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POLICE- PROSECUTOR COORDINATION:

The key to effective prosecution

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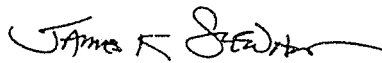
Foreword

Police and prosecutors are mutually dependent in pursuing their common goal of protecting society from crime and violence. Police want to make arrests that lead to criminal justice penalties for the guilty and protect communities from further crimes. Prosecutors want to build strong cases that can succeed in bringing convictions. When relations between the two agencies are not well synchronized, the important efforts of both may be stymied.

The public looks to both these criminal justice institutions for protection. If either one is less effective, it significantly affects the performance of the other.

The decision to arrest ought to be carefully made because of the costs involved—both the resources required to make an arrest and the costs to future victims by not taking action. Not *every* arrest ought to be prosecuted, but unless policies for prioritizing prosecutions are well conceived, the result may lead to more crime, disrespect for justice, and poorer police practice.

Finding ways to strengthen the partnership between police and prosecutors and enhance case preparation is an important goal of the National Institute of Justice. This booklet traces National Institute research on improving coordination between these close allies against crime.



James K. Stewart
Director
National Institute of Justice



Police prosecutor coordination: Building stronger cases

As many as half of all felony arrests result in dismissal of all charges. Some of this case attrition well serves the interest of justice—perhaps the primary purpose of the arrest was to defuse a potentially violent situation. Perhaps the case involves a minor crime that would, if pressed, divert scarce criminal justice resources from more serious cases.

However, many cases in which both the arresting officer and prosecutor are fully convinced of the defendant's guilt are dropped for lack of sufficient evidence.

Today's professional police officers are skilled in evaluating evidence in the field and establishing probable cause for arrest. To carry the case forward to successful prosecution, however, the prosecutor requires evidence that can meet the court's higher standard of certainty. Better coordination between police and prosecutors in meeting the requirements for evidence can improve the quality of cases and boost conviction rates.

For the past decade, the National Institute of Justice has sponsored research to bring new information to bear on ways to strengthen the working relationships between police and prosecutors. Meanwhile, police and prosecutors in a number of jurisdictions have devised workable strategies to improve communication and coordination among themselves. These efforts are essential as police and prosecutors together work to achieve justice.

Much of the National Institute's research has centered around the following questions:

- What is a "good" arrest from the viewpoint of the police? Of the prosecutor?
- Why do a small percentage of officers make half the arrests resulting in convictions?
- Once the arrest is made, what is the best way to ensure that the prosecutor gets the information needed?

- How can cooperation on case preparation be fostered?
- What procedures and policies will encourage efficient and just outcomes?
- If a case is rejected, what kind of feedback do police need from the prosecutor to help in future cases?
- How can we measure the performance of police and prosecutors?

Quality arrests and information needs

Strong cases are built on investigations in which available evidence has been gathered and witnesses have been found and interviewed. Usually such quality work results in sufficient information for the prosecutor to go forward. Institute studies show significant differences between the amount of information and evidence provided in cases leading to conviction as compared with information in cases that are dismissed.

One of these studies was conducted in 1978 by the Institute for Law and Social Research (INSLAW). *What Happens After Arrest? A Court Perspective of Police Operations in the District of Columbia* analyzed 14,865 adult arrests. Using data from PROMIS (Prosecutor's Management Information System), the study revealed that what the police officer does has much to do with whether or not arrests result in convictions. Specifically, the report said:

When the arresting officer manages to recover tangible evidence, the prosecutor is considerably more likely to convict the defendant. When the police manage to bring more cooperative witnesses to the prosecutor, the probability of conviction is, again, significantly enhanced. When the police are able to make the arrest soon after the offense—especially in robberies, larcenies, and burglaries—tangible evidence is more often recovered and conviction is, once again, more likely.

The study noted that robbery arrests with two or more witnesses are less than half as likely to be dropped as cases lacking two witnesses. It revealed that 15 percent of the officers on the force made half of all the arrests that led to convictions, while 31 percent of the officers made no arrests that resulted in convictions. The researchers concluded that, "It seems totally within our means to determine ways of transforming the level of performance of today's few...into the standard for tomorrow's...police officer."

