

The BJA Executive Session on

Police Leadership

2013

The BJA Executive Session on Police Leadership is a multi-year endeavor started in 2010 with the goal of developing innovative thinking that would help create police leaders uniquely qualified to meet the challenges of a changing public safety landscape.

In support of an integrated approach to creating safe and viable communities across America, the project directors recruited 20+ principals from a range of disciplines. The principals, in turn, led national field teams of practitioners focused on the work of policing and the organization of the future.

To gain new insights on leadership, the *BJA Executive Session on Police Leadership* engaged police chiefs in documenting their own paths and invited leaders to participate in various audio and video forums to tell their stories and discuss the future of policing and police leadership.

Please visit our website, <http://bjaleadership.org/>, to learn more about this project and to access a broad array of interactive, multimedia resources.

The principals are supported in their work by a team that includes project co-directors Darrel W. Stephens and Bill Geller, project strategist Nancy McKeon, and BJA Senior Policy Advisor Steve Edwards.

Creative Problem-Solving and the Law: Challenges and Opportunities for Leaders of Police and Prosecution Organizations

Part III: Police-Prosecutor Dialogue

edited by

**Michael S. Scott, George Gascón,
Anne Tremblay and Katherine Miller**

To help portray challenges and opportunities that lie ahead in applying the observations and recommendations contained in the first two parts of this paper, we focus in part III on the landscape of views held by police and prosecution practitioners. These are men and women who have provided leadership for these essential criminal justice organizations. For efficiency, we have collected views—in their own words—of current and former police officers and prosecutors, but we have assembled their points of view into four composite characters. Thus, each character is fictionalized but expresses an amalgam of real practitioners' perspectives.

Each character responds to three basic questions that lie at the gateway to more creative problem solving. The questions call for reactions to new conceptions of police and prosecutor goals and roles and to possible expanded working relationships between police and lawyers. The fictional questioner is a law professor, and the practitioners respond to him and one another with divergent views on the respective roles of police and prosecutors in enforcing the law and providing for the public's safety. They also address a final key question: Who should lead a multidimensional, multi-agency effort to enhance community safety in the 21st century?

The following discussion is intended to stimulate readers to think about these questions themselves, either by deciding which of these characters' perspectives they find most persuasive or by coming up with their own answers. These dialogues were collected from practitioners and edited by Michael S. Scott, George Gascón, Anne Tremblay and Katherine Miller. The practitioners interviewed were:

- *Charles Ramsey, Commissioner, Philadelphia Police Department*
- *Rick Romley, Former County Attorney, Maricopa County, Arizona*
- *Bruce Riordan, Special Assistant US Attorney, Central District of California*
- *Jen Contini, Senior Deputy District Attorney, Orange County (CA) District Attorney's Office*

The Characters

Professor William Rutherford

Police Captain Jim Bradley

Police Lieutenant Marlene Hendrix

Deputy District Attorney Karen Martensen

Assistant District Attorney Bill Segura

Professor Rutherford: Is enforcing the law an end objective or a means to other objectives for police and prosecutors? If it is a means to other objectives, what are those objectives? How should police and prosecutors determine which laws to enforce, and under what circumstances?

Captain Jim Bradley: We're called law enforcement officers for a reason. That's our job. The legislature makes the laws and we enforce them. I'm not saying it's easy to do, but it's that simple. Anything else and we're overstepping our authority.¹70 Laws are laws – we can't cherry pick what we want to and do not want to enforce. What I always say to those who don't like that is that they need to change the law; it isn't for us to decide alone what is and is not enforceable. I tell my officers that if they have probable cause to arrest, then arrest, and let the prosecutor, the judge, or a jury decide what to do with the case. My cops will never have any trouble with me if they make an arrest that will stand up in court. I don't want my officers trying to "do justice" out there by deciding who gets arrested and who gets a break. It isn't their job. Besides, that's plenty work enough given how many laws there are, and there aren't enough police officers to enforce them as

¹ Ronald J. Allen (1976). "The Police and Substantive Rulemaking: Reconciling Principle and Expediency," *University of Pennsylvania Law Review* 125(1): 62-118.

much as we should. Enforcement is a means to the objective of safer neighborhoods—enforcement creates safer neighborhoods.

