
PROSECUTORS AND FREQUENT UTILIZERS:

HOW CAN PROSECUTORS BETTER ADDRESS
THE NEEDS OF PEOPLE WHO FREQUENTLY
INTERACT WITH THE CRIMINAL JUSTICE AND
OTHER SOCIAL SYSTEMS?

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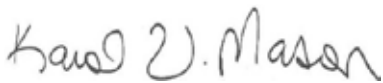
A Letter from the Co-Chairs of the IIP Advisory Board

The Executive Session on Reimagining the Role of the Prosecutor in the Community (Executive Session), hosted by the Institute for Innovation in Prosecution at John Jay College of Criminal Justice (IIP), is guiding high-level culture change in the field of prosecution. Through a series of facilitated convenings and conversations spanning three years, the Executive Session brings together the foremost experts in the field of prosecution – elected prosecutors, legal professionals, scholars, policy experts, and individuals directly impacted by the justice system.

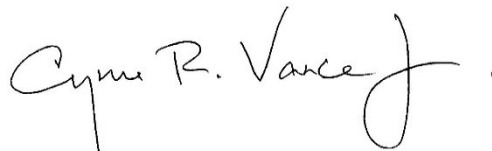
The collaborative research and engagement that informs the Executive Session enables a thorough dive into some of the most complex topics facing prosecutors and their communities: reimagining the role of the prosecutor in a democratic society; producing public safety while reducing harms created by the criminal justice system; and addressing the legacy of racial inequality and structural injustice, to name a few. In order to disseminate these conversations into the field, Executive Session members partner to undertake research and author papers, with an eye towards developing innovative responses. The papers are based on the opinions of the authors, available research, and insight from Executive Session members. While the papers do not represent a consensus of all members, they have been informed by critical engagement and collaborative discussion amongst members. The expertise and diversity of members provide a nuanced lens to some of the most pressing topics in the field of prosecution, and to the criminal justice system overall.

The Executive Session and the papers emerging from it are intended to uplift the evolving role of prosecutors and their power to facilitate the creation of an increasingly equitable and effective American criminal justice system.

For further information about the Executive Session on Prosecution or the IIP, please write to IIP_JohnJay@prosecution.org.



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JOHN J. CHOI **County Attorney, Ramsey County, MN**

John Choi made history on January 3, 2011 when he was sworn in as the first Korean-American chief prosecutor in the country. Since taking office, John has become a state and national leader in progressive justice reform, especially around gender-based violence. John's innovative approach to holding abusers accountable, while working collaboratively with advocacy agencies to help victims, has transformed the way government intervenes in domestic violence and sex trafficking situations in Minnesota. In addition, John has been a champion of raising boys and engaging men to prevent violence against women and girls; successfully advanced legislation to reunite families when it's in foster children's best interest; implemented new performance-based outcomes for youth diversion programs; developed the use of lethality assessments and GPS technology to keep domestic violence victims safe; created pre-charge diversion for adult offenders; successfully advocated at the state to reform drug laws and redirect savings to community reinvestment; and established a Veteran's Court. John is past president of the Minnesota County Attorneys Association, an executive member of the Institute for Innovation in Prosecution, serves on the board of the Minnesota Coalition Against Sexual Assault and as trustee for the Women's Foundation of Minnesota.

Throughout his public tenure, John has been innovative in reforming and finding efficiencies in the criminal justice system. As a result, he has received much recognition, including the 2015 Minnesota County Attorneys Association's Award of Excellence for his innovative leadership in establishing our MN Safe Harbor law and accompanying statewide response to prosecuting sex traffickers and helping trafficked children. In his previous capacity as the Saint Paul City Attorney (2006-2010), John was recognized with the International Municipal Lawyers Association's top award for distinguished public service. Prior to his successful career in the public sector, John spent a decade in private practice in government relations, administrative law, municipal law and civil litigation. John holds a bachelor's degree in Psychology from Marquette University, a J.D. from Hamline University School of Law, and was a Humphrey Fellow at the University of Minnesota.



