

**The author(s) shown below used Federal funds provided by the U.S. Department of Justice and prepared the following final report:**

**Document Title: Exploring the Feasibility and Efficacy of Performance Measures in Prosecution and their Application to Community Prosecution**

**Author: M. Elaine Nugent-Borakove ; Lisa M. Budzilowicz ; Gerard Rainville**

**Document No.: 227668**

**Date Received: July 2009**

**Award Number: 2004-PP-CX-0002**

**This report has not been published by the U.S. Department of Justice. To provide better customer service, NCJRS has made this Federally-funded grant final report available electronically in addition to traditional paper copies.**

**Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice.**



# EXPLORING THE FEASIBILITY AND EFFICACY OF PERFORMANCE MEASURES IN PROSECUTION AND THEIR APPLICATION TO COMMUNITY PROSECUTION

**Report Authors:**

*American Prosecutors Research Institute:*

M. Elaine Nugent-Borakove

Lisa M. Budzilowicz

Gerard Rainville

This document is a research report submitted to the U.S. Department of Justice. This report has not been published by the Department. Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

This project was supported by Grant No. 2004-PP-CX-0002 awarded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice, the National District Attorneys Association, or the American Prosecutors Research Institute.

## Abstract

This study explored empirical evidence to support the performance measurement framework identified by the Prosecution Study for the 21<sup>st</sup> Century. The framework included three goals: 1) promoting the fair, impartial, and expeditious pursuit of justice; 2) ensuring safer communities, and 3) promoting integrity in the prosecution profession and coordination in the criminal justice system.

**Description of Research Subjects:** Two prosecutors' offices participated: 1) a traditional office, focusing on holding offenders accountable and case processing; and 2) a more community-oriented office, having implemented community prosecution.

### Research Design and Methodology

**Methods:** APRI conducted interviews and data assessments to select performance measures based on the offices' policies and practices. Each site submitted monthly data for analysis. APRI also administered a public safety survey.

APRI created models for each site showing the relationship between goals, objectives, performance measures, and activities. Correlation and factor analyses were used to examine the relationship between the measures and the goals/objectives.

**Results and Conclusions:** The study examined two of the three goals in the framework—promoting fair, impartial, and expeditious pursuit of justice and ensuring safer communities. Data were not sufficient to address the third goal—promoting integrity in the prosecution profession and coordination in the justice system. Major findings, by research question, were as follows:

- Are the proposed goals and objectives logically related? For the two goals that were studied, four objectives were found to be valid: holding offenders accountable, timely and efficient administration of justice, reduce crime, and reduced fear of crime. The data collected did not support the objective of case dispositions that are appropriate for offense and offender. Insufficient data were available to test improved service delivery to victims and witnesses.
- Are performance measures available that can be used to assess prosecutor performance toward goal attainment? APRI found that prosecutors have limited access to performance measurement data. Moreover, counting and definitional differences impact the ability to conduct comparative performance analyses.
- Are the data elements for the operationalized performance measures reasonable indicators of office performance? APRI found that the data elements and performance measures are reasonable indicators of office performance; however the context of the office and the jurisdiction (e.g., legislative framework, staffing, funding, etc.) must be considered.
- Do the performance measures and objectives group together logically and in a way that is empirically defensible? The findings confirm a logical relationship between the measures and the objectives articulated in the framework.

## Executive Summary

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

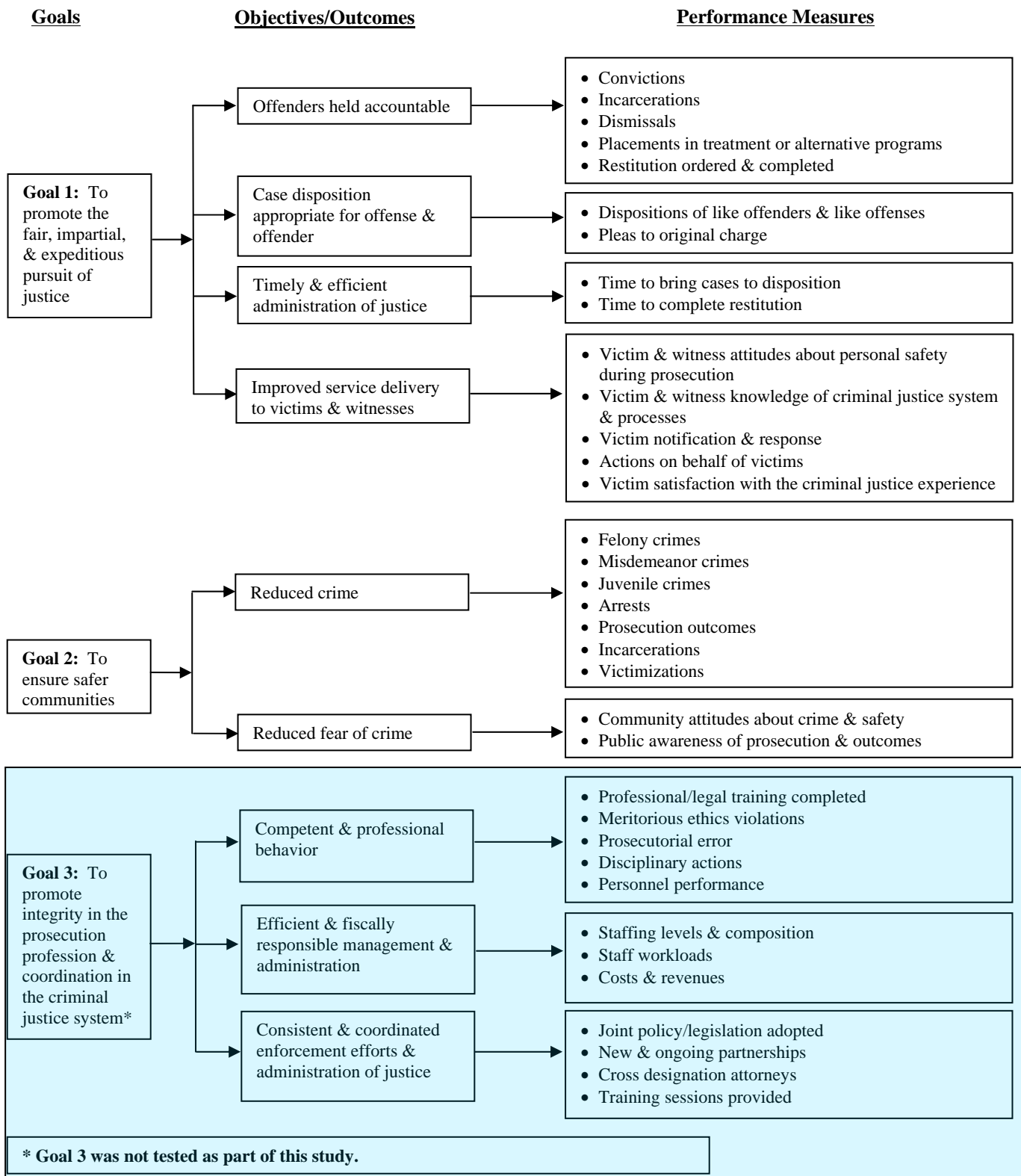
Until recently, prosecutors lacked any empirically-based guidance that adequately addressed the need for a menu of performance measures that can be used to answer these questions. In 2003, with funding from the National Institute of Justice and the Charles G. Koch Charitable Foundation, the American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

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

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

## Exhibit 1

### Full Prosecution for the 21<sup>st</sup> Century Performance Measurement Framework: Goals, Objectives/Outcomes, and Performance Measures



In 2004, the NIJ provided additional funding to support the implementation of the performance measurement framework in real-life settings to determine if there is empirical evidence to support the framework as it was initially constructed and to assess its operational viability. The framework was implemented in two prosecutors' offices, representing two different prosecution philosophies. The first office is more traditional in its approach to prosecution, focusing on holding offenders accountable and case processing with some additional efforts focused on addressing and preventing certain types of crime, such as gang and gun violence, domestic violence, child abuse, and truancy. The second office is more community-oriented, having implemented and embraced a community prosecution approach to crime which involves proactive problem-solving, partnerships with the community, and use of techniques other than criminal prosecution to address certain types of crime and public safety issues. Exhibit 2 summarizes the key characteristics of both offices that participated in the study.

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

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

***Research Design***

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

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

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

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

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

<sup>1</sup> Data for the performance measures in shaded cells were not studied for either site.

<sup>2</sup> No data were collected for the two objectives of Goal 3: Competent and professional behavior, and Consistent and coordinated enforcement efforts and administration of justice.



**Exhibit 3, cont'd**  
**Final Performance Measures by Office**

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

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

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

\*\*\*Ratio measure missing either denominator or numerator values

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

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

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

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

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

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

The quantitative analyses did not focus on how well the offices were performing but rather on statistically testing the framework. APRI used data reduction techniques to determine if the large number of performance measures could be reduced to a number of underlying factors

(i.e., the goals set forth in the performance measurement framework). Correlation analyses and factor analyses were used to determine how the measures grouped together and whether they were related to each other. The correlation analyses focused on whether or not the measures within the individual objectives were related to each other and thus measuring the same objective. The factor analyses were performed to determine the extent to which the different objectives and measures for each goal were related to each other.