Lieutenant Marlene Hendrix: With all due respect, Captain, I think that police work has always been a higher calling than just charging people with violating the law. A clerk could do that. Police work is about making the community safe. Sometimes, enforcing the law is necessary to that end, sometimes it doesn't help, and sometimes it makes the community even less safe. So it takes judgment to decide whether, when, and how to enforce the law, and if law enforcement isn't the best solution, to decide what would work better. I thought we worked this issue out back in the 1960s during all those presidential crime commissions and studies² when we agreed that the police have many objectives. That's the very reason that we decided to hire college-educated officers and to put them through extensive training. We know that doing this job well requires a lot of knowledge, skill and, above all, judgment.

Policing priorities are also neighborhood-based. Neighborhood residents help determine what activities are acceptable and unacceptable. For example, one neighborhood may have a significant problem with public drunkenness; laws against drinking in public and open containers would be more actively enforced in those neighborhoods. In another neighborhood it may be very common to find persons drinking beer or wine on their front stoop and no one is bothered by it. The police response to these neighborhood issues is not and should not always be identical. The standards and expectations set by different communities, in reality, dictate how laws are applied. Community norms dictate how laws are enforced.³

Deputy DA Karen Martensen: Well, the answer to this question isn't the same for both police and prosecutors. It's the job of the prosecutor to decide which laws to enforce, and under what circumstances. It's the job of the police to enforce any and all violations of the law they encounter and have evidence to support. Prosecutors are vested with nearly total discretion on these matters, whereas police are not. That's why you have to spend three years in law school to be a prosecutor: to be capable of making charging decisions that are in the best interests of justice. We don't want a police officer, who only has to have a high school diploma, making those important and delicate decisions.

Now, as prosecutors, we mainly weigh the strength of the evidence in deciding who gets charged. I tell my prosecutors that if they are confident they have enough evidence to convince a jury, then charge the crime. If they don't, then I don't want them wasting their time and our resources on a case they're going to lose anyway.

After deciding which charges to prosecute and then securing a conviction, the prosecutor must then recommend a just punishment to the court for that offender, which is another

² ABA Standards on the Urban Police Function, available online at www.abanet.org/crimjust/standards/urbanpolice.html#1-2.2

³ Robert J. Sampson, Stephen W. Raudenbush, Felton Earls (1997). "Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy," *Science* 277: 918-924; George L. Kelling and James Q. Wilson (1982). "Broken Windows: The Police and Neighborhood Safety." *Atlantic Monthly* (March).

discretionary decision. In making this sentencing recommendation, the prosecutor has multiple objectives. For example, longer periods of incarceration can limit the capacity of an offender to victimize the community and act as a deterrent to other offenders. And on the other end of the spectrum the use of drug court or other probationary programs can provide a path toward rehabilitation of an offender. Where the law allows, prosecutors should exercise discretion to recommend incarceration, alternative programs, or allow offenders to earn the dismissal of charges for good behavior. We make these decisions based on the facts of the case and the background of the offender.⁴

ADA Bill Segura: You know, I used to think that enforcing the law was the basic job of police and prosecutors. That's certainly what I was taught in law school—other than the usual rhetoric about the prosecutor's job is to do justice—and that's what was reinforced for me when I first became an ADA. The more enforcement, the better, and the more serious the charges, even better. After about five years of pushing misdemeanors through the system, and then another couple of years doing the “real” work of prosecutors—“slugging felons”—I started to wonder what was the point of the exercise. Because I started to see the same names coming across my desk, some of them almost on a monthly basis. I mean both defendants and victims.

Another thing happened that challenged my basic assumptions: I got to know a police officer and she invited me to ride along with her on patrol a few times. I had never done that before. I noticed that she would only write a citation or make an arrest in about one out of 10 situations that she handled, even when I thought she had probable cause to make an arrest for something. When I asked her about this, she would offer up all sorts of reasons why she didn't make an arrest: it wouldn't do any good, it wouldn't get charged in our office, it was an honest mistake by the suspect, it would take her off the street at times she was better off being out there, it helped build up goodwill in the community. At first, I thought she was just making excuses to get out of writing reports, but now I don't think so. When I asked her if she worried about getting in trouble for not making arrests, she said no, that her police department encouraged officers to find reasonable alternatives to arrest, so long as they could articulate their reasons for taking the actions they took.