To shed more light on these findings, the National Institute of Justice asked INSLAW to conduct followup research. This second study, *Arrest Convictability as a Measure of Police Performance*, sought to identify policy changes that could increase the quality of arrests and contribute to high conviction rates. Examining the 1977-78 arrests of 10,000 officers in seven jurisdictions,* researchers found that convictions again proved more likely when police could produce several witnesses and tangible evidence—both easier to get when the arrest followed soon after the offense.



*Cobb County, Georgia; Indianapolis, Indiana; Los Angeles County, California; Manhattan, New York; New Orleans, Louisiana; Salt Lake City, Utah; and Washington, D.C.

Once again, a small proportion of officers accounted for most arrests. Twelve percent of the officers produced half of the convictions, while 22 percent produced *no* arrests with convictions. This difference in performance sprang, the study found, from the officers' professional techniques rather than from personal or demographic characteristics or experience.



Most important was the successful officers' "persistence in finding and interviewing witnesses and in supporting witnesses through the trial, as well as being particularly conscious of the gathering and maintenance of evidence." Officers with higher conviction rates spent more time locating witnesses and following through on arrests.

Arrest Convictability called for a policy of police training that emphasizes not just "preserving the scene," but "crime scene management that would include initiating an immediate canvass for witnesses and for evidence." The study also suggests that officers with high conviction rates might be given assignments involving the most serious crime problems. Because most departments did not keep records of which officers had the highest conviction rates, however, the researchers recommended setting up systems to identify officers with better case preparation and to give regular feedback to officers about the outcome of their arrests.

Another study, *Arrests Without Conviction: How Often They Occur and Why*, examined closely two large cities with quite different case-handling procedures to determine whether or not jurisdictions could adopt strategies that would help decrease the number of weak cases. This report agreed on the need for feedback to police officers, including statistics on case attrition, and for specialized training in collecting evidence in specific types of crime.

Assigning police to short periods of observation in the prosecutor's office seemed a valuable training technique, as did more experimentation on methods for obtaining various kinds of evidence. Routine communication between police and prosecutors could increase understanding of why actions were taken and how each agency could improve performance. Investigative resources, the study urged, could be shifted from low-priority work on unsolved crimes to building cases against suspects already arrested.

A high prosecutorial conviction rate may be a sign of excellent prosecutorial performance or a sign of overly conservative charging policies, the study noted. Similarly, a high attrition rate may be a sign of lax performance (by either the police or the prosecutor), illegal or highly aggressive police work, or a very careful police command and control system that keeps unusually detailed records of police arrest activity. The best test is not the attrition rate itself but the nature of marginal arrests made and the kind of charges made.

All these studies emphasized that improving communication between police and prosecutors can heighten the chances of success. To explore the barriers to communication, the National Institute sponsored *Police-Prosecutor Relations in the United States*, a study conducted by the Institute of Criminal Law and Procedure at Georgetown University and published in 1982.

The study suggested that many of the difficulties arise not from differing allegiance, however, but from poor communication and training.

The research found that police needed more incentive to supply prosecutors with the information they need

and that "scheduling and organizational arrangements between agencies kept the prosecutor who is making the critical decisions in a case from personally communicating with the police officer(s) most familiar with the case."

When direct interaction is limited by financial constraints, the study suggested establishing telecommunication and telecopier linkage between the two organizations; extending the prosecutor's hours of availability for case review; or developing a dual-track system of prioritized cases in which the person-to-person track is used for the most serious cases.



Where possible, the study recommended:

- Establishing coordinating groups of police and prosecutors who would meet regularly to identify policy areas needing attention, develop solutions, and identify responsibility for tasks and decisions involved in case processing;
- Identifying to prosecutors the officer in charge of the case;
- Implementing a system to follow up on prosecutorial requests to police for investigations;

- Making the prosecutor's office accessible to police on a 24-hour, 7-day-a-week schedule;
- Appointing a contact person in the prosecutor's office to whom police can direct any inquiries; and
- Setting up an appeal procedure for police in cases that are not accepted for prosecution.