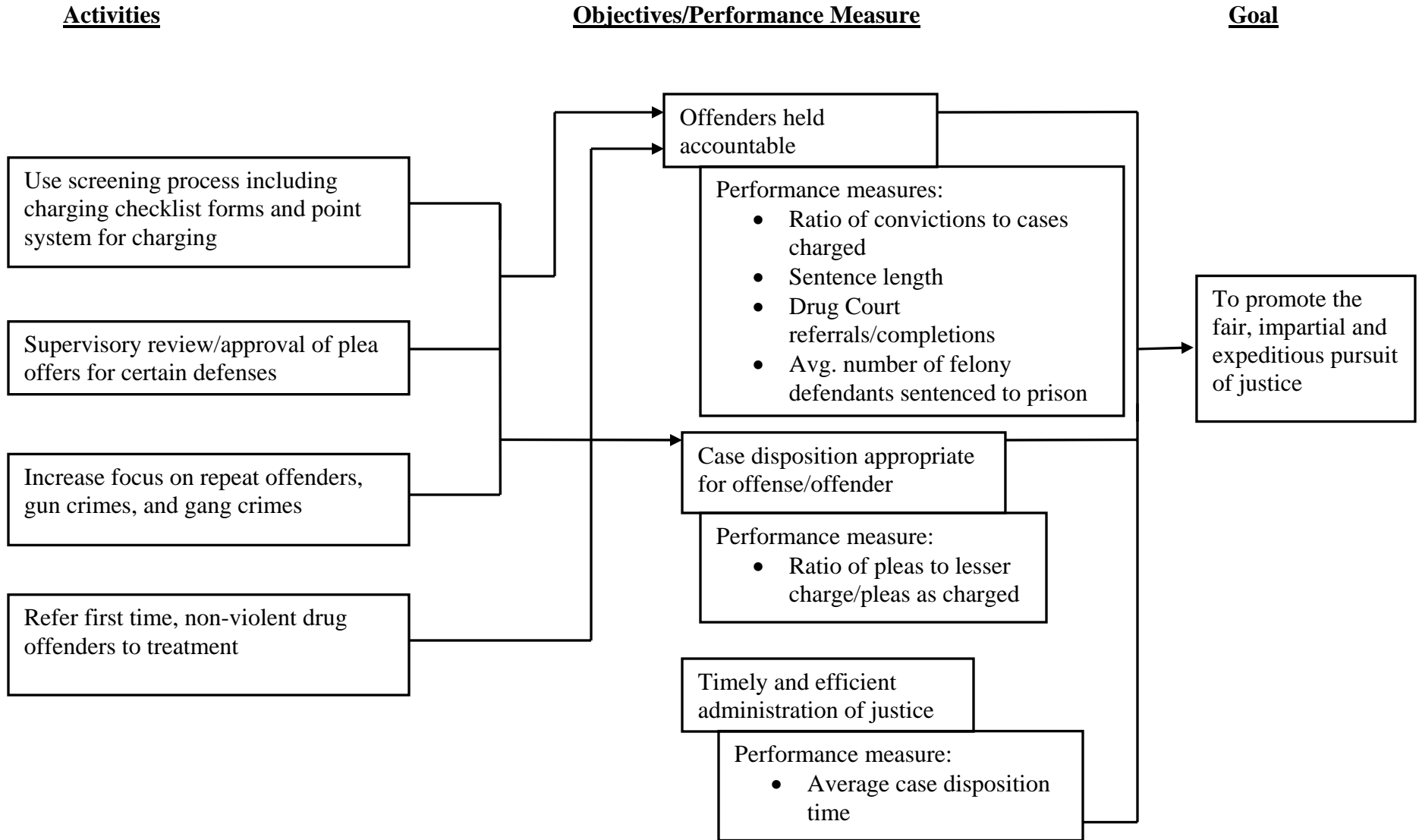
### ***Findings***

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

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

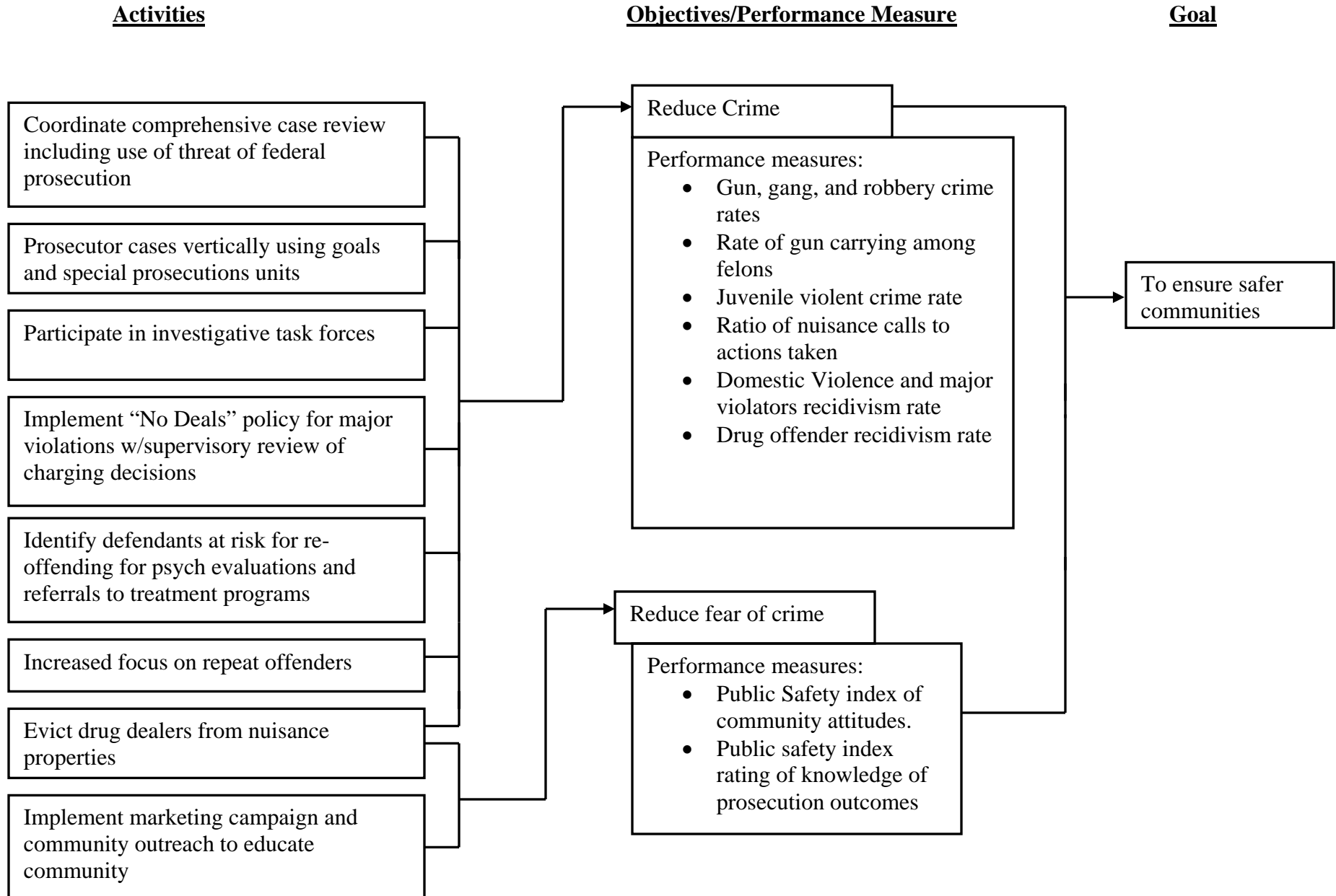
#### Exhibit 4

### Site #1 Model of Relationship between Activities, Objectives/Final Selected Performance Measures, and Goal #1



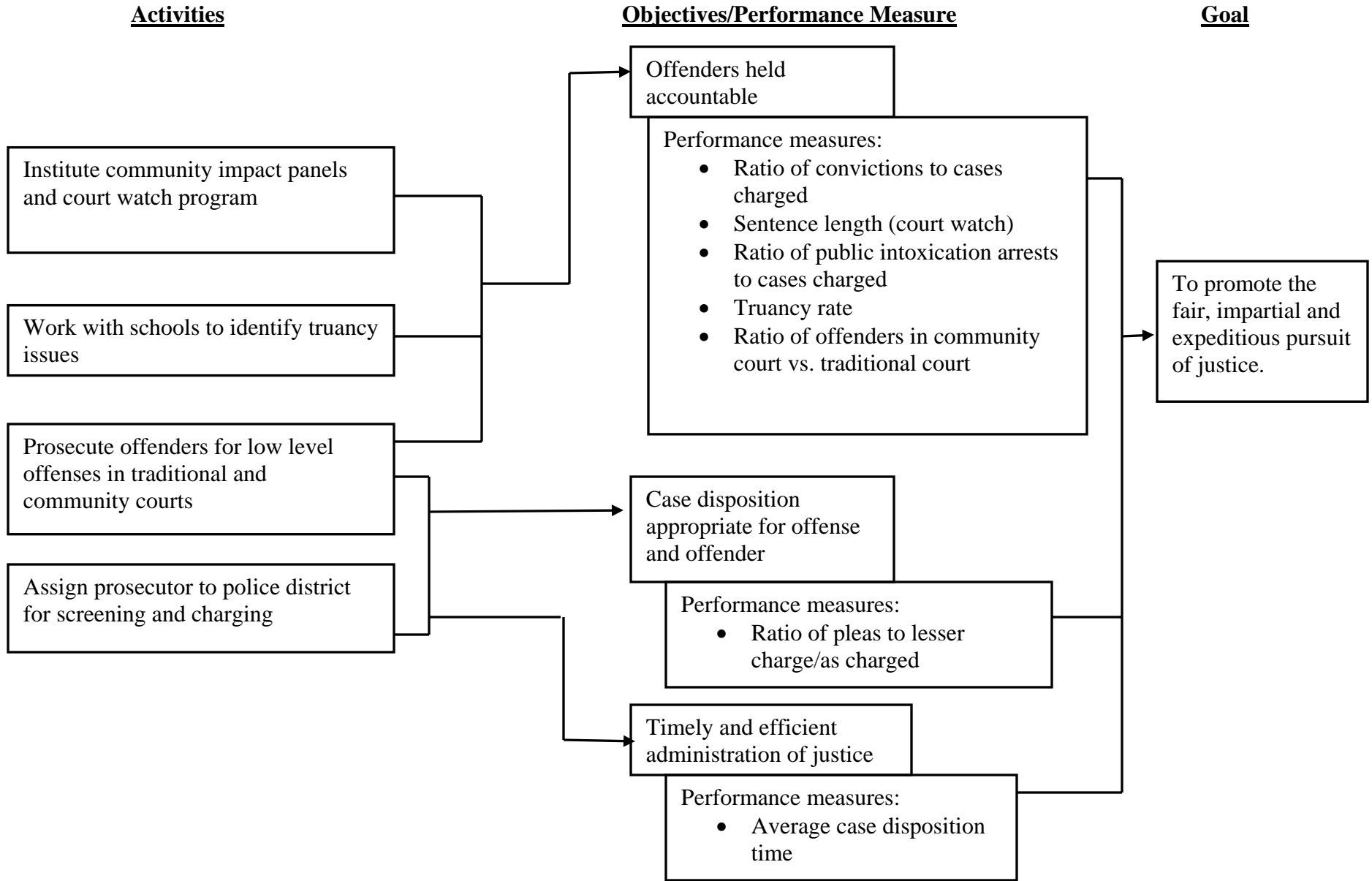
### Exhibit 5

### Site #1 Model of Relationship between Activities, Objectives/Final Selected Performance Measures, and Goal #2



### Exhibit 6

### Site #2 Model of Relationship between Activities, Objectives/Final Selected Performance Measures, and Goal 1



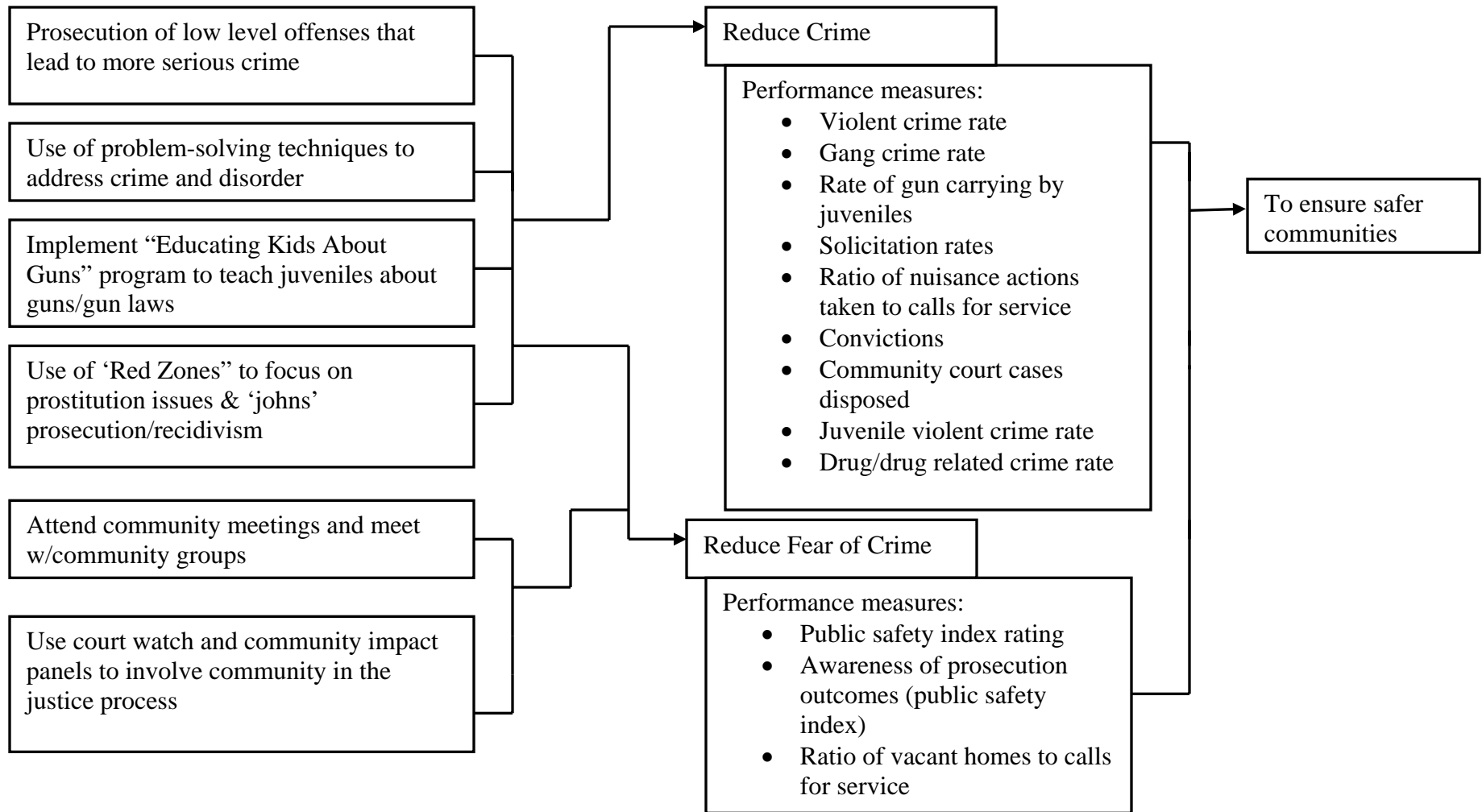
### Exhibit 7

## Site #2 Model of Relationship between Activities, Objectives/Final Selected Performance Measures, and Goal #2

### Activities

### Objectives/Performance Measure

### Goal



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

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

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

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

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

Overall, the study provided empirical support that the proposed measurement framework is a valid tool for the assessment of prosecutor performance on two primary goals. Also, with minor modification (e.g., adding plea ratios and recidivism to the holding offenders accountable objective), the study confirms a logical relationship between the measures used by the sites and the objectives articulated in the framework. Based on the study findings, there do appear to be a set of measures that are reliable across sites, suggesting the possibility of a set of core performance measures:

- Sentence length;



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

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

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

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

In addition, the study demonstrates the importance of collecting data that measure what they are intended to measure and that there is clear understanding of what the data represent. In

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

Based on the study results, APRI believes that the performance measurement framework has value for prosecutors with some adjustment and specific guidance on its usage. First, Goals 1 and 2 are clearly appropriate goals for prosecutors and are best measured with data that support the objectives of holding offenders accountable, administering justice in a timely and efficient manner, reducing crime, and reducing fear of crime. As tested in this study, data related to convictions, sentencing, pleas, average disposition time, crime rates, repeat offenders, and public perception of crime are valid performance measures for these goals and objectives.

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

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

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

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

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

## References

Cole, G. F. (1993). "Performance Measures for the Trial Courts, Prosecution, and Public Defense." in *Performance Measures for the Justice System*. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics: Washington, DC.

Forst, B. (2001). *Measuring What Matters in Prosecution*. National Institute of Justice Commissioned Report. APRI White Paper. American Prosecutors Research Institute: Alexandria, VA.

Jacoby, J. (1982). *Basic Issues in Prosecution and Public Defender Performance*. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice: Washington, DC.