Spending time in the community has also made me realize that prosecutors' and communities' priorities often are not aligned. More often the focus of the community is not on major felonies but on nuisance and quality-of-life issues. The community is more sensitive to the impact these crimes have on residents' daily lives. By participating in community meetings, prosecutors are slowly starting to get on the same page with the community—addressing issues that are really of concern to the community. Plus, by addressing quality-of-life issues, we see a greater impact on all crime. With everyone—police, prosecutors, community members—on the same page we can have a far greater impact on safety than ever before.

There are so many factors that go into deciding which laws to enforce as prosecutors. The very first thing you have to do is to have a good understanding of what is important to your community at the given moment—gun crimes, domestic violence, white collar

⁴ Bruce Frederick and Don Stemen (2012). *The Anatomy of Discretion: An Analysis of Prosecutorial Decision Making*. Report to the National Institute of Justice. New York: Vera Institute of Justice.

crime, and so forth. You have to have a feel and an understanding of what's going on in your community. Obviously, what we enforce is also tied to the level of resources available to us.

Both police work and prosecution should be about something more than just making arrests and getting convictions. Our objective should be to enhance the quality of life in our communities. And community safety is about more than just protecting each home from being burglarized; it's about reducing fear throughout a community and people having pride in that community. I know this is the objective of many political leaders, such as governors and mayors, but where public safety is an issue, it should be our objective, too. As police and prosecutors, we should actually be trying to put ourselves out of business.

Professor Rutherford: Do police and prosecutors have a duty to prevent crime and disorder, or merely to respond to it once it occurs? If they have a duty to prevent, what is the extent of that duty?

Captain Jim Bradley: The first priority for police will always be to answer calls for service as quickly and efficiently as possible. Our main objective is to restore order at the scene and take action that will prevent a repeat call later that shift. Taking at least one person to jail usually takes care of the problem. So while we certainly want the officers to give the complainant some crime prevention advice, or refer the complainant to a crime-prevention officer for follow-up, there's obviously going to be a limit to how much time the responding officer is going to have to do much crime prevention. Most crime prevention is just common sense anyway—lock your doors and windows, stay out of bad neighborhoods, don't walk alone at night—and most citizens already know this stuff. The problem is they don't always do what they know they should, so they end up crime victims. In the end, there's not much more police can do other than remind people to use common sense.

The responsibility for crime prevention is really on citizens, rather than on the police even though we like to say that's what we do. In reality, we prevent crime through suppression. Beyond that, prevention activities are beyond the core mission of policing. When economic times are tough, we have to focus on our core responsibilities, and these "extra" prevention efforts are suspended. As for prosecutors, I can't really see how they could be responsible for crime prevention: their job is to put criminals behind bars.

Lieutenant Marlene Hendrix: If you look back at the original purposes for creating police departments—listed nicely in Peel's Principles of Policing—you find that preventing crime and disorder was the fundamental purpose.⁵ We just haven't lived up to that expectation, though. Somewhere along the line, that basic purpose got squeezed out by a greater emphasis on apprehending criminals and patrolling streets. Of course, apprehending criminals and patrolling streets can help prevent crime and disorder, and prevention is one of the main reasons we do those things. The problem is that those two tactics don't happen to prevent crime and disorder as much as we thought or hoped they would. In theory, patrolling and arresting work great, but not so much in practice. Just look at our case clearance rates: for most types of crime we don't catch anywhere near enough offenders

⁵ John S. Dempsey and Linda S. Forst (2012). *An Introduction to Policing: Sixth Edition*. Chesire, UK: Delmar Press, p.8.

for that to deter them or others from committing the same crime. And preventive patrol is more myth than reality. In many police departments, it's all patrol officers can do to keep up with the call load; there isn't much time left for preventive patrol. Besides, every patrol officer at some point realizes that his or her patrol beat is simply way too big for the officer to have much chance of being at the right place at the right time to prevent a crime. It happens from time to time, but that's more by chance than by design.

The police role in preventing crime was very different in the past. We were so busy with day-to-day activities that we didn't think very strategically about crime prevention. For example, detectives working investigations and cases develop expertise about how to prevent the crimes they're investigating. Through working these cases, they became experts about what vulnerabilities and conditions make someone more likely to become a victim. But, as an agency, we didn't exploit that expertise for crime-prevention purposes. Now, knowing these things, we use this expertise to advise the public on security steps to reduce their risk of being a crime victim. And, perhaps more significantly, we use our expertise to recommend structural changes that reduce risk. For example, we both recommend to individuals how to use an ATM safely and recommend to the bank how to design and locate an ATM so that it is a less attractive robbery target.