Despite their different roles and attitudes, police and prosecutors think much alike, especially when viewing hypothetical rather than immediate cases. The study states that "for some cases, the police would actually make the same or even more lenient decisions than prosecutors if given the chance."

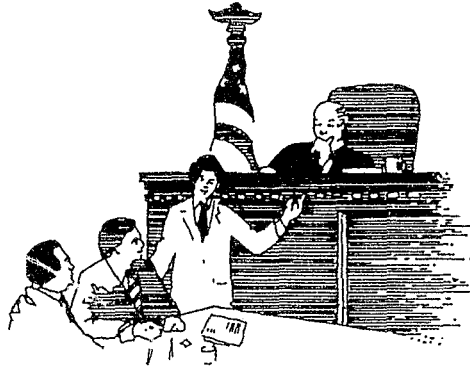
How can police and prosecutors measure success?

According to a working paper on police-prosecutor relations, prepared for the National Institute in 1981 by the Jefferson Institute for Justice Studies, we can measure the success of police-prosecutor relations only when the person responsible for each decision is identified and held accountable.

The absence of clearly defined responsibility causes dissatisfaction in both departments. In addition, the paper recommended regularly reviewing and measuring the performance of the responsible persons. Prosecutorial review of arrests provides an opportunity for police to improve their arrest techniques, the paper points out, and prosecutorial decisionmaking is less consistent where there is no review.

The study points out that the evaluation of an agency should be based on measures that the agency itself does not control internally. Otherwise, the agency can declare itself a success based on its own measures. Further, performance must be measured by the actions taken by the other agency at the *next* decision point. For example, the arrest performance of police should be measured by whether or not the prosecutor accepts

the case for prosecution rather than by the conviction rate. When such a system is agreed upon and implemented, police can see where their case presentations need improvement, and prosecutors will be able to tell where improved communication and clarification are needed.



For the future

Building on past research, the National Institute is currently conducting an experimental research program examining a variety of promising approaches to reducing the rate of felony case attrition. Ten different jurisdictions around the country are assessing the effects of innovative measures designed to improve case preparation and coordination between police and prosecution agencies. The six projects (title, grantee, researchers, and sites) under this program, which should be completed in 1987, are:

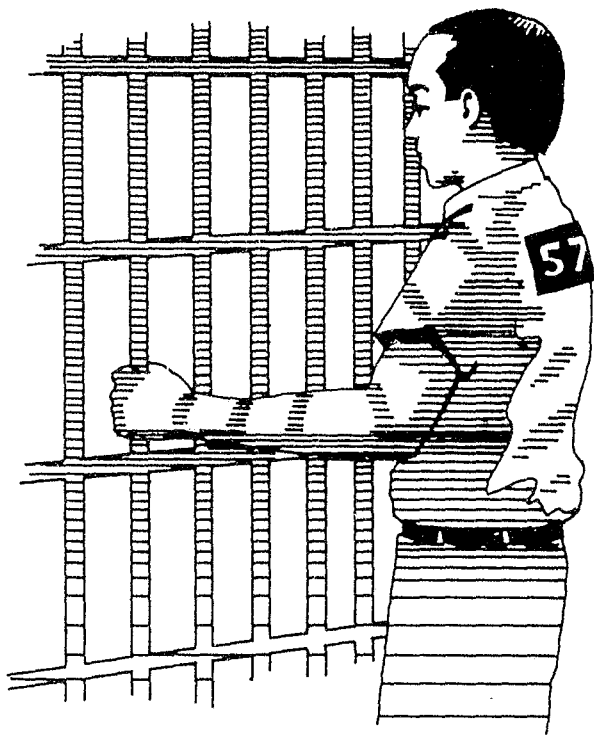
1. "Convicting Guilty Criminals: An Experiment in Police and Prosecutor Coordination"; Police Foundation; Susan Martin and Lawrence Sherman; Project site: Baltimore County, Maryland.
2. "Improving Evidence Gathering Through a Computer-Assisted Case Intake Program"; Georgetown University, Institute of Criminology Law and Procedure; William McDonald and Joque Soskis; Project site: Nashville, Tennessee.
3. "How Police and Prosecution Procedures Affect Case Attrition Rates"; The Rand Corporation; Joan Petersilia; Project site: Los Angeles, California.