Packer, H.L. (1968). "Two Models of the Criminal Justice Process," in *The Limits of the Criminal Sanctions*. Stanford University Press: Stanford, CA.

Roach, K. (1999). "Four Models of the Criminal Process." *Journal of Criminal Law and Criminology*. 89(2): 671-717.

## TABLE OF CONTENTS

---

<b>I. Introduction and Review of the Literature</b> .....	1
Historical Context of Prosecution Performance Measures .....	3
Prosecution Goals and Objectives .....	3
External Influences Affecting Performance Measurement in Prosecution.....	5
A Measurement Framework for Prosecution.....	6
<b>II. Study Methodology</b> .....	15
Data Collection Procedures.....	16
Modifications to/Problems with Original Research Design .....	22
Data Analysis Procedures .....	25
<b>III. Findings</b> .....	27
Observed Correlations .....	32
Summary.....	40
<b>IV. Conclusion</b> .....	41
<b>References</b> .....	45
APPENDIX A: Data Collection Instruments.....	48
APPENDIX B: Correlation Matrices.....	59
 <b>List of Exhibits:</b>	
1.1 Full Prosecution for the 21 <sup>st</sup> Century Performance Measurement Framework: Goals, Objectives, and Performance Measures .....	8
2.1 Study Site Characteristics.....	16
2.2 Final Performance Measures by Office.....	19
3.1 Site #1 Model of Relationship Between Activities, Objectives/Final Selected Performance Measures, and Goal #1 .....	28
3.2 Site #1 Model of Relationship Between Activities, Objectives/Final Selected Performance Measures, and Goal #2 .....	29
3.3 Site #2 Model of Relationship Between Activities, Objectives/Final Selected Performance Measures, and Goal #1 .....	30
3.4 Site #2 Model of Relationship Between Activities, Objectives/Final Selected Performance Measures, and Goal #2 .....	31
3.5 Correlation Matrix for Site #1 Performance Measures of Goal 1: Promoting the Fair, Impartial, and Expeditious Pursuit of Justice.....	32
3.6 Correlation Matrix for Site #2 Performance Measures of Goal 2: Ensuring Public Safety ...	33
3.7 Final Factor Analysis Findings.....	37
3.8 Public Safety Survey Factor Analysis Findings .....	38

## I. Introduction and Review of the Literature

In Colonial America, when the notion of a local prosecutor was first introduced into our fledgling criminal justice system, his function was simply to present charges against alleged offenders, in essence serving a dual purpose as a law enforcement officer and as a prosecutor (Jacoby, 1980). Nearly 300 years later, as public expectations for the justice system vacillated from a punitive system to a rehabilitative system to a deterrent system (DiIulio Jr., 1992), the local prosecutor's role has evolved into one of the most powerful actors in the system. Naturally, as the prosecutor has taken a more prominent position in the justice system, there has been an increasing public expectation for transparency and accountability on the part of prosecutors. Yet, there is little discourse in the public or academic worlds about how to bring about this transparency or accountability (see Cole, 1993; Forst, 1993; and Jacoby, 1982 for exceptions). What little consideration that has been given to this issue has largely been driven by the public's expectations of justice, which are too often shaped by a few high profile cases (Forst, 1990).

Despite the changes in prosecutorial function, the purpose has largely remained the same for the past 100 years (Anderson, 2001; Heymann & Petrie, 2001):

- To represent the interests of the state in criminal matters,
- To seek justice,
- To hold offenders accountable for their actions, and
- To protect communities from criminal offending.