If we want to take this crime-prevention responsibility seriously, rather than just paying lip service to it, there are numerous ways that police can do preventive work. The few training courses I've attended on things like crime prevention through environmental design⁶ and situational crime prevention⁷ have taught me so much that I wasn't taught in the police academy about how police can actually be effective at preventing crime and disorder. I can't go into all the details, but my sense is that we've been approaching crime prevention the wrong way, or at least in too limited a way. Our habit has been to try to change the offender's desire or motivation to commit crime by making him fear punishment. That approach only goes so far, and it's hard to do. Another, and maybe more effective, approach is to change the environment in which the offender operates, and let the environment change the offender's mind about committing a crime. Most offenders, even if they are not very bright or sober, still roughly calculate the odds that attempting a particular crime will pay off for them. And most of the information they use to calculate those odds is embedded in the environment: Will I be seen? Will I be caught? Will I get a decent payoff? And while it's hard for us as police to change an offender's character, it's pretty easy for us to change a physical environment, if we know what we're doing. If it's true that an ounce of prevention is worth a pound of cure, then yes, the police have a duty to prevent crime and disorder. And that duty becomes even stronger now that the knowledge exists how to do it.

As for prosecutors, I admit my limitations in knowing what they can do organizationally, but from what I've learned about crime prevention, there's no reason that prosecutors can't learn and apply some of the same lessons about crime prevention. They would

⁶ Timothy D. Crowe (1991). *Crime Prevention Through Environmental Design*. Woburn, MA: Butterworth-Heinemann.

⁷ Marcus Felson and Ronald V. Clarke (1998). *Opportunity Makes the Thief: Practical Theory for Crime Prevention*. Police Research Series, Paper 98. London: Home Office, Policing and Reducing Crime Unit, Research, Development and Statistics Directorate.

likely have to go about it a bit differently than we police do, but they certainly have some legal authority that they could bring to bear to get others in society to adopt sensible crime prevention measures. If, as a society, we would just change many of our habits, routines, and designs that make crime so easy for offenders to commit, we would have a huge impact on eliminating much of the so-called opportunistic crime.

Deputy DA Karen Martensen: Prosecuting and incarcerating criminals, and crime prevention, are just two sides of the same coin. Every time we put away a criminal, that criminal can't commit another crime, at least not while they are incarcerated. And for most criminals, after their first time in jail or prison—which is not a pleasant experience—they think twice about committing another crime because they don't want to end up back behind bars. We could certainly do a better job getting the word out to the public, especially to other criminals, about what happened to the people we convicted and sentenced, because that would promote a greater crime deterrence beyond just the defendant.

You asked if prosecutors have a duty to prevent crimes, and I challenge the premise of the question: as prosecutors we are already heavily engaged in crime prevention. It's not the McGruff the Crime Dog stuff that the police do—even though that stuff could certainly help us build goodwill with the community—but it's the hard-nosed business of getting criminals' attention through punishment.

Without some credible threat of punishment, all the crime-prevention advice in the world isn't going to make any difference. I say this because criminals will always find ways to defeat crime-prevention measures, so long as they think they can get away with it. Police are certainly doing their part by arresting offenders, and we do our part in bringing the defendants before the court. But for us to make real progress in preventing crime, we need the judges and juries to do a better job convicting defendants and handing down meaningful sentences. So much of the deterrent value of arrest and prosecution goes right down the drain when the jury refuses to convict on strong evidence or the judge imposes a sentence such as one-year probation with time served. After hearing that sort of sentence, the typical defendant will be thinking, "I got away with it," not "I got punished." That actually is worse than not catching the offender at all because it confirms his belief that the risks of crime are far outweighed by the benefits.