4. "Improving Evidence Gathering Through Police and Prosecutor Coordination"; Research Management Associates, Inc.; Edward Connors and J. Thomas McEwen; Project sites: Garden Grove, California, Indianapolis, Indiana, and Newport News, Virginia.

5. "Reducing Avoidable Felony Case Attrition"; Research Foundation of the State University of New York; James Garofalo; Project sites: Erie, Monroe, and Onondago Counties, New York.

6. "Improving Evidence Gathering Through Police and Prosecutor Coordination"; Office of the Snohomish County Prosecutor; Anthony Lukin and Donna Schram; Project site: Snohomish County, Washington.

For further information on this research program, contact Mr. Bernard Auchter of the National Institute of Justice staff (phone 202-724-7684) or the directors of the individual projects.



Selected readings

The following publications have been selected from the collection of the National Institute of Justice/NCJRS (National Criminal Justice Reference Service) to suggest sources of additional information about police-prosecutor relations. All documents in the NCJRS collection may be borrowed on Interlibrary Loan. (For criminal justice agencies and certain other users, there is no charge for Interlibrary Loan. Call 800-851-3420 for information, except in Maryland and the Washington, D.C., metropolitan area, call 301-251-5500. No more than five loan documents per order, please.)

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Priced documents are for sale. To purchase documents, send check or money order (or VISA or MasterCard information) and mark envelope "Attn: Dept. F." Contact NCJRS for information about additional postage and handling charges for foreign orders.

Feeney, Floyd, F. Dill, and A. Weir. *Arrests Without Conviction: How Often They Occur and Why*. Washington, D.C., National Institute of Justice, 1983. 274 pp. (NCJ 90815)

Ascertain the amount of attrition for frequent, serious crimes; examines the important factors that account for case attrition, as well as the effects of high attrition rates; and determines whether there are strategies that might cause a decrease in attrition.

Forst, Brian, Frank J. Leahy, Jr., Jean Shirhall, Herbert L. Tyson, and John Bartolomeo. *Arrest Convictability as a Measure of Police Performance*. Washington, D.C., National Institute of Justice, 1981. 56 pp., \$5.20 (NCJ 80954)

Factors affecting the quality of police arrests (rate of conviction) in seven jurisdictions, including the characteristics of officers making such arrests, their techniques, and their interactions with prosecutors.

Forst, Brian, J. Lucianovic, and S.J. Cox, *What Happens After Arrest? A Court Perspective of Police Operations in the District of Columbia*. Washington, D.C., Law Enforcement Assistance Administration, 1977. 109 pp. (NCJ 44170)

Innovations in police operations in the District of Columbia, including police use of court data, improvements in the treatment of witnesses, a unit that reviews arrests rejected by prosecutors at initial screening, and a police-prosecutor operation concentrating on repeat offenders.

Jacoby, J.E., L.R. Mellon, and W.F. Smith. *Policy and Prosecution*. Washington, D.C., National Institute of Justice, 1980. 111 pp. (NCJ 79228)

A conceptual model for analyzing prosecutive decision-making, incorporating data from a competitive examination of 10 prosecutors' offices and a nationwide survey of 80 urban prosecutors.

Jacoby, J.E., et al. *Prosecutorial Decisionmaking—A National Study*. Washington, D.C., National Institute of Justice, 1982. 132 pp. (NCJ 79227)

Prosecutorial policy, its transfer, levels of uniformity and consistency within and between offices, and factors in discretionary decisions, based on a study of 855 prosecutors in 15 jurisdictions.

McDonald, W.F., et al. *Police-Prosecutor Relations in the United States—Executive Summary*. Washington, D.C., National Institute of Justice, 1981. 55 pp., \$5.20 (NCJ 77829)

Relationships between police and prosecutors in jurisdictions with populations of more than 100,000, examining such questions as whether police supply prosecutors with the kind of information they need and how to improve interagency cooperation.

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