More recently, the prosecutorial role definition has been expanded to protect the rights of victims. In addition, Misner (1996) notes that a secondary role of the prosecutor is to establish policy that is designed to impact crime in the local jurisdiction. The most robust articulation of the prosecutorial function is offered by Jacoby (1978) as "representing the interests of the state and the interests of the public in creating and maintaining a lawful and orderly society." Such is the view held by the National District Attorneys Association (NDAA) as promulgated in their *National Prosecution Standards* (1991):

...the standard—indeed all of the standards—recognizes that the prosecutor has a client not shared with other members of the bar, i.e., society as a whole.... The prosecutor must seek justice. In doing so, there is a need to balance the interests of *all* members of society, but when the balance cannot be struck in an individual case, the interest of society is *paramount* for the prosecutor. (Standards 1.1 and 1.3, p. 11)

As the state's representative in criminal matters, and more importantly, as the people's attorney, the prosecutor has tremendous power over life and liberty. For this reason, much of the interest in prosecution focuses on the use of power, examining the appropriateness of the prosecutor's use of his/her discretion, charging decisions, and plea negotiations or plea bargaining (Fisher, 1989; Griffin, 2001; Misner, 1996; Wright & Miller, 2002). Unfortunately, with a few notable exceptions, a significant portion of the research conducted on prosecutors does little to shed light on the prosecutorial process as a whole (Heymann & Petrie, 2001). Part

of the difficulty with more in-depth study of prosecution in its totality is a lack of clearly defined outcomes. Performance measures specifically linked to prosecution goals and objectives will provide a framework for more empirical and rigorous examination of the prosecution function. The implementation of comprehensive and regular performance measurement can increase transparency in prosecution, allowing for more systematic assessment of prosecutorial operations and innovations (Forst, 1990).

Equally, and perhaps more importantly from the prosecutor's perspective, the availability of empirically tested performance measures will prove beneficial in a number of ways. First, prosecutors generally do not understand how to assess the effectiveness of the different policies and practices that they implement to address crime and public safety. At best, across the country, prosecutors maintain and track only the most elementary data on outcomes—case disposition, length of sentence, and perhaps the number of offenders completing some type of diversion program. More often, even these data are incomplete and must be tabulated manually. Because of this, prosecutors are left without empirical evidence to support their efforts or to help them refine their efforts to make them more effective. Second, faced with significant budget cuts, prosecutors must prioritize their activities, which often means eliminating different programs designed to address public safety (e.g., community prosecution, crime prevention, etc.) or alternatives to incarceration (e.g., specialized courts, drug treatment, etc.). Finally, legislatures, county commissions/councils, and other funding entities are increasingly looking for performance-based budgets from prosecutors. The development and implementation of a variety of performance measures linked to specific goals and objectives provides a valuable tool for prosecutors in addressing the challenges that they face on a day-to-day basis.

In 2003, with funding from the National Institute of Justice and the Charles G. Koch Charitable Foundation, the American Prosecutors Research Institute convened a study group of experienced prosecutors, policymakers, economists, and academics to develop a performance measurement framework for prosecutors. The goal of the current study is to determine if there is empirical evidence to support the framework as it was initially constructed and to assess its operational viability (described in the following sections). The study focused on the implementation of the framework in two prosecutors' offices, representing two different prosecution philosophies. The first office (Site #1) is more traditional in its approach to prosecution, focusing on holding offenders accountable and case processing with some additional efforts focused on addressing and preventing certain types of crime, such as gang and gun violence, domestic violence, child abuse, and truancy. The second office (Site #2) is more community-oriented, having implemented and embraced a community prosecution approach to crime which involves proactive problem-solving, partnerships with the community, and use of techniques other than criminal prosecution to address certain types of crime and public safety issues.

This report describes the findings of the framework implementation and evaluation. Specifically discussed are the implementation of the measures in an operational setting and the challenges inherent in that process, the value of the measures, and the extent to which the measures are related to the goals and objectives. The result of the study is a refined performance measurement framework and guidance for prosecutors on how to implement and use the performance measures to improve prosecution practices.

### ***Historical Context of Prosecution Performance Measures***

The idea of performance measures in the justice system and for prosecutors is not new (Cole, 1993; Jacoby, 1982). In fact, a number of researchers and professional organizations such as the NDAA have struggled with performance measurement, ultimately focusing on the prosecutorial process and such indicators as conviction and dismissal rates (Cole, 1993; Jacoby, 1982). Jacoby's model (1982) of performance measurement focused on measuring whether the prosecutor's office was adequately performing the functions that fall under its authority and describing the structure and activities for the overall prosecutorial process. However, this effort falls short on two fronts.

First, performance measures based on the decision points in the life of a case do not necessarily provide meaningful information about the quality of justice and what prosecution means for victims and communities (Cole, 1993; Forst, 2001; Garner, 2005). Second, prosecutors are increasingly involved in a variety of activities that fall outside the "traditional" notion of prosecution, such as crime prevention, problem-solving, and use of alternative sanctions, which are more difficult to quantify in terms of outcomes and don't necessarily result in criminal cases or convictions (Cole, 1993; Dillingham, Nugent, & Whitcomb, 2004; Nugent, Fanflik, & Bromirski, 2004).

A central problem in the attempt to define performance measures in prosecution is the lack of a clear definition of prosecutorial goals and objectives. To gauge performance against outcomes rather than just process, prosecutorial activities must be placed in framework with clear links to goals and objectives.

### ***Prosecution Goals and Objectives***

There is a remarkable paucity of literature that focuses on prosecution much less the goals of prosecution. Until the 1960s, goal definition was limited to a description of prosecutorial roles, i.e., to enforce laws or to prosecute criminals. The first effort to define prosecutorial goals was undertaken by Herbert Packer (1968) who articulated two distinct models of prosecution: 1) the due process model and 2) the crime control model.

Under a due process model, the local prosecutor focuses on the structure and operations of law and the criminal process—essentially supporting a goal related to the administration of justice. The crime control model, on the other hand, focuses on repressing criminal conduct through enforcement, arrest, conviction, and punishment. Both general and specific deterrence are emphasized, suggesting a goal of public safety.

These two models were later criticized by Roach (1999) and others. Of particular concern was the fact that the due process model necessarily creates crime control and that the two models are too limited in scope—failing to take into consideration victims of crime (1999).

Subsequent efforts to define models of prosecution, including Roach's victim centered models, have fallen short in terms of describing the totality of the prosecutor's role. Moreover, the role of the local prosecutor has evolved substantially, and as such, so too must the goals of prosecution. In the late 1990s, the Kennedy School of Government at Harvard University



examined prosecution roles through its Executive Session on State and Local Prosecution. This endeavor identified and described five types of prosecutors (Tumin, 2002):

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

Although the most comprehensive attempt to date to articulate prosecution goals, the Kennedy School models are descriptive in nature and do not operationalize goals in a manner that allows for strategic planning, accountability, or performance measurement. Moreover, while these roles capture a broad range of prosecution activities, they do not adequately identify measures and outcomes in prosecution. Finally, the roles are not mutually exclusive—a single prosecutor’s office may take on one or more of these roles based on the overall goal of the office. By 2001, it had become clear that local prosecutors were again undergoing a role change with a movement toward community justice and increased use of specialized courts for alternative sanctioning. These changes have largely been undocumented, suggesting a need to revisit how best to conceptualize justice and measure practices in prosecution (Heymann & Petrie, 2004).

One of the most significant developments with regard to prosecutorial role change is the movement toward community prosecution—a proactive approach to prosecution involving prosecutor leadership, partnerships with the community, concerted efforts to resolve the underlying problems that contribute to crime, and the use of a variety of tools other than/in addition to criminal prosecution to address crime and disorder (Nugent, Fanflik, & Bromirski, 2004). Under a community prosecution model, prosecutors emphasize safer communities and crime prevention. In this context, “doing justice” often includes addressing a host of community desires and needs, decreasing citizen fear of crime, improving the quality of life for community residents, and using problem-solving techniques to resolve problems. These shifts in philosophy and practice have important implications for measuring and evaluating the performance of prosecutors’ offices.

Much of the challenge in trying to define performance measures in prosecution has lain in the lack of concrete goal definition; however, other challenges loom large. The performance of justice organizations is often measured in simple, practical terms: crime rates, conviction rates, and recidivism rates. Without question, the actions of law enforcement, prosecutors, courts, and corrections must have some impact on crime rates. Otherwise, as James Q. Wilson so eloquently noted, if justice organizations had no impact on crime then “we could abolish arrests and prisons with no adverse effects on society” (as quoted in DiIulio Jr., 1992, p. 3). However, prosecutors operate as part of the criminal justice system, and each entity within that system has some impact on crime and justice. As such, isolating the contribution of prosecutors to the reduction of crime, for example, would not necessarily produce meaningful information. Moreover, any attempt to

define goals for prosecution must be tied specifically to the activities carried out by prosecutors and be mindful of the external influences on the prosecution function.

### ***External Influences Affecting Performance Measurement in Prosecution***

Because prosecutors operate within the context of a larger system, there are a number of external factors outside the control of the prosecutor's office that impact the number of cases entering the system and set the parameters for the administration of justice. There are two primary categories of external factors: 1) legislative and operational, and 2) criminal justice system.

Public opinion, special interests, and politics influence the nature and substantive content of legislation adopted in the United States, particularly legislation related to public safety issues and how the criminal justice system operates. For prosecutors, two types of legislation are most likely to impact how they do business, in turn, affecting performance: 1) statutory and 2) operational. Statutory legislation most likely to affect prosecutors includes the following:

- Mandatory sentencing legislation, which may impact plea and trial rates (Parent, Dunworth, McDonald, & Rhodes, 1997; Tonry, 1987);
- Mandatory charging of serious and violent juvenile offenders as adults;
- Changes in offense classification and/or penalties such as stricter penalties for crimes committed with a firearm (both of which may impact trial rates); and
- Changes in punishable crime based on emerging/new offending patterns, for example gang crimes that require more investigative and research time (Johnson, Webster, & Connors, 1995).

Operational policies and procedures govern how the criminal justice system operates. Legislation that mandates specific operational policies and procedures generally affects resources allocated to the criminal justice system and prosecutors' offices, the administration of justice, and the justice process in general. Examples of statutory-based operational policies and procedures that can impact prosecutor performance include:

- Restricted use of plea negotiations (Nugent & McEwen, 1988);
- Criminal procedural rules and evidentiary rules;
- Non-case specific administrative responsibilities of the prosecutor, such as the preparation of the trial court docket (Dorer, 1997); and
- Organization of the courts including the case track, number of courts available, number of judges, and the existence of specialty courts such as drug, domestic violent, or mental health courts.