Prosecution is fundamentally a reactive job—our duty is to respond to crime. But, because we prosecutors have a great deal of insight into why crimes occur and we have a great deal of power in the criminal justice system, we have some tools to help prevent crime. When time and resources permit, we should do so. It is important for prosecutors to educate community leaders, parents, etc., and play a role in proactive programs, but I see that as ancillary to our real job. It is often helpful for prosecutors to participate in positive, proactive programs for selfish reasons. Prosecution takes a toll on you because all day, every day, you are dealing with human tragedy—on both the victim's and defendant's side. It's nice sometimes to do something proactive, which tends to be more positive. But there are other entities in government who have a more direct role in making sure our citizens don't become criminals. I'm thinking of social service professionals, healthcare workers, probation officers and teachers, to name a few. And, of course, police have a much broader purpose than prosecutors do: investigating crimes for prosecution is

only a piece of what they do. A big difference is that cops are on the streets in the community, while we prosecutors are not.

Sometimes prosecutors work proactively with the police on special enforcement programs to go after certain classes of criminals such as hardcore gang members. I think these programs are useful and often quite effective. But prosecutors have to exercise a great deal of caution when teaming with police in this way. There is a purposeful division between the police and the prosecutor. The system is designed to have checks and balances, and when the police-prosecutor partnership becomes too close, there is a risk that a prosecutor may lose independence and objectivity.

ADA Bill Segura: I think prosecutors do have a duty to prevent crime and disorder even though most of us don't give the matter much thought or attention. We sort of hope that our routine efforts in prosecuting cases will have some crime prevention side benefits. Perhaps that does occur, but if it does, prevention side benefits are incidental to our main focus, which is winning the case. But punishment is not an effective deterrent. If it was, we wouldn't see so much recidivism. Also, research has demonstrated that potential offenders don't have a good understanding of the potential legal consequences of their acts. Of course, if there is a more active role for us as prosecutors to play in crime prevention, we wouldn't know what that is by virtue of our legal education or professional training. There wasn't a single course offered in law school on crime prevention. There wasn't even one offered on criminology, which is the study of the causes of crime. And how can one prevent something if one doesn't understand what causes it? When we were hired into the district attorney's office, there wasn't any mention of our crime-prevention role and no instruction in it. And since then, I've never seen a continuing legal education course on crime prevention.

We shouldn't limit our concept of prevention to just preventing repeat offending or repeat victimization. I believe prosecutors should use a robust definition of public safety: such as, our community members can come and go without victimization or fear of victimization.⁸ Prevention is a way for us to improve public safety that is cost-effective and builds neighborhood capacity. We should define prevention broadly and creatively, including educating potential crime victims; partnering with social services, developers, and other agencies to address root causes of crime; and building community capacity.

Like police, prosecutors see common factors in their cases that lead to someone being a criminal or a victim. They can take that information to the public to help people avoid high-crime situations (such as not using a smart phone on the street). And prosecutors can engage other governmental agencies to address some risks (such as improving street lighting in a crime hot spot). Where law enforcement agencies are not the most appropriate messenger, they can share their crime-prevention knowledge with the appropriate agencies—social services, schools, etc. If we can identify risky behaviors and conditions, we have a responsibility to share this information with people and agencies who can alter or prevent those behaviors and conditions. Prosecutors also are uniquely positioned to put potential offenders on notice that we are prioritizing certain kinds of criminal activities in

⁸ Cecelia Klingele, Michael S. Scott, and Walter J. Dickey. "Re-imagining Criminal Justice," *Wisconsin Law Review* 2010(4): 953-998.

our prosecution work. Our message is even stronger when we stand together with police to deliver it.

Over the years, mostly from reading things in the general press, I've come to realize that prosecutors can do quite a lot, beyond merely prosecuting criminal cases against individual defendants, which could effectively prevent crime. Think of the federal RICO (Racketeering Influenced Corrupt Organizations) actions, both criminal and civil. The genius of the criminal RICO prosecutions is that they go beyond the individual defendant to reach the whole criminal organization. The genius of the civil provisions is that they go beyond simply incarcerating defendants; they take away the proceeds of crime, the money that was the criminals' target all along. Think of civil gang injunctions, a fairly recent and innovative approach: they work by preventing gang members from getting together in certain areas. If they can't get together in a certain area, it becomes much harder to plan and commit their crimes. Think of the various civil property actions that can be brought, many of them "in rem" actions in which the property is the defendant, so to speak, rather than an individual person. If we can control how property that is used to facilitate crime is managed, we can again make it that much harder for criminals to find safe places to plan and carry out their crimes. There are other examples, but even these few have made me realize that as prosecutors we have many more weapons in our arsenal than just the power of prosecuting individual defendants criminally. And the focused deterrence approach that police and prosecutors in High Point, North Carolina, and other places are trying has shown that sometimes, even when you can put together an airtight criminal case against a bad actor, you don't even have to prosecute it to get some real deterrence and crime prevention.⁹ The more I think about this, the more I realize how much more effective I might have been in my career had I known these things at the start of my career. Of course, for any of us ADAs, we can only do these sorts of innovative things if our DA and senior leadership support and encourage them, and not all do.