BOB GUALTIERI **Sheriff, Pinellas County, FL**

Bob Gualtieri is the 14th sheriff of Pinellas County in its 104 year history. Sheriff Gualtieri began his career with the Pinellas County Sheriff's office approximately 35 years ago. He was appointed as sheriff in 2011 and elected and re-elected in 2012 and 2016, respectively. The Pinellas County Sheriff's office is the 15th largest sheriff's office in the country with approximately 3,000 employees and an annual budget of \$300 million. Sheriff Gualtieri began his law enforcement and public service career as a detention deputy working in the Pinellas County jail. He then joined the Dunedin Police Department as a patrol officer and later rejoined the Pinellas County Sheriff's Office as a law enforcement deputy. Over the next 15 years, Sheriff Gualtieri served in many different components of the agency, including several years conducting domestic and international drug trafficking investigations as part of a DEA task force. Sheriff Gualtieri earned his bachelor's degree from Eckerd College in St. Petersburg and his law degree from Stetson University College of Law. After graduating from Stetson and being admitted to the Florida Bar, Sheriff Gualtieri entered private practice in Tampa, specializing in labor and employment defense. Sheriff Gualtieri returned to the Pinellas County Sheriff's Office in 2006 as its general counsel and was appointed chief deputy (second in command) in 2008. Sheriff Gualtieri served in the dual role of general counsel and chief deputy until he became sheriff in 2011. Sheriff Gualtieri is a member of the American Bar Association, Federal Bar Association, and the bar associations of Clearwater, St. Petersburg, and Hillsborough County. Sheriff Gualtieri is active in many community organizations and serves on the Pinellas County Homeless Leadership Board, and the boards of directors for the Boys and Girls Clubs of the Suncoast and the Pinellas Sheriff's Police Athletic League. Sheriff Gualtieri was named 2014 Sheriff of the Year by Crisis Intervention Team International for his work on mental health issues. Sheriff Gualtieri serves on the board of directors of the Florida Sheriff's Association (FSA) and is chair of the FSA Legislative Committee. He is also an Executive Fellow for the Police Foundation, member of the Major County Sheriff's Association, National Sheriff's Association, International Association of Chiefs.



JEREMY TRAVIS

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Jeremy Travis is the Executive Vice President of Criminal Justice at Arnold Ventures. Prior to this role, he served as President of John Jay College of Criminal Justice at the City University of New York. As a Senior Fellow in the Urban Institute's Justice Policy Center, he launched a national research program focused on prisoner reentry into society. From 1994-2000, Travis directed the National Institute of Justice, the research arm of the U.S. Department of Justice. Prior to his service in Washington, he was Deputy Commissioner for Legal Matters for the New York City Police Department (1990-1994), a Special Advisor to New York City Mayor Edward I. Koch (1986-89), and Special Counsel to the Police Commissioner of the NYPD (1984-86). Before joining city government, Travis spent a year as a law clerk to then-U.S. Court of Appeals Judge Ruth Bader Ginsburg. He began his career in criminal justice working as a legal services assistant for the Legal Aid Society, New York's indigent defense agency. He has taught courses on criminal justice, public policy, history and law at Yale College, the New York University Wagner Graduate School of Public Service, New York Law School and George Washington University. He has a J.D. from the New York University School of Law, an M.P.A. from the New York University Wagner Graduate School of Public Service, and a B.A. in American Studies from Yale College. He is the author of *But They All Come Back: Facing the Challenges of Prisoner Reentry* (Urban Institute Press, 2005), coeditor (with Christy Visher) of *Prisoner Reentry and Crime in America* (Cambridge University Press, 2005), and co-editor (with Michelle Waul) of *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities* (Urban Institute Press, 2003). He has published numerous book chapters, articles and monographs on constitutional law, criminal law and criminal justice policy.



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Allison Goldberg is a Policy Advisor with the Institute for Innovation in Prosecution (IIP) at John Jay College of Criminal Justice. Prior to joining the IIP, Ms. Goldberg served in the White House Domestic Policy Council's Office of Urban Affairs, Justice and Opportunity during the Obama Administration, where she collaborated with policymakers, practitioners and advocates to advance criminal justice reform and civil rights. She previously worked at Liberty Hill Foundation, which funds community organizers advocating for economic justice, environmental justice, and LGBTQ equality in Los Angeles County. She received her BA in Political Science and Peace Studies from Loyola Marymount University and her MPhil in Criminology from the University of Cambridge.

How Can Prosecutors Better Address the Needs of People Who Frequently Interact with the Criminal Justice and Other Social Systems?