In addition to the court organizational structure, the local legal culture in which it operates can have a significant impact on the performance of the courts and prosecutors in

particular (Church, 1985). This culture is based on the local customs that have evolved and become accepted practice in the adjudication process and largely encompass the way the various actors in the system behave (e.g., the practice of regularly filing motions or asking for continuances) and case handling procedures.

By nature, component parts of a system are inter-related and dependent on each other in order for the system to operate. As a result, factors that influence parts of the criminal justice system will have an effect on the performance of the adjacent entity in the system as well as the system as a whole. Thus, factors that affect police will affect prosecutors, which in turn will affect the courts, and so forth. These factors may include:

- Police policies and procedures (e.g., enforcement of previously non-enforced laws, search and seizure rules, police stops) (Nugent & McEwen, 1988);
- Court delays (Nugent & McEwen, 1988); and
- Availability of pretrial diversion and alternative sanctions in the jurisdiction.

Any attempt to establish performance measures in prosecution must be cognizant of the various external influences on the prosecutor's office and take this into consideration when putting measurements into practice.

### ***A Measurement Framework for Prosecution<sup>1</sup>***

Public accountability has become paramount in a world of competing social interests for limited public resources. Public safety has remained at the forefront of funding priorities, but prosecutors and legislators are increasingly pressed to justify huge expenditures of taxpayer dollars with evidence that the dollars are being used in a way that makes communities safer. Yet, other than the option to elect or not elect a prosecutor,<sup>2</sup> the public lacks a tool to hold prosecutors (and others in the criminal justice system) accountable for their performance.

In 1990, the Bureau of Justice Statistics and Princeton University (DiIulio, 1992) undertook the first major effort to define performance measures for the criminal justice system. In doing so, the endeavor produced four goals for the system as a whole:

1. Doing justice,
2. Promoting secure communities,

---

<sup>1</sup> The information in this section is based on an earlier project on performance measurement conducted by the American Prosecutors Research Institute under a grant from the U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, and funding from the Charles G. Koch Charitable Foundation. The performance measurement framework was published initially in 2004 (see Dillingham, S.; Nugent, M.E.; and Whitcomb, D. 2004. *Prosecution in the 21<sup>st</sup> Century: Goals, Objectives, and Performance Measures*. American Prosecutors Research Institute: Alexandria, VA).

<sup>2</sup>Prosecutors are elected in 47 states. The local prosecutor is appointed by the governor in New Jersey and Connecticut; by the Attorney General in Alaska; and by the U.S. President in the District of Columbia where the local prosecution function falls under the jurisdiction of the U.S. Attorney.

3. Restoring crime victims, and
4. Promoting non-criminal options.

Although these are appropriate goals for the criminal justice system as a whole, they are too broad to be applied to any one component of the system such as prosecutors. As part of the BJS-Princeton study, performance measures for the trial courts as a whole were proposed, focusing on five performance areas: access to justice; timeliness of justice; equality, fairness, and integrity; independence and accountability; and public trust and confidence (Cole, 1993). As with the goals articulated above, the performance areas for the trial courts were not operationalized in a manner that allows for the measurement of prosecution performance.

As noted earlier, Jacoby (1982) focused on the functions of the office and the process. Among the measures found to be important in her framework were the following:

- Criminal justice system characteristics including volume of cases referred for prosecution, size of the office, jurisdiction of the prosecutor and the courts, and the number of criminal courts; and
- Prosecution characteristics including experience level of assistant prosecutors, existence of intake procedures, charging unit, charging decisions reviewed and accepted, disposition set, disposition frequency, time from arrest to charging and to arraignment and disposition, type of accusatory used and frequency, type of preliminary hearing, disposition decisions reviewed and approved, case assignment type, court docketing procedures, docket control, type of plea bargaining used, type of negotiation, continuance policy, trial policy, sentencing recommendations, and use of habitual or multiple offender acts.

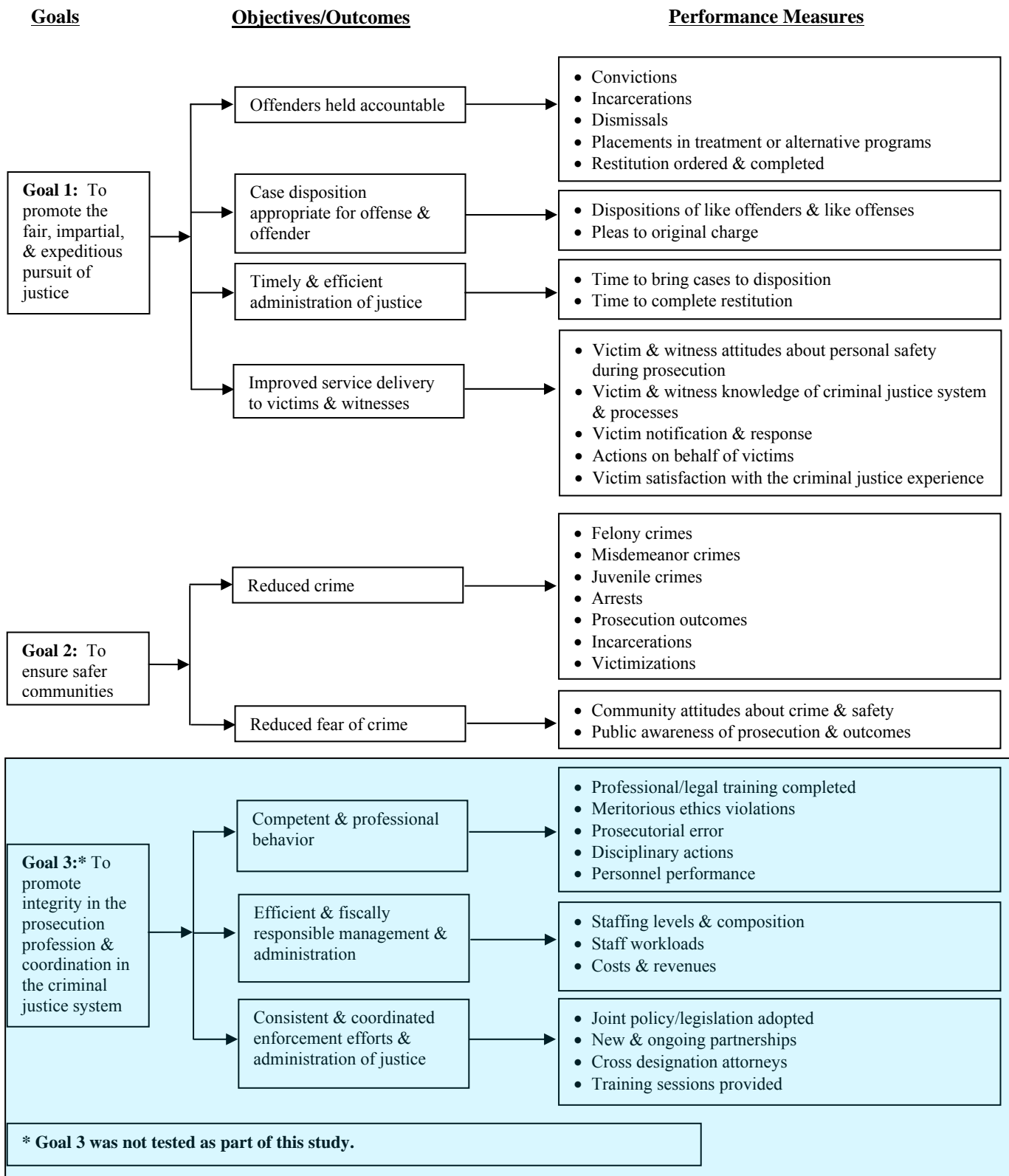
None of the measures articulated in the framework above take into consideration the quality of justice for victims, the leadership role of the prosecutor, or the non-case processing activities of the prosecutor. Moreover, the measures are not linked to clearly defined goals and objectives, which are critical for measuring performance.

Performance measures are meaningless if they do not support goals and objectives and if they are not tied to specific strategies and practices. Good performance measures must be meaningful and relevant—they should make sense and be logically related to prosecutors' goals and objectives. Performance measures should also quantify achievement and be supported by empirical evidence. Finally, good performance measures must be precise, easy to understand, and be able to be measured against a baseline or a standard.

The measurement framework shown in Exhibit 1.1 outlines critical objectives (outcomes) associated with three primary prosecution goals, which in turn are conceptualized into a menu of possible performance measures associated with the various practices of a prosecutor's office. The framework is intended to provide a guide for performance measurement in prosecution that is tailorable to the unique situations of individual prosecutors' offices but also broad enough to suggest appropriate measures for more large-scale research on prosecution.

## Exhibit 1.1

### Full Prosecution for the 21<sup>st</sup> Century Performance Measurement Framework: Goals, Objectives/Outcomes, and Performance Measures



APRI convened an expert working group of prosecutors, policymakers, economists, and justice researchers to conceptualize the framework shown in Exhibit 1.1. The local prosecutor's goals, as defined by the expert working group, are as follows:

1. To promote the fair, impartial, and expeditious pursuit of justice;
2. To ensure safer communities; and
3. To promote integrity in the prosecution profession and effective coordination in the criminal justice system (Dillingham, Nugent, & Whitcomb, 2004).

The three goals are defined in a manner to capture the intended results of all the various functions of the local prosecutor—case processing, crime prevention and intervention, and the overall administration of justice—respecting the unique role of the prosecutor and accounting for the continual evolution of the prosecutorial function. Related to each of these goals is a series of objectives from which performance measures can be generated. The performance measures shown in the framework are intended to represent a menu of possible measures that an office might use depending on the office's specific policies and practices. For example, if an office does not place defendants and/or offenders into treatment programs, measures related to placements in treatment programs would not be appropriate.