Professor Rutherford: My final question to each of you is a fundamental one if we are to go beyond talk and make real change: Who should lead? That is, to the extent that crime and disorder problems are caused by multiple factors and conditions, who in the community is responsible for leading and coordinating a community response to those problems? Is it the police chief, the district attorney, the political executive, judges? Or, is each responsible only for leading and coordinating the resources under his or her direct control?

Captain Jim Bradley: The head of each agency is responsible for that agency's actions. The police chief or sheriff is responsible for his or her agency, and the district attorney for the prosecutor's office. But judges and politicians have more flexibility. They are supposed to represent the interests of the public, not of any particular government agency. Yet there's an issue with judges. They have a unique role to play that disqualifies them from taking a leadership role in public-safety matters. Judges are supposed to confine themselves to deciding cases that come before the court. They aren't supposed to take sides in policy debates or to interject themselves in matters that haven't come before the

⁹ David M. Kennedy (2009). *Deterrence and Crime Prevention: Reconsidering the Prospect of Sanction*. London and New York: Routledge.

court. As a police commander, I might sometimes wish that judges would use their authority to direct how government agencies should cooperate, but I know that I wouldn't appreciate a judge dictating how to run the police department. Aside from the impartiality issue, judges usually lack the professional expertise to know how government agencies should be run. And we certainly don't want the judges involving themselves in the political decisions that are central to deciding how to allocate resources.

So I guess that leaves the political executives—the mayors, city managers, county executives, governors.¹⁰ Coordinating the work of different government agencies is at the heart of their job description. And whether elected or selected for the position, they are expected to look out for the whole community's interests, not just the government's interests or partisan political interests. That's the ideal anyway. With public safety, though, the challenge is great even for political executives because, in most locations, the different agencies that deal with public safety are part of different governments, so no one political executive oversees all of them. The police work for either the city or the county. There is a city attorney who handles some police-generated cases, and the mayor or city manager can control that operation. But there is also a district or state's attorney that is part of either the county or state government, not answerable to the local mayor or city manager. Jails are usually county operations, and prisons are state or federal operations. It's somewhat inevitable in our multi-layered system of government that we can never assure that government services are coordinated and working toward the same goals. I guess that in the final analysis, each leader can shout from his own bully pulpit, trying to influence others, but no one leader can make it all happen. We're forced to lead by committee, through conflict and occasionally consensus.

From my perspective as a police captain, I can tell you that, at the end of the day, dealing with crime is primarily a police responsibility. The politicians take the credit for any success and we get blamed for any failures, so we must take the lead. I will meet and discuss issues with the city's leadership and the DA but, ultimately, I must control my resources. We all know that there are many factors that contribute to crime, such as mental illness and substance abuse, but the mayor and the county executive ultimately control those departments, not me. Many other community and government leaders don't truly understand the challenges police face and so their input is of limited value. Crime suppression is my number-one priority and anything else may be nice but is a distant second.

Having said all this about government leadership, ultimately, the community itself is responsible for leading and coordinating its own public-safety initiatives. Law enforcement can "take back" any community, but only the community can sustain it over the long term. Allowing the community to think this is someone else's responsibility is letting it off the hook. The community has to work toward those problems. We are missing a key opportunity if community members are not allowed to participate; they have the power, and really need to exercise that power.

¹⁰ Joel B. Plant and Michael S. Scott (2009). *Effective Policing and Crime Prevention: A Problem-Oriented Guide for Mayors, City Managers, and County Executives*. Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services.