By John J. Choi, Bob Gualtieri, Jeremy Travis, and Allison Goldberg

I. ADDRESSING THE NEEDS OF FREQUENT UTILIZERS

Criminal justice involvement is often the culmination of unmet needs, according to an increasing body of research, testimony, and other evidence. For many individuals who are arrested and charged, a combination of challenges—including mental illness, substance use, poverty, and trauma – can lead to frequent stays in the local jail, emergency room, and homeless shelter. But very few of these stays lead to adequate care or address long-term needs. Rather, social systems – criminal justice, health, and housing, for example – traditionally exist in silos and operate on an “event-by-event basis,”ⁱ with little coordination between them about how to address the overlapping populations they serve. For those who cycle between these systems, often referred to as “frequent utilizers,” these stays offer few off-ramps from the criminal justice system or long-term resources.¹ For jurisdictions, this results in an ineffective use of public funds and an inadequate response to the needs of frequent utilizers and their communities.

While practitioners, policymakers, academics, and people directly impacted have described this cycle for years, innovations in data and technology offer new avenues to better

understand and address the needs of those who frequently interact with the criminal justice and other social systems. Through collaboration between criminal justice stakeholders, service providers, community organizations, and researchers, jurisdictions across the country are harnessing the power of data to develop new strategies to combat this cycle, invest in long-term solutions, and better meet the needs of frequent utilizers and their communities. For example:

- i. A study in Camden, New Jersey found that 226 individuals appeared in the top five percent of both arrests and emergency department visits. Over the course of the four-year study, these same individuals were arrested a total of 3,686 times, with 95 percent of these arrests for non-violent offenses. Moreover, “75 percent of these individuals received at least one mental-health related diagnosis at the hospital,” and “42 percent experienced homelessness at least once during the study period.” To combat this cycle, Camden integrated its health and criminal justice data in order to identify frequent utilizers, and implemented the “Camden Coalition,” a case management model to better meet the needs of frequent utilizers.ⁱⁱ
- ii. Through data analysis, Miami-Dade

¹ “Frequent utilizers” has been one term commonly used by criminal justice stakeholders, public health officials, and researchers to describe those who frequently interact with the criminal justice and other social systems. While language and labels are imperfect and inadequate to describe the complexities of people and their needs, this paper uses the term “frequent utilizers” in keeping with extant literature and ongoing efforts. Throughout the paper, we emphasize the importance of human dignity when considering the needs of this population and others. It should also be noted that frequent utilizers is a distinct population from others who may frequently interact with the criminal justice system, in that frequent utilizers tend to engage with multiple social systems, including homeless shelters, emergency departments, and others.

County, Florida found that the county spent \$13.7 million over five years on just 97 individuals who cycled between jail cells, emergency rooms, state hospitals, and psychiatric facilities. With this data in hand, police developed new training priorities, including crisis intervention and diversion to community services, that contributed to a reduction in the jail population by nearly a third, “from more than 7,000 in 2008 to just over 4,700 in 2014.” The county was even able to close a jail facility, saving nearly \$12 million per year.ⁱⁱⁱ

- iii. In Pinellas County, Florida Sheriff Bob Gualtieri formed a mental health unit with two deputies and two social workers in order to follow up on mental health calls. During the unit’s first several months, it conducted 435 follow-up calls and visits, demonstrating the need for effective crisis-intervention and de-escalation strategies. This need is particularly pressing, as Florida spends between \$30 and \$40 million on mental health agencies, one of the lowest investments in the country, according to the National Association of State Mental Health Program Directors Research Institute. The unit is partnering with the University of

How can prosecutors better meet the needs of people who frequently interact with the criminal justice and other social systems, who typically face low- and medium-level charges, and who present persistent health and related issues?

II. THE PROSECUTOR’S ROLES

Prosecutors are among the most powerful stakeholders in the criminal justice system. With discretion over charging decisions, bail and pre-trial release recommendations, plea bargaining, and sentencing outcomes, prosecutors can affect a case at nearly every stage of the criminal justice process. Through these decisions, their internal policies and staff training, and their interactions with police, defense counsel, and judges, prosecutors can shape the trajectory of a specific case, and of local law enforcement priorities more broadly.^{2v} Prosecutors, thus, have important considerations to make when evaluating cases and how to wield their power. These considerations may be particularly complex in cases that involve frequent utilizers: How should prosecutors make charging decisions or pre-trial recommendations for someone with evident mental health or substance use

Prosecutors can help devise solutions to public safety challenges that harness the power of other social systems and public resources, rather than further extending the reach of the criminal justice system.

South Florida to examine data and progress over four years.^{iv}

By increasing the use of data and collaboration between criminal justice stakeholders and the communities they serve, jurisdictions have pioneered efforts to more effectively meet the needs of those who frequently cycle through the criminal justice and other social systems, prevent future justice involvement, and enhance public safety. What remains an open question, however, is the role of the prosecutor in these efforts. This paper addresses that question:

needs? How can prosecutors create policies and training that support line staff in evaluating underlying dynamics of justice involvement? How can prosecutors work with defense counsel and judges to enhance outcomes for those who frequently interact with the criminal justice and other social systems?