### **Goal 1: Promotion of Fair, Impartial, and Expeditious Pursuit of Justice**

The promotion of fair, impartial, and expeditious pursuit of justice captures the intended impact of more “traditional” prosecutorial roles. It is clearly established that, as the chief law enforcement executive in the community, the local prosecutor is primarily responsible for enforcing the laws and prosecuting offenders. With this role comes the responsibility to ensure that the laws are enforced equally and without bias and that prosecutorial discretion in charging decisions be exercised uniformly and with the interests of justice in mind. Specifically, this first goal involves holding offenders accountable, ensuring that case dispositions are appropriate for both the offense and the offender, administering justice in a timely and efficient manner, and improving service delivery to victims and witnesses.

#### ***Offenders Held Accountable***

Holding offenders accountable is intrinsic to the prosecutor's mission. Several of the more “traditional” performance measures can be associated with this objective: convictions, dismissals, prison sentences, placements in treatment or alternative dispositions, and restitution ordered and completed. As noted earlier, prosecutors are only one part of a system, and although it is difficult to isolate the impact of prosecutors alone on these traditional measures, many prosecutorial policies and practices may influence the measures in important ways.

For example, prosecutor screening and charging policies may have significant implications for case outcomes (Wright & Miller, 2002). Prosecutorial screening, the first decision point in the system where the prosecutor exercises his/her discretion, determines which cases enter the system, which are diverted, and which are refused for prosecution. Likewise, decisions about which charges to file and ultimately whether or not pleas will be negotiated are often a matter of prosecutorial policy that can affect case outcomes. As such, examining the

prosecutor's decision-making at these critical points is essential and will ultimately impact how offenders are held accountable, how quickly justice is administered, and whether case dispositions are appropriate for both the offense and the offender. In addition, as research has shown, more intensive screening can lead to a greater likelihood that a defendant will plead guilty as charged—avoiding a costly trial (which in turn will affect another performance measure related to fiscally responsible administration of justice discussed later in this chapter) (Wright & Miller, 2002).

Prosecutorial practices in negotiating pleas and dismissing lesser included offenses also influence measurements of outcomes. It is important to take into consideration that cases can be counted in different ways, and these different calculations will affect the performance measurement. Offices that count individual charges against a defendant will show very different outcomes from offices that count cases by defendant (i.e., all charges against a defendant are “bundled”).

### ***Case Disposition Appropriate for Offense and Offender***

The discretionary power of the prosecutor is among the most significant in the criminal justice system. The local prosecutor has the authority to decide whether or not to file charges, what charges to file, and to make sentencing recommendations. As a result, there is a significant amount of attention paid to the prosecutor's use of discretion (Barry & Greer, 1981; Forst, 1990; Mulkey, 1974; Schoenfeld, 2005).

“No plea” policies, written charging guidelines, and use of experienced prosecutors are all prosecutorial practices designed to ensure that the appropriate charges are considered uniformly. Although there are a variety of case specific factors that can influence the charging process (such as quality of evidence, availability of witnesses, willingness of the victim to cooperate with the prosecution, etc.), performance measures that help judge the extent to which prosecutors are seeking dispositions that are appropriate for both the offense and the offender are critical. Thus, one measure of performance takes into account the consistency of dispositions for like offenders and offenses and pleas to original charges.

Like prosecutorial discretion, much attention is paid to the prosecutor's practice of plea negotiations. Pleas are negotiated for many different reasons and can serve in the interest of the community in that a plea negotiation may result in a conviction for a lesser offense, incapacitating the offender for at least a short period, whereas justice may not have been served by pursuing the original charge. On the other hand, the prosecutorial practice of “overcharging” in order to be in a better position to negotiate a plea needs to be accounted for in a performance measurement framework. The number of pleas to the original charge can serve as an important performance measure to help ensure that prosecutors are using plea negotiations in the best interests of their communities.

### ***Timely and Efficient Administration of Justice***

The criminal justice system is predicated on the notion of swift and certain justice. However, over the past several decades, court dockets have been overcrowded, continuances on the part of the prosecutor and the defense bar have become the norm, and caseloads are

burgeoning as resources dwindle. Nonetheless, most states require that defendants receive their arraignment or preliminary hearing within a certain amount of time from their arrest. While timely charging and arraignment is important, simply using this as a benchmark would only tell us how well prosecutors are doing meeting a statutory mandate. What is not currently measured, and should be, is the amount of calendar time that elapses from initial review to final disposition to ensure that justice is being meted out in a timely and efficient manner.

In addition, many states require offenders to pay restitution and some prosecutors' offices are responsible for tracking restitution orders. An important measure of the timely administration of justice is the average amount of time taken to complete restitution. The ratio of restitution ordered to restitution paid can also be a useful measure of performance.

### ***Improved Service Delivery to Victims and Witnesses***

The victims' rights movement in the 1980s brought to the forefront the importance of victims in the criminal justice system and the pivotal role prosecutors play in meeting victims' needs. It is not enough for a prosecutor to pursue a case; victims must feel that justice is being served. As such, victim and witness attitudes about personal safety during the prosecution, their satisfaction with their criminal justice system experience, and the actions taken on their behalf are critical for measuring how well prosecutors are supporting victims. In addition, prosecutors are statutorily mandated to notify victims of case events; thus prosecutors should be held accountable for the number of notifications sent to victims. However, very little, if any, data are collected to track how well prosecutors are meeting the statutory mandate or how well they are meeting the needs of victims and witnesses.

### **Goal 2: Ensuring Safer Communities**

Clearly, prosecuting offenders and enforcing the laws creates both specific and general deterrence and helps to make communities safer. However, with the advent of community prosecution and involvement in treatment efforts, prosecutors are taking a more preventive approach to crime. Using varied enforcement methods and problem-solving techniques, prosecutors are educating their constituents about crime prevention and attempting to address the underlying causes of crime such as neighborhood disorder, drug addiction, mental health issues, and more. Thus, ensuring safer communities takes on a dual purpose as a goal for prosecutors.

The two primary objectives for prosecutors in ensuring safer communities are a reduction in crime and equally important, a reduction in the fear of crime. Although it can be argued that prosecutors alone can not reduce crime, as noted earlier, prosecuting offenders, holding them accountable for their actions, and sending a general deterrent message to would-be offenders is an important function that ultimately can have some, if even a marginal, impact on felony, misdemeanor, and juvenile crime rates. It is important, however, that these measures be placed in context with other performance measures and the specific prosecutorial practices aimed at reducing crime in order for crime rates to be a useful measurement of performance.

The vast majority of the public will never come into direct contact with the criminal justice system (Surrette, 1997). However, community members have strong opinions about crime and particularly about how safe they feel in their homes, places of work, and communities



in general. Too often, these opinions are shaped by media attention to high profile crimes, and can be misleading.

Prosecutors are increasingly called to task to help explain the true prevalence of crime in the community, and conversely, residents are increasingly working with prosecutors to identify their crime priorities through such efforts as community prosecution. The prosecutor's role in helping shape public opinion about crime is new and evolving, and the intent is to help reduce fear of crime by changing community attitudes about crime and safety and to increase public awareness of prosecution and prosecution outcomes. In addition, as prosecutors work in closer partnership with community members to address crime and fear of crime, citizens gain a greater understanding of the prosecutor's role and his/her limitations, and perhaps more importantly, become engaged in the process and more knowledgeable of the criminal justice system.

### **Goal 3: Promotion of Integrity in the Prosecution Profession and Coordination in the Justice System**

The third and final goal—to promote integrity in the prosecution profession and coordination in the criminal justice system—takes into account the leadership role of the prosecutor. Unlike the other goals, this one focuses on the prosecutor's role in the system and as a public agency in an attempt to lend some transparency to the role. Prosecutors are accountable to their constituents, and the public should have the tools to measure a prosecutor's performance in terms of his/her conduct. It must be ethical and professional. Moreover, as a publicly funded agency, prosecutors' offices must be fiscally responsible.

#### ***Competent and Professional Behavior***

The American criminal justice system is based on an understanding of full discovery and that by having an adversarial system for the trial, the guilt or innocence of the accused will be revealed. Under this system, the burden of proof lies with prosecutors, who are charged with proving defendants' guilt but not at all costs—the prosecutor must also seek the truth. The discretionary power of the prosecutor's office, if left unchecked, can create the potential for prosecutorial misconduct (Heymann & Petrie, 2001). Moreover, prosecutors are bound by an ethical code, which is frequently challenged by any number of ethical dilemmas. In addition, as prosecutors move out of the courtroom into more community-based activities, the issue of ethical conduct becomes increasingly complex (Kuykendall, 2004). Important measures of professional and competent behavior include the number of meritorious ethics violations, prosecutor error, and disciplinary actions taken for ethics violations or error.

Established ethical codes of conduct and ethical standards are one practice to ensure that prosecutors are carrying out their duties in a competent and professional manner. Another practice is the provision for on-going professional training on a variety of topics including ethics, trial advocacy, and office policies and practices. Whether provided in-house or received through professional organizations such as the NDAA, the amount of professional and legal training completed is an important measure of how well prepared and trained prosecutors are.

### ***Efficient and Fiscally Responsible Management and Administration***

Prosecutors' offices are publicly funded agencies. As such, they are charged with managing taxpayer monies in a fiscally responsible way and ensuring that their offices are operating as efficiently as possible. Three measures capture efficient and fiscally responsible management and administration:

1. Staffing levels and composition;
2. Staff workloads; and
3. Costs and revenues.

In order for an office to operate efficiently, it must be staffed adequately and appropriately. Although the work of attorneys in a prosecutor's office are generally the focus—the roles of investigators, victim/witness personnel, and clerical support staff are critical. The ratio of attorneys to these other staff should be representative of the workload and should eliminate duplication of effort, or worse, the practice of more highly paid attorneys performing the work of other support staff instead of or in addition to their own work.

A related measure is the workload of staff. Offices cannot operate and are not operating efficiently if the amount of work per staff member is so great that cases are not handled in a timely manner. Traditionally, the public and the media focus on the number of cases per attorney. However, there is an important distinction between caseload and workload. The APRI, in its study of prosecutorial resources, defines caseload as the number and array of cases per staff member; whereas workload represents caseload plus non-case related activity such as office management, community outreach, professional development, etc. (Nugent, et al., 2002). This distinction is important in performance measurement because the intent is to measure performance in its totality, not just the case processing functions.