Lieutenant Marlene Hendrix: I'd like to be able to say that someone other than the police chief—the mayor, the DA, the chief judge—can and should step up as the leader on complex public-safety problems that affect the entire community. But I just haven't seen that happen very often in my career. So, by default, the police department often ends up taking the lead, calling attention to the problem, convening meetings on it, negotiating agreements about who is going to do what, and so on. Why the police? I suppose it's always been the case that the police are the agency of last resort for dealing with difficult public-safety problems. Unlike other agencies, the police can't readily pass the buck. If something is compromising the public's safety, most people's first—and sometimes only—instinct is to call the police and expect them to fix it. People assume that because we can enforce the law, have the authority and resources to use force, and work around the clock, that we can make anything happen. Of course, it's not true, but that perception (or misperception) turns out to be somewhat of a leadership asset. I've resolved that if no other leader is emerging on a public-safety problem that needs leadership, I'll try to exercise that leadership. And whether it's fair or not, the responsibility for dealing with the problem is going to stick with us police in one form or another. Better to try to lead the way, and hopefully get others to do their part, than to sit back and let the problem get out of control.

If we are inheriting these problems because nobody else is as visible, we can either complain about it, or accept our lot and become proficient in taking a leadership role. I've been encouraging our police officers and supervisors to do the same. Become not just a local-government servant, but a community leader. Learn how to identify emerging problems and sound the community alarm, if necessary, about them. Learn how to identify key stakeholders in that problem and get them together to decide what needs doing. Learn how to analyze the problem to figure out its causes and possible solutions. Learn how to negotiate, ask, plead, shame, persuade, and sometimes compel others to do what needs to be done to solve the problem. And when the problem is solved, learn how to share credit with those who helped solve it, regardless of how they were persuaded to become part of the solution. Again, if the police lot is to do those things that nobody else wants or knows how to do, let's just treat providing public-safety leadership as one of those things we inherit, and become good at it.

Deputy DA Karen Martensen: My purview is the courtroom. I can only control so much and so I focus on what I do best: evaluating cases for filing and prosecuting those cases through trial and sentencing. My only other priority is that victims, particularly victims of violent crime or especially vulnerable victims, receive justice and have access to any services or restitution they are due. Prosecutors play an important role in public safety by doing our job, but it's just one role. We cannot and should not try to overstep our authority and role. We can't be out there on the streets like the police. We can't decide who's guilty and who's innocent. We can't impose sentences and we can't punish defendants. I work with the police when they bring me their cases, but I am wary of being seen as too close to the police or as being their rubber stamp. The police bring me the case, and where appropriate I prosecute the case fairly and impartially. Also, I don't want to open the prosecutor's office to even the suggestion that we have succumbed to political influence. Our office must stay independent. It is up to the politicians to decide policy.

Now, there are times when I expect my boss, the district attorney, to use his position as the elected prosecutor to speak out on matters that affect the processing of cases through the criminal court system. I also expect the DA to comment publicly when injustice is being done in a particular case. He has a duty to those who elected him, and to his assistant prosecutors, to do so. But it's not the prosecutor's place to tell the police chief how to run his department, the judge how to run his court, the mayor how to run her city, or the prison warden how to run the prison. I'll leave figuring out and dealing with the root causes of crime to the sociologists and the social workers, and stick to what I know, which is deterring crime through punishment and locking people up.

So my answer about who should lead a multidimensional anti-crime effort is that political leaders should bring the various entities together to coordinate a response. On issues of drug addiction, abusive parents, poor schools, homelessness, mental health problems, poverty, and so forth, it's our political leaders' responsibility to make sure that the government agencies that deal with each of these problems is adequately funded to do the job. And when the funding is not available, its political leaders who need to bite the bullet and make cuts that will do the least damage. I don't believe prosecutors—even though the DA is an elected official—can or should lead this cause. Instead we should contribute with expertise, cooperation and advice.

ADA Bill Segura: The police chiefs and political executives certainly have a clear role to play in taking the lead on public safety problems, and I've seen them do so on many occasions. Whether judges and district attorneys should do so is a more novel idea, but one that I've come around to embracing more and more. With respect to the prosecutor's leadership on these matters, it's not that I shy away from public leadership roles. The district attorney is an elected official and an executive manager of a government agency, so he should be comfortable with being a visible and vocal leader. It's more that we in the prosecution business historically have not seen it as our job to tackle what some people think of as root causes of crime. We defined our role much more narrowly to one of reaction: screening and prosecuting criminal cases brought to us by police. It's true that we've gradually moved toward alternatives to prosecution in certain types of cases, such as first-offender diversion programs, prostitute and john schools, deferred prosecution, and recommending some creative probation conditions. But in most cases, these ideas were developed by others, the programs are managed by others, and we've played a rather limited role. Usually, our role has been merely lending our support to those who lead these programs, even when the participants in those programs are the defendants in our own cases.