Beyond their significant discretion within the criminal justice system, prosecutors, as democratically elected officials, possess the power to convene and to lend their voice to

²For instance, one study found that a prosecutor’s recommendation was the single most important factor in bail decisions.

policy debates. As public figures, prosecutors have the means to not only levy charges against those who are accused of criminal offenses, but also to activate public resources and the public consciousness around the underlying causes of these challenges. By harnessing this power, prosecutors can reframe the discourse around public safety. They can expand their role beyond merely processing cases, to address some of the observable dynamics that lead people towards the criminal justice system. By directing attention towards these underlying causes such as mental health needs, trauma, and poverty, prosecutors can help devise solutions to public safety challenges that harness the power of other social systems and public resources, rather than further extending the reach of the criminal justice system. Given the weight of their decisions and the complex responsibilities of their office, prosecutors have an important role in (i.) identifying the current challenges in addressing the needs of frequent utilizers, (ii.) developing and implementing collaborative initiatives to better meet these needs, and (iii.) setting concrete goals and tangible metrics to evaluate these initiatives.

i. Mission and Metrics

Prosecutors' dynamic power and position in the public sphere contributes to an ongoing debate about how to measure the effectiveness of a prosecutor's office. Traditional metrics include conviction rates and lengths of sentences imposed. These metrics, however, tend to place value

that demonstrates the ways in which over-enforcement can in fact undermine trust in and compliance with the justice system.^{vi} Within the debate about the prosecutor's mission of public safety and metrics of efficacy is a reimagining of the relationship between prosecutors and the communities they serve.^{vii} Elected prosecutors and communities across the country are reconsidering what it means for prosecutors to balance their multifaceted responsibilities as law enforcement and as guardians of justice. While not mutually exclusive, these mandates have distinct nuances and require careful consideration. For instance, is it just to prosecute someone for breaking the law if they have evident needs that drive their justice involvement that cannot be addressed through a charge and conviction? Questions like this are propelling national discourse about the evolving role of the prosecutor. Within this discourse is an emphasis on prosecutors finding ways to use their power to solve problems in partnership with their communities, and in a way that recognizes the human dignity of all those impacted by their decisions – individuals accused, victims, and communities. These goals are evident in several prosecutor-led initiatives, such as drug courts and diversion. The goals of these initiatives are not convictions or lengthy sentences, but rather meeting the needs of individuals accused, their communities, and those harmed by crime.

These considerations shift the focus of prosecution from punishment to problem solving, and metrics of success beyond conviction and recidivism rates to individual and community wellbeing.

on maximum charges and sentences, contributing to carceral sanctions with little focus on how to best meet the needs of individuals charged, their communities, or those impacted by their actions. Further, these metrics do not adequately convey whether prosecutors are achieving their goal of public safety, as evident in research

The aim is to build a more equitable and effective criminal justice system.

These initiatives consider metrics of success for individuals beyond recidivism, which tracks setbacks rather than improvements. Considering how individuals respond to treatment or participate in community service, for

example, can tell a more robust story of progress than merely focusing on failures, as defined by repeat interaction with the criminal justice system. These benchmarks of individual success are distinct from but connected to those of the prosecutor's office. Metrics that reveal the ways in which individuals who are arrested and charged are taking steps towards stability more accurately measure the effectiveness of public safety efforts and the impacts of prosecutors' decisions. These considerations shift the focus of prosecution from punishment to problem solving, and metrics of success beyond conviction and recidivism rates to individual and community wellbeing. These metrics focus on what matters, which is improved quality of life for those directly impacted by the criminal justice and other social systems, and for their communities.