A likely performance measure would focus on a comparison of an office's workload per staff member to a national standard; however, no such standard exists. (Nugent, et al., 2002). Therefore, prosecutors must measure their own office caseload, and more importantly workload not only for the attorneys in the office but also for other staff. In addition, prosecutors must take into consideration the impact of their chosen managerial and operational policies and practices on workload. Little is known about the impact of different organizational structures (i.e., vertical vs. horizontal prosecution, offense-based units vs. function-based units, etc.) on office efficiency. Likewise, different operational processes such as no plea policies can impact workload.

### ***Consistent and Coordinated Enforcement Efforts and Administration of Justice***

One of the roles that is largely ignored in the literature is that of a leader in the justice system. The power of the prosecutor's office has grown tremendously over time and prosecutors are increasingly exercising that power to fill voids in the system to increase capacity for responding to both victims' and offenders' needs. Even though this function has been paid little attention, it is an important aspect of the prosecutorial function for which performance should be measured. Among the possible performance measures are joint policy/legislative actions between prosecutors and allied professionals, the formation and institutionalization of

partnerships within the justice system and with less traditional partners such as faith-based groups to increase the system's ability to address crime, the cross-designation of local prosecutors as U.S. Attorneys to aid in the prosecution of cases at both the federal and the state/local level, and the provision of training to law enforcement and others.

## **II. Study Methodology**

The goal of this study was to implement and evaluate the performance measurement framework for prosecutors, discussed in Chapter I. With funding from NIJ, APRI explored the value of the measures, their application in an operational setting, and their ability to capture critical information about prosecution and the evolving practice of community prosecution. Moreover, the study examined whether or not there is evidence that the performance measures are valid measures of the three prosecution goals articulated in the framework.

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

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

APRI chose two prosecutors' offices to serve as demonstration sites for the implementation and evaluation of the performance measurement framework. These two offices were chosen because they represent two different types of offices—one that is traditional in its approach to crime and one that practices and embraces community prosecution—allowing APRI to evaluate the value of the performance measures in a traditional setting as well as a community prosecution setting. Moreover, the offices are comparable in terms of size of jurisdiction, number of assistant prosecutors, and felony caseload as shown in Exhibit 2.1. The offices are distinctly different in terms of the felony convictions and the misdemeanor caseload, which is, in part, a result of different approaches taken by the offices (with one using alternatives to prosecution to deal with certain low level felony offenses and misdemeanor offenses).

### **Exhibit 2.1 Study Site Characteristics\***

<b>Office Characteristic</b>	<b>Site #1</b>	<b>Site #2</b>
Jurisdiction	Single county	Single county
Total Population Served	873,000	810,946
Total Budget	\$10,500,000	\$13,572,816
Total Staff	174	307
Total Attorneys	88	97
<b>Felony Caseload</b>		
Cases Closed	14,046	12,000
Convictions	12,175	8,000
<b>Misdemeanor Caseload</b>		
Cases Closed	115,617	30,000
Convictions	93,467	13,000
Prosecution Approach	Traditional	Community Prosecution

\* The data in this table are taken from the Bureau of Justice Statistics 2001 census of state and local prosecutors ([http://bjsdata.ojp.usdoj.gov/dataonline/Search/Prosecutors/bydisprof\\_table.cfm](http://bjsdata.ojp.usdoj.gov/dataonline/Search/Prosecutors/bydisprof_table.cfm)).

Site #1’s approach to crime and public safety is comprehensive in that it enhances traditional criminal case processing with public education efforts focusing on raising awareness and prevention. In contrast, Site #2 performs the functions of a traditional prosecutor with regard to case processing but also has a significant emphasis on dynamic partnerships with the community; proactive problem-solving to address the root causes of minor and serious crime; and use of varied prevention, intervention, and suppression strategies in addition to criminal prosecution.

Finally, both of the sites chosen for this study had a strong interest in documenting the performance of their offices. After years of practicing community prosecution, Site #2 has a vested interest in documenting how community prosecution is impacting crime and public safety. Site #1, through a comprehensive strategic planning effort, hoped to identify and apply performance measures as it implemented its strategic plan.

This section describes overall study methodology including the data collection procedures, the implementation of the performance measurement framework in the study sites, challenges and subsequent modifications to the research design, and the analytic techniques used to evaluate the performance measures.

#### ***Data Collection Procedures***

Data for the study were collected via on-site interviews and through two waves of data submissions from the sites, as described in the following sections. APRI conducted two visits to each site—one at the beginning of the project to select performance measures and a second in the middle of the project to review the performance measures data that had been submitted by the

site. Each site also sent two separate waves of data on their performance measures to APRI during the study period.<sup>3</sup>

### **Site Visits**

The performance measurement framework, shown in Exhibit 1.1, contained a menu of more than three dozen possible performance measures. The first step in the data collection process was to operationalize the measures in the framework for each of the study sites to determine which were appropriate based on the offices' policies and practices and to assess the access to and availability of specific data elements for each of the measures selected.

APRI staff conducted two visits to each site to begin the data collection process. The first site visit focused on determining the extent to which the offices were focused on the various goals and objectives laid out in the performance measurement framework. Interviews were conducted with management in the prosecutors' offices, line prosecutors, other non-lawyer staff in the office including persons responsible for various forms of data collection/maintenance, and related professionals. Among the related professionals interviewed were law enforcement personnel, court personnel, directors of various programs in which the prosecutors participate such as drug court, and city/county agencies with responsibility for criminal justice data collection.

During the interviews, APRI asked the respondents to articulate why they were engaged in the different activities of the office, that is, what was the intended result of the office's activities. Much of the interviews were spent helping guide the prosecutor office staff focus from the outcomes of specific strategies—as a program evaluation would do—to the outcomes of the collective strategies, i.e., performance of the office overall. For example, in one site, there was great interest among prosecution staff in determining what the recidivism rate was for a specific program. APRI staff facilitated a discussion whereby the prosecutors were forced to address the questions of why they wanted to reduce recidivism (which in this case was to reduce crime).

As a result of the initial discussions, it was determined that two of the three goals in the framework were most relevant: promoting the fair, impartial, and expeditious pursuit of justice and ensuring safer communities. After lengthy discussions with the prosecutors' offices participating in the study, a decision was made not to collect data on objectives related to Goal 3: the promotion of integrity in the prosecution profession and coordination in the justice system. The rationale for excluding this goal was both philosophical and practical. From a philosophical perspective, the prosecutors' offices were most interested in understanding how their offices were performing in terms of “doing justice.” From the practical perspective, the data needed to measure performance related to integrity and coordination simply were not usable. (For more discussion about the utility of these data, see the section on modifications/challenges later in this chapter.) Exhibit 2.2 shows the final list of goals, objectives, and performance measures included in the study.

---

<sup>3</sup> The unit of analysis used for the study was one month. Each wave of data submission included multiple months of data.

Once goals and objectives were defined, the discussions focused on which of the three dozen performance measures were appropriate for measuring and how best to measure them. Appropriateness was determined primarily by:

- The logical relationship between the measures and the offices' polices/practices and whether or not there were existing data sources for the performance measures;
- Whether or not the data were accessible; and
- If new data needed to be generated, how easy or difficult it would be to generate those data.

Performance measures were operationalized for each office according to the strategies and practices to which they were tied. The data collected to construct each measure focused on available relevant data already in existence in each of the sites, as well as the creation of a public safety survey to measure the public's perceptions of crime and safety. Data elements used to create the measures included items such as:

- The number of particular cases filed, pleas to lesser charges or as charged, or convicted;
- Number of repeat offenders;
- Sentence length;
- Referrals to diversion programs;
- Number of reported crimes and calls for service; and
- Case processing times, among others.

Both traditional and non-traditional data elements were selected for both sites. The final performance measures identified and collected for each site are shown in Exhibit 2.2.<sup>4,5</sup>

Every attempt was made to operationalize the measures uniformly across sites. However, availability of data and definitional issues presented an insurmountable challenge for some of the measures (discussed in more detail in the challenges section). For example, the ratio of pleas as charged to pleas to lesser charged on its face would seem comparable. However, in Site #1, the data were only available for serious felony crimes handled by two of the special prosecution units; in Site #2, plea data were only available for misdemeanor cases. Other measures simply were not operationalizable for either site (such as restitution ordered/completed) because either the offices do not have responsibility for activities related to the measure (e.g., collection of restitution) or there were no data available to measure the constructed measures (e.g., victim/witness attitudes about personal safety).

---

<sup>4</sup> Data for the performance measures in shaded cells were not studied for either site.

<sup>5</sup> No data were collected for the two objectives of Goal 3: Competent and professional behavior, and Consistent and coordinated enforcement efforts and administration of justice.

Upon completion of the site visits, APRI prepared a final list of performance measures and recommended data elements (based on available data) and began preparation for implementing the data collection process.

**Exhibit 2.2  
Final Performance Measures by Office**

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



### Exhibit 2.2 Final Performance Measures by Office

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

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

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

\*\*\*Ratio measure missing either denominator or numerator values

## **Performance Measures Data Submissions from the Sites**

Following the initial site visit, APRI designed a spreadsheet for each site listing the objectives and operationalized measures. The sites were asked to use the spreadsheet to identify the source of the information to be provided, including a contact name. A sample of the spreadsheet is included in Appendix A. To facilitate the data reporting, APRI developed guidelines for reporting the data that described the measurement unit, the time period, and the reporting format. Each site charted the information needed and identified a person responsible for collecting or extracting the data, contacting APRI when needed for guidance on the data collection process. APRI also worked with each site to develop a public safety index based on a community survey (a copy of which can be found in Appendix A). APRI offered each site a stipend to help offset the costs of data collection for the office and to encourage timely reporting of data.