In many respects, the elected prosecutor is in an ideal position to exercise leadership on difficult and controversial public-safety problems. Our office has, by law, great authority and great discretion in our decisions.¹¹ Within the boundaries of constitutional law and court procedure, the district attorney is answerable only to the electorate, and assistant prosecutors are answerable to the district attorney. So we can take some public-opinion risks that others might not be able to. And although we don't claim to have all the professional expertise in the world, as trained lawyers, we are pretty analytical in the way we

¹¹ Ronald Goldstock (1992). "The Prosecutor as Problem-Solver: Leading and Coordinating Anti-crime Efforts." *Criminal Justice* 7(3): 3-9, 48-49.

approach our work. And that analytic skill is very useful in pulling apart complex problems and fashioning multifaceted responses. I like to believe that we enjoy the respect of the police, the judiciary, the defense bar, and the general public, so we prosecutors ought to use that credibility to address the big and difficult public- safety problems in the community.

Innovation and collaboration are the watchwords of the future because, as we learned some time ago, arrest and incarceration alone are not the answer to crime, disorder and fear. The more evidence that I've seen over the years about the positive effects that some of these alternative approaches have had in reducing recidivism—not to mention conserving our prosecutorial resources—the more I've gotten interested in having our office take a more active role in designing and advocating for effective alternatives to straight criminal prosecution. Prosecutors can be more than case processors.

Collaborative courts and community prosecution are great examples of how we can all make a difference, working together, by addressing the underlying problems that lead to crime. One way to look at it is that the more cases that we can resolve satisfactorily through alternatives, the more the scarce resources of the criminal justice system can be focused on those relatively few cases and offenders in which certain, swift, and harsh punishment is absolutely necessary.

The more you can engage the various disciplines in your community, the greater the probability you can prevent crime and stop disorder. In dealing with some difficult community safety problems, I have brought in the faith community, educators, and others to work together. Everybody plays a bit of a different role, but there are coordinated efforts. And I believe that everybody has a role. Now, who's the lead? If it's an effort toward public safety, I think that the police chief and district attorney are the leads, maybe as a joint team, because they have a greater understanding of the issues and can better direct resources. They understand the criminal justice system better than others do. There is always a political dimension to public safety as well, so elected officials bear responsibility for managing the political process in a way that enables others to solve problems. Whoever takes the lead, you don't divide a community to solve a problem.

This paper was developed by the “Creative Problem-Solving and the Law” initiative of the BJA Executive Session on Police Leadership. The initiative was led by principals of the Executive Session: George Gascón (District Attorney of San Francisco) and Michael S. Scott (University of Wisconsin Law School). Additional Contributors: Lenore Anderson, Jessica Flintoft, Wade Chow, Tara Anderson and Maria McKee, Interviewees for Police-Prosecutor Dialogue: Charles Ramsey, Rick Romley, Bruce Riordan and Jen Contini.

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The editors are Michael S. Scott (University of Wisconsin Law School), George Gascón (District Attorney of San Francisco), Anne Tremblay (Assistant City Attorney for the City of Los Angeles), and Katherine Miller (Office of the District Attorney of San Francisco).

Cite as: Scott, M. S., Gascón, G., Tremblay, A. & Miller, K. eds. (2013) “Creative Problem-Solving and the Law: Challenges and Opportunities for Leaders of Police and Prosecution Organizations - Part III: Police-Prosecutor Dialogue.” A paper of the BJA Executive Session on Police Leadership. Washington, DC: Bureau of Justice Assistance, U.S. Department of Justice; and St. Petersburg, FL: Center for Public Safety Innovation, St. Petersburg College.

9/28/2015

<http://bjaleadership.org/>

This project was supported by Grant #2009-D2-BX-K003 awarded by the Bureau of Justice Assistance, U.S. Department of Justice, to St. Petersburg College. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the SMART Office, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the U.S. Department of Justice.



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