Devising and implementing these new metrics of success allow prosecutors to push beyond traditional silos and to use their convening power to garner and share insight with community leaders, local agencies, public health officials, service providers, and other stakeholders that have a vested interest in public safety and a critical role in creating it. A focus on collaboration and new metrics of efficacy shifts the responsibility of addressing myriad unmet needs – mental health issues, trauma, and poverty, for instance – from the criminal justice system to other social systems and community-based resources that are more appropriately suited to address these needs. This shift can reduce the criminalization of poverty and mental illness, better provide support to individuals, and allow prosecutors to focus their attention on more pressing public safety issues. By reimagining their role in the community, and by considering the needs of those who most frequently interact with the criminal justice system and other social systems, prosecutors can use their power as public officials to convene local stakeholders, activate the local consciousness and public resources, and devise new alternatives that better

enhance safety, ensure fairness, and affirm human dignity.

ii. How To

This paper grapples with how prosecutors can develop and implement responses that better meet the needs of frequent utilizers in ways that are also consistent with the prosecutor's broader responsibilities. It considers the following questions:

- i. Use of Discretion:* When a prosecutor is faced with a case that involves a person who has broken the law repeatedly but also has evident mental health and substance abuse issues, how should the prosecutor exercise his or her discretion? How can prosecutors utilize their power over charging, bail and sentencing recommendations, and plea conditions to better meet the needs of frequent utilizers?
- ii. Responsibility to the Community:* What are prosecutors' responsibilities to their communities beyond charging and case processing? What do accountability and justice look like for frequent utilizers?
- iii. Role as Public Officials:* How can prosecutors use their power as public officials to activate public resources and raise awareness about the challenges and needs of frequent utilizers? How can prosecutors use their power to convene to build collaborative responses that better address the needs of frequent utilizers?
- iv. Metrics of Success:* How does individual success reflect on the institutional effectiveness of the prosecutor's office? How can metrics move beyond conviction and recidivism rates? How can the communities most directly impacted by the criminal justice system, low-income communities and communities of color, have a role in evaluating the prosecutor's effectiveness?
- v. Mission:* How do prosecutors' responses to frequent utilizers relate to the overall mission of their office? How can a reevaluation of the needs of frequent utilizers affect how prosecutors consider the needs

and dignity of all individuals directly affected by their decisions?

III. A PATH FORWARD

There are no easy solutions to address the complex needs of those who frequently cycle between the criminal justice, health, and other social systems, but promising efforts are already underway. Harnessing their power as public officials, prosecutors can further develop and implement data-driven and community-centered initiatives that enhance safety, equity, wellness, and human dignity.

i. A Paradigm Shift

When a case reaches a prosecutor's desk, prosecutors begin to make a series of decisions that have significant implications for the person charged, as well as for that person's family and community. When making these decisions, including charges and bail recommendations, prosecutors traditionally consider circumstances of arrest and the person's rap sheet. These factors, including how many prior interactions that person had with the criminal justice system and how many previous chances they have had at diversion or probation, are used when deciding the severity of charge and sanction. Frequent interactions are generally considered signs of failure and rationale for harsher punishment – How are they on my desk again? Why did they not take the treatment opportunities previously granted to them? – In this paradigm, frequent interactions with the criminal justice system demonstrate a failure on the individual's part to reform him or herself and to stop offending. But, as testimony and other evidence increasingly document, frequent interactions with the criminal justice system signify more than a person's recidivism; rather, they demonstrate a failure on the part of the criminal justice system to support desistance.^{viii}

In order for the criminal justice system and its actors to adequately advance their mission of public safety and fairness, they should be less reactive to those who frequently enter their doors and more reflective about the underlying dynamics that lead people

towards the justice system. Prosecutors, as chief local law enforcement officers, have a key role in promoting, justifying, and implementing this paradigm shift. Rather than continuing to levy escalating punitive sanctions against individuals who cycle in and out of their office, prosecutors have an opportunity to use the tools at their disposal to identify patterns that cause people to enter the justice system. They can help create solutions that interrupt these patterns and get individuals *out* of the system. While the "quality of life" crimes that frequent utilizers are often charged with may be visible and frustrating to members of the public, prosecutors can better meet both the calls from the public and the needs of frequent utilizers by directing them towards resources away from the justice system. Shifting the response from criminal justice sanctions to a problem solving process that evaluates underlying dynamics – such as health needs, poverty, and trauma – can reduce overall "quality of life" crimes, allowing prosecutors to focus their resources on more pressing public safety challenges. By (i.) recognizing the challenges faced by those who frequently enter the criminal justice system and other social systems, (ii.) acknowledging that traditional criminal justice sanctions have not met the needs of individuals frequently arrested and charged; and (iii.) developing and implementing initiatives to better meet these needs and concrete metrics of success beyond conviction and recidivism rates, prosecutors can build a new paradigm centered on safety, equity, wellness, and human dignity.

ii. Data-Driven and Community-Centered

This new paradigm takes prosecutors beyond their traditional role of case processing and elevates their role as public officials with the power to convene and to problem solve. Rather than relying solely on a rap sheet, prosecutors can consider an individual's personal history including interactions with the healthcare system, homeless shelters, and other social services, as well as their history and relationships within the community. By embracing their role as democratically

elected officials at the junction of arrest and incarceration, prosecutors can combine data with the insight of the communities they serve to innovate initiatives that better meet the needs of frequent utilizers.