Each office was originally asked to provide 12 months of data (by month) in a Microsoft Excel spreadsheet in two separate 6-month submissions. The first round, including data from February 1, 2005 through July 31, 2005, was to be submitted by August 31, 2005; the second round, including data from August 1, 2005 through January 31, 2006, was to be submitted by February 28, 2006. However, due to challenges discussed later, the actual number of data points for measures from each site ranged from 6 months to 15 months of data, from January 2005 through March 2006. The first round of data from Site #1 was received late February 2006, with the second round submitted late October 2006. The prosecutor's in Site #2 submitted its first round late March 2006, and the second round late August 2006. The two community surveys in Site #1 were administered in December 2005 and April 2006, while one survey in Site #2 was administered September 2006.

After the first round of data collection, APRI revisited each site and again conducted interviews with prosecutor and administrative management, line prosecutors, other non-attorney staff in the office, such as paralegals, public relations personnel, and persons responsible for various forms of data collection and maintenance. These discussions served to explain the precise meaning of the data collected and submitted for the project, as well as to reconfirm the link between the strategies and practices used in the office and the measures selected to determine the relationship between those strategies and identified goals and objectives.

These visits, conducted post-initial data submission, also allowed APRI to further clarify exactly what data were needed for certain measures and how the data could or should be collected, reinforce the purpose and goals of the project with staff members, and identify early on any problems with collecting or extracting data for any of the measures. Upon conclusion of the visits, each study site had a clear understanding of the next steps of the project. Each site had a list of changes and/or missing data to address, and had identified the person or agency responsible for collecting the data so that the second round would be more complete.

Once the second round of data (for the period of January 1, 2006 through March 31, 2006) was received from each site, APRI further examined the data to determine any gaps and address problems as effectively as possible to ensure a rigorous analysis.

APRI also designed and administered a public safety survey to assess a number of factors related to the performance of prosecutors' offices, but for which data could not be provided by the offices. Citizens were asked to provide some basic demographic data about themselves and to respond to Likert style questions measuring attitudes and opinions on six factors: the seriousness of local crime, safety of the environment, organizational behavior of the prosecutor's office, participation in the community, community education, and task performance. Some of these questions are listed below:

- Citizens' impressions of changes in the level of crime in their communities and the city as a whole;
- Level of citizen fear of being a victim of various specified crimes;
- General feelings of safety in their community and the city as a whole;
- Recent changes in the citizen's level of fear of crime;
- Identifying environmental conditions (e.g. abandoned cars, poor lighting) that lead to citizens feeling unsafe;
- The nature of the citizen's interaction, if any, with the local prosecutor's office;
- The perceived helpfulness and fairness of the local prosecutor's office (for those residents with direct interaction with the prosecutor's office);
- Citizens' understanding of the work of prosecutors (e.g. 'why some cases do not go to trial, etc.);
- Whether citizens have served on a jury in the past 5 years;
- The perceived importance of the prosecutor's office for public safety and crime reduction;
- The efficacy of the prosecutor's office in holding offenders accountable, addressing community problems, administering justice swiftly, etc.

The public safety surveys were administered by phone using random digit dialing (RDD). Dialing continued until 325 respondents, in each of the jurisdictions, provided complete survey data. In Site #1, the public safety survey was administered twice, in December 2005 and in April 2006. In Site #2, the public safety survey was administered in September 2006. Due to concerns about conducting a community survey during an election campaign, Site #2 only administered one survey, late in the study period (see next section for further discussion of this issue).

### ***Modifications to/Problems with Original Research Design***

The major challenge encountered during this project was the ability to collect data in a timely and accurate manner. Despite extensive assessment of available and existing data

conducted at the beginning of the project with the intent to preclude problems with data collection, data were ultimately not obtainable in several instances.

Part of this problem stems from the fact that data collection systems in prosecutors' offices are designed with a case management, not a performance measurement, function in mind. These systems are intended to capture, store, and report the data that are needed to carry a case from screening through to disposition, and may be missing some of the critical elements or require extensive programming to extract useful data and run reports needed to support many of the performance measures such as convictions, dismissals, pleas, length of sentence, restitution, calendars days between case initiation and final disposition, etc. For example, Site #2's Community Court program used a Microsoft Access-based database to track the progress of Community Court offenders through the program, but the system was not amenable to producing reports that showed aggregate outcomes of specific types of offenders (e.g., panhandlers, public intoxicants, or prostitutes) or reports that aggregated outcomes during specific periods of time (i.e., the one-month periods requested for the project). Although the required elements were located in the database in some way, extensive hand-tabulation was employed to obtain the necessary information.

In addition, the reporting strategies used by prosecutors' offices have more of a public relations focus than a performance measurement focus. We received data from both sites in various formats. The prosecutor's office in Site #1 submitted the data as they related to their strategic plan, which forms the basis of their annual report, and therefore had to be disaggregated in order to be useful for research purposes.

Collecting data on measures such as crime reports and arrests, juvenile crime statistics, and elapsed time between indictment and case disposition was also difficult, because these measures had to be obtained from other agencies (namely, law enforcement, juvenile courts, or general courts). Many of these agencies also suffer from a lack of sophisticated data collection technologies. Some were hesitant to share data due to political issues, did not record or report on a timely and accurate basis, or simply did not collect the exact data needed to create the performance measures. Both sites had to make multiple inquiries to other criminal justice agencies to obtain the needed data. If they were able to access it at all, it was not always complete or comparable to the prosecution data it was intended to explain, or it was aggregated across the individual one-month time periods indicated for the study. A notable deficiency with this type of data occurred in both sites.

The less traditional measures related to victim/witness attitudes and satisfaction, community attitudes about crime and safety, and public awareness of prosecution and outcomes required a method of collection that did not exist in either office. APRI developed a survey to help facilitate the collection of these data, but both offices lacked the resources required to administer the surveys or conduct anything but the most basic of analysis. In order to collect this information for the study, APRI suggested that each site use the stipend they were given to offset the costs of labor to conduct the survey in-house or to hire an outside firm to conduct the interviews and collect data. Although this was a useful solution for this study, it is unlikely that prosecutors' offices will have several thousand dollars per year in funds available to continue such efforts.

In addition, APRI did not collect data related to the third goal of promoting integrity in the prosecution profession and coordination in the justice system. In particular, although many of the data items were available, the prosecutors' main concerns were how best to measure what they were doing with regard to crime and not the administrative management of their offices. Also, data related to staffing composition, workload, personnel performance, training, and ethics violations were not available in monthly increments, limiting our ability to test variation during the study period and make statements about the validity of those measures.

One challenge not related to specific data collection issues but to the project as a whole was the status of the chief prosecutor as an elected official. Both study sites were participating in the project during election campaigns. The amount of time devoted to campaigning, along with concerns about access to and use of performance measures data by their opponents, was burdensome to both sites and added to the reporting delay. This was a particularly challenging issue in Site #2. After lengthy discussions, APRI decided to use some of the stipend for data collection to contract with a third party to collect the public safety survey data for the office. As a result of the delay in forming a solution, the information was collected later in the project period than anticipated, thus precluding the ability to conduct two surveys for the site, compare data across sites at like times, as well as complete the analysis in a timely fashion.

Even after obtaining complete data elements for the performance measures, difficulties remained in determining whether the data were appropriate for the measure, based on either the definitions used by the office to define the variables, the ways in which office practices and strategies are related to the measures, or the limitations on what those data do and do not represent. For example, Site #1 wanted to compare outcomes for drug court participants with those who did not enter the drug court program as one measure of holding offenders accountable; however, few of the thousands of defendants with drug-related cases that come into the office every year are sent through the program. Furthermore, cases are reviewed to determine which ones are more suitable for drug court, based on factors such as offender history and likelihood of success—screening factors that preclude the ability to compare individual outcomes for like offenders/offenses. The program is also more of a supervised treatment program than a traditional drug court, where offenders are not required to participate, and the number of referrals to the program is not tracked; therefore completion rates are also questionable. The data related to gang crime and juvenile gang crime also presented a challenge. Gang crimes are identified as those that meet one of several criteria developed by the office. These criteria may identify crimes that include three or more perpetrators who do not meet the traditional definition of a gang, thus over-reporting the gang problem. Conversely, the number of juvenile gang crimes is based on the number of juveniles detained who acknowledge gang affiliation, thus potentially under-reporting juvenile gang activity.

Similar challenges exist with the Site #2's data. Offenders sent to community court must plead "guilty" to their charge before they can receive a treatment sanction. Once they complete the terms of that sanction, their case is dismissed, and this becomes the technical disposition date, not the date of the guilty plea. This procedure makes it difficult to make comparisons for like offenders/offenses over specific periods of time. These challenges stress the importance of conducting thorough assessments on the availability of data that include a comprehensive understanding of what the data are intended to capture, what they actually capture, and how they relate to other data.

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

The challenges encountered with data collection and comparability across sites raises two key issues, which are discussed in detail in the conclusion chapter. First, the lack of data collection systems and resources for data collection and analysis is likely to have an impact on how willing prosecutors' offices will be to assess performance on their own. In addition, the differences in available data and definitional issues call into question the feasibility of widespread implementation nationally, substantially decreasing the likelihood that performance comparisons could be made across offices.

### ***Data Analysis Procedures***

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

The quantitative analyses were conducted using data reduction techniques to determine if the large number of performance measures could be reduced to a smaller number of underlying factors (i.e., the underlying justice goals predicted *a priori* via the original performance measurement framework in Exhibit 1.1 and the individual site logic models shown in Exhibits 3.1 through 3.4).

APRI first conducted an analysis of bivariate correlations of measures and then continued into more advanced applications—factor analyses or principal components analyses. Bivariate correlations of all the performance measures described in Exhibit 2.2 (with the exception of the public survey data, discussed below) were examined to determine how these measures group themselves and whether they are related in the sense that the values vary in tandem. Whether or not they measure similar justice *goals* was considered in a discussion of the observed correlations between measures of related justice *objectives*. The intent of the analysis was to explore whether the observed correlation patterns lent some empirical evidence to the framework presented in Exhibit 1.1. Also for the data provided by the prosecutors' offices, additional empirical evidence for the proposed framework was sought through a preliminary factor analysis. Though factor analyses generally require more cases than our study afforded (e.g., in

Site #1 we obtained 15 months of usable [monthly] data), an initial confirmatory factor analysis comports with the results of the correlation analysis.

For the public safety survey data, APRI conducted an exploratory factor analysis to determine