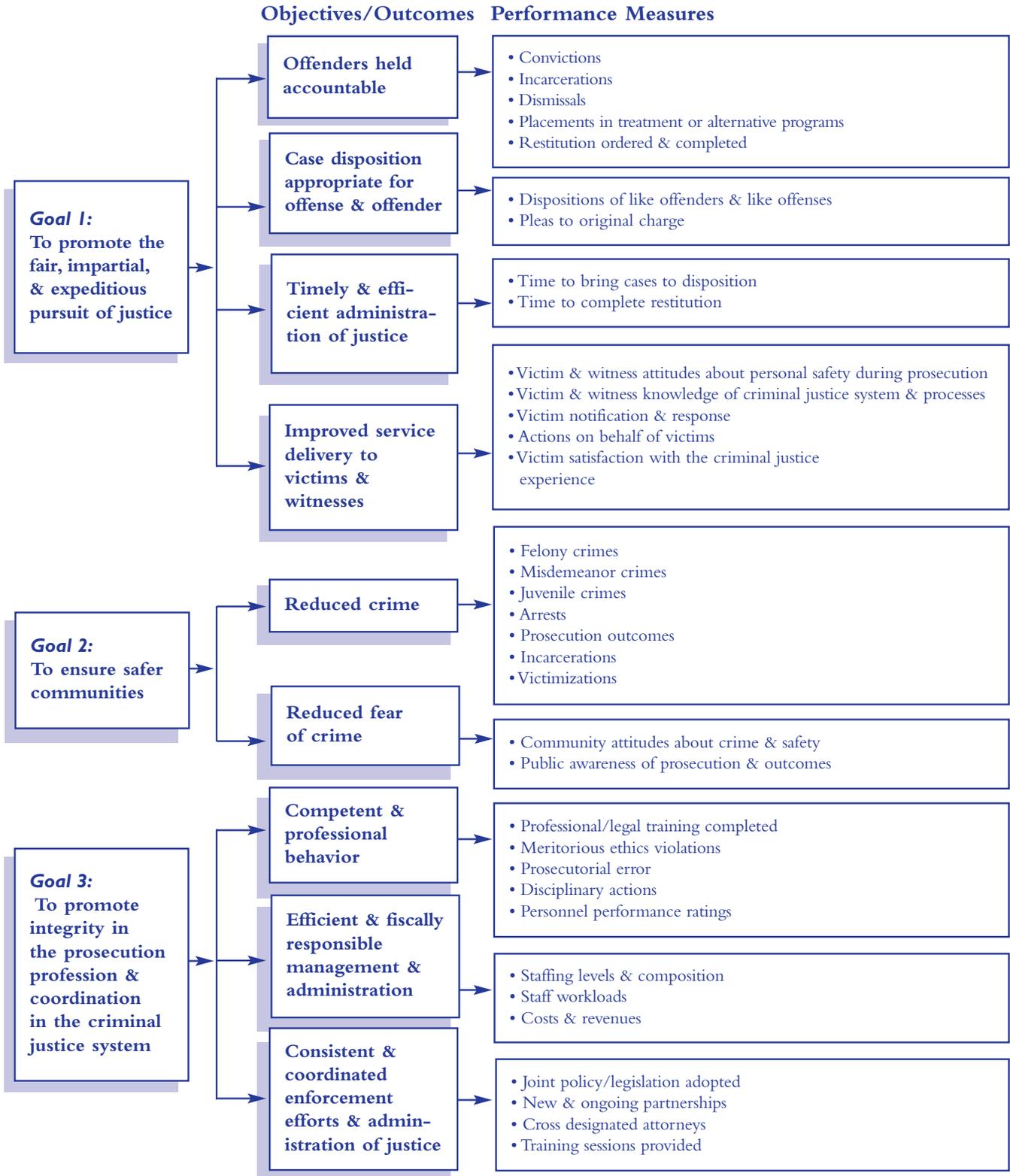
In addition to working with other criminal justice agencies, prosecutors play an important role in building the knowledge of allied criminal justice professionals. Training is one approach to forging stronger inter-agency partnerships for the purpose of combating crime. An effective measure is the frequency and type of professional development trainings provided to law enforcement, prosecution-related agency personnel, and other allied professions.

## CONCLUSION

Prosecutors are making great strides in seeing that justice is served, and that victims and communities are protected. Historically, the articulation of goals, objectives and performance measures has not been considered a first order of business among prosecutors. Today, however, the roles and responsibilities of prosecutors are expanding and presenting new challenges. For example, community prosecution approaches to “doing justice” emphasize prosecutor leadership, problem solving and community outreach. Also, at all levels of government, prosecutors are operating in environments that reinforce government accountability and require higher standards of performance. Particularly as federal, state and local governments move toward performance-based planning and budgeting, prosecutors need guidance to participate in these discussions and respond to changing needs.

The *Prosecution Study for the 21st Century* provides an initial framework of goals and objectives tailored for prosecutors in conducting the business of prosecution and promoting the interests of justice. These goals and objectives are associated with potential measures that may be useful in providing benchmarks for measuring progress and results. Future research efforts are planned that will test the strength, validity and reliability of many of the suggested performance measures in environments with differing philosophies, structures and practices. Testing these measures will lay the foundation for a better understanding of prosecution and its practice during the 21st century.

# APPENDIX A: PROSECUTION GOALS, OBJECTIVES, AND PERFORMANCE MEASURES



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