The potential of data to unlock new analysis of and solutions to persistent problems is unprecedented. But this potential should be approached with caution. After four decades of criminal justice policies that have resulted in criminal records for over

that prosecutors can only access personal records after an individual signs a consent form in consultation with their defense counsel and a case manager. Potential consent forms should grant limited access to health and housing data while explicitly specifying that the data will be used to enhance services and care, not to determine sanctions. Prosecutors can also use data from within their own offices and can work with case managers and other stakeholders during case intake to identify

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70 million Americans, racial profiling and systematic discrimination against people of color, and collateral consequences^{ix} – including but not limited to negative health outcomes – it should come as no surprise that there is reluctance to the prosecutor accessing personal data about those they could charge. Moreover, the Health Insurance Portability and Accountability Act (HIPAA) sets privacy standards that prevent the sharing of “protected health information” that could pose “a significant risk of financial, reputational, or other harm” to the individual.^x If data is used by law enforcement to stigmatize or enhance sanctions, it could pose this risk and it could violate the 5th Amendment’s protection against self-incrimination.

In order to use data in a way that can better meet the needs of frequent utilizers while minimizing the reach of the criminal justice system, it is incumbent upon prosecutors to work with communities to ensure that data is used not to profile or penalize, but to humanize and support those who may face charges. To do this, prosecutors should advocate for privacy protections for integrating individual data across criminal justice and other social systems. For example, privacy protections may stipulate

potential indicators that a person may be frequenting other systems. For instance, if prosecutors consider the address of a person who frequently faces charges, they may be able to discern whether that person is experiencing homelessness based on a consistently absent or changing address. They can also collect and analyze data on their office’s case intake to identify particular low-level offenses that may be driving their caseloads. Such analysis may signal a larger pattern within their jurisdiction that deserves attention beyond the criminal justice system. Combining anonymized data across systems, rather than simply examining individual-level data, can also help accommodate privacy concerns while revealing potential overlap among populations within the criminal justice, health, and other systems. This creates opportunities for system-level reform.^{xi} Prosecutors should work with their staff and other stakeholders to ensure that privacy protections are prioritized and institutionalized, while fostering methods to share data across systems in order to better meet frequent utilizers’ needs. Using data responsibly entails an effort by prosecutors to publicly articulate the ways in which their office and other system stakeholders will protect data; to acknowledge past failings;

and to commit to using data to solve problems in a more humane way.

An essential step in gaining the trust of the public and using data in a just way is engaging the expertise of community leaders. Local residents and staff of community-based organizations are

color who have been disproportionately impacted by both crime and the enforcement of low-level offenses also face structural hurdles in shaping the policies and priorities of their local law enforcement.^{xiii} Meaningful community engagement and participation can serve as a way for communities to guide

A community-centered model can better identify benchmarks of progress, such as frequenting a local resource center or consistently staying with a family member. These steps towards stability are not captured in traditional data points, but are signs of success that should be accounted for and celebrated.

often familiar with frequent utilizers and their histories and needs.^{xii} The insight of residents and community leaders can serve as an important resource to the prosecutor's office, providing a narrative that reveals the nuances and humanity behind what would traditionally be viewed as a lengthy rap sheet. This insight can also provide thick data to a quantitative analysis of overlap between jail cells, emergency rooms, and homeless shelters, ensuring that new data-driven strategies focus not just on reducing costs or enhancing efficiency, but on better serving the individuals that the data represents. For example, if data reveals that an individual is repeatedly arrested two weeks after a stay at an ER, community-based organizations can intervene during that timeframe and provide case management to identify the causes of this pattern, interrupt the cycle between the ER and jail, and ensure the person has access to quality care and support. Those who are most familiar with residents' needs are also those with the greatest insight into potential ways to meet these needs. Prosecutors, using their power as public officials and their ability to convene, can ensure that other stakeholders in criminal justice, public health, and other social systems, are also considering the perspectives of community members. Moreover, low-income communities and communities of

the prosecutor and other stakeholders to use data in a way that supports the needs of individuals, rather than as a means to criminalize. This form of participatory justice can strengthen trust between prosecutors and the communities they serve, ultimately enhancing their overall efficacy.^{xiv} Prosecutors should consider how to institutionalize community-based oversight mechanisms and participatory justice, activate or build legal protections, and implement other safeguards in order to ensure data privacy, just data use, and community engagement beyond their tenure in office.

iii. New Metrics

Community insight can go beyond monitoring the use of data to help develop new metrics of individual success and of a prosecutor's effectiveness, two distinct but interconnected measures. Too often, individual success is defined not by success at all, but by failures and returns to the criminal justice system. Recidivism rates emphasize an individual's setbacks rather than steps towards progress.^{xv} A community-centered model that provides informed care to frequent utilizers can better identify benchmarks of progress, such as frequenting a local resource center

or consistently staying with a family member. These steps towards stability are not captured within recidivism rates or traditional data points, but are signs of success that should be accounted for and celebrated. They are metrics of what matters, and reveal the power of measuring one thing at a time.^{3xvi} If an individual does not attend their court-mandated drug treatment program, for instance, a community-based case manager can help unearth the reasons behind this, such as public transportation obstacles or program costs. This insight can provide a deeper assessment of the quality of interventions while guiding prosecutors in making future decisions.

However, prosecutors traditionally do not consider individual success when evaluating their office. Typically, after a case is charged and a plea deal or sentence reached, prosecutors consider the case closed. When prosecutorial effectiveness is based on conviction rates and sentence lengths, there is little incentive for prosecutors to follow a person's trajectory beyond sentencing. Recidivism is traditionally only a factor in a prosecutor's decisions when considering criminal history as justification for heightening charges and

consider nuanced and aggregated metrics of individual success. Signs of individual progress are critical not only for prosecutors' evaluation of their own impact, but also as positive reinforcement for prosecutor-led alternatives to traditional criminal justice sanctions. For instance, if an individual enters a diversion program, monitoring their progress can help portray the ways in which the program is meeting both that person's needs and public safety goals. Positive metrics that demonstrate individual progress can affirm and inspire innovations to better meet the needs of frequent utilizers and enhance public safety.

The intersection of individual success and prosecutorial effectiveness can also inform system-level metrics. For instance, prosecutors and other social system stakeholders may have a baseline that a certain number of people experienced homelessness while a specific number of "quality of life" crimes relating to homelessness were reported during a given year, costing the system substantial resources to arrest, charge, and incarcerate individuals experiencing homelessness. By partnering with other social system stakeholders to provide

Public safety goes beyond conviction rates, sentence lengths, and recidivism. It depends upon individual and community wellbeing.

sanctions. Prosecutors generally don't consider recidivism, let alone more nuanced metrics of individual success, when evaluating their office. In order to fully capture the public safety impacts of their decisions and their institutional effectiveness, prosecutors should

housing and services instead of filing charges, prosecutors can support and measure reductions in levels of homelessness, related quality of life crimes, and resources used. This scale considers costs, public safety, and individual-level services when measuring

³ In an effort to update and improve metrics to evaluate the effectiveness of policing, the National Institute of Justice (NIJ) and the Office of Community Oriented Policing Services (COPS) convened policing experts for a series of three meetings in 1995 and 1996. During a discussion in which Jeremy Travis, then NIJ Director, asked Herman Goldstein, an early founder of problem-oriented policing, how to measure police effectiveness, Professor Goldstein responded, "One problem at a time." In the context of frequent utilizers, this approach would emphasize the importance of aggregating data and recognizing individual steps towards progress.

system-level efficacy at enhancing community wellbeing.

Public safety goes beyond conviction rates, sentence lengths, and recidivism. It depends upon individual and community wellbeing, a metric that cannot be fully delineated in data, but which relies on human insight and nuance. Community partners can provide this perspective and help define metrics that embody the ways in which individual progress is intrinsically linked to the prosecutor's success. By working with those within the community who have deeper understanding of frequent utilizers' histories and needs, prosecutors can more effectively and humanely evaluate the impacts of their decisions, while strengthening trust with the communities they serve.

iv. Beyond Silos

The paradigm shift, data-driven and community-centered approach, and new metrics discussed here offer a promising path forward for prosecutors to better address the needs of frequent utilizers. It is possible to promote this reframing while also recognizing that there will still be cases in a prosecutor's jurisdiction where a traditional criminal justice response is necessary. How should an elected prosecutor guide his or her assistant district attorneys to make charging and bail decisions in more serious cases involving frequent utilizers? How should ADAs approach cases involving a violent crime, for instance, when a carceral sanction is still necessary? For even, and perhaps especially, those cases where a charge and traditional sentence is required, prosecutors can rely on community-centered standards of safety, equity, wellness, and human dignity to guide their decisions, allowing them to move past their silos and ensure that these standards are applied beyond their immediate discretion. As elected officials, prosecutors are directly accountable to the communities they serve, especially those who are most impacted by the criminal justice system. And, as discussed above, the efficacy of a prosecutor's office is directly related to individual success. Thus, prosecutors have

a vested interest in ensuring that people returning home from periods of incarceration are prepared and have opportunities for rehabilitation and reintegration.

By using their position as chief local law enforcement official, prosecutors can ensure that whatever sanction is given – including, potentially, a carceral sentence – it is supporting safety, equity, wellness, and human dignity. Are there proper protocols to prevent exacerbating trauma within jail? Is there access to adequate treatment within prison? What barriers exist for people returning to their communities after incarceration? Given their role as public officials, prosecutors have a strong voice in advocating for policies, programs, and resources that ensure people have quality care during their sentence and opportunities for reintegration upon their release. Moreover, their power to convene gives them a unique ability to facilitate a collaborative case management model that provides support to individuals prior to and upon their return to their communities. By partnering with their local sheriff, for instance, prosecutors can ensure that jails have support for people with substance use and mental health needs. By coordinating with probation and parole, prosecutors can help promote services and conditions that support success. Prosecutors have the power to foster collaborative, creative solutions with law enforcement and community partners to support frequent utilizers.

v. Beyond Frequent Utilizers

While frequent utilizers are a unique and distinct population that are repeatedly impacted by the justice system, the paradigm shift for how prosecutors can better meet the needs of frequent utilizers can extend to all individuals who come across their desk. Though mental health, substance abuse, and homelessness are particularly acute examples of unmet needs driving justice involvement, those who do not fit the definition of frequent utilizers may still have underlying issues that contribute to their justice involvement, and still merit consideration of their human dignity. Many

young people involved in gang violence, for instance, have trauma that has not been addressed. Rather than labeling them as a perpetrator of violence, how can the prosecutor use a more nuanced lens to see them as someone who has survived trauma, and how their current engagement in violence may be a symptom of that trauma? Through this lens, prosecutors may still decide that a serious charge and carceral sanction are necessary. But they might also use their power to ensure that trauma-informed care and services are provided to this young person, and to others in similar positions before they face an arrest or charge. Prosecutors can apply the framework they use in cases involving frequent utilizers to their caseload more broadly in order to analyze a person's background, identify patterns contributing to justice involvement, and use their discretion to access public resources and solve problems in partnership with the community. Prosecutors across the country have already begun to take this approach to address serious offenses, such as violence in schools,^{4xvii} and to reduce prosecution of low-level charges.^{5xviii} Within this framework, alternatives such

as problem solving courts and treatment options become the default, and traditional punitive sanctions become the alternative. The ways in which prosecutors address the needs of frequent utilizers can provide a reference point to solving public safety challenges in their communities at large.

Using their platform as public officials tasked with ensuring public safety, prosecutors can rally public agencies and the public consciousness to (i.) state the needs of frequent utilizers and others facing frequent arrests and charges, (ii.) acknowledge inadequacies in traditional criminal justice responses to address these needs, and (iii.) devise and implement collaborative, data-driven, and community-centered solutions that better serve the needs of all who are impacted by crime – individuals accused, their families, victims, and communities – without further extending the reach of the criminal justice system. This innovative approach offers a path for prosecutors to reimagine their role as collaborative problem solvers and to implement new metrics of success founded on community-centered standards of safety, equity, wellness, and human dignity.

⁴For instance, Ramsey County (MN) Attorney John Choi noticed a significant number of young people referred to the criminal justice system for assaults against teachers. This pattern of violence signified a deeper, more systemic problem than merely isolated incidents that could be addressed with a charge and sanction. To better understand the underlying issues driving these assaults, County Attorney Choi convened teachers, parents, and other local stakeholders to analyze the conflux of contributing factors, and to devise collaborative, community-centered responses that could lead to better, more restorative outcomes for students, teachers, and the community.

⁵For instance, Manhattan (NY) District Attorney Cyrus Vance, Jr. used data analysis to identify low-level charges that were driving case intake and racial disparities. Through this examination, along with consultation with his community, DA Vance chose to stop charging a number of low-level offenses – including marijuana possession and turnstile jumping – and to invest in a suite of diversion programs and services. These initiatives have contributed to a reduction in Manhattan's prosecution of low-level offenses from nearly 100,000 cases annually to less than 50,000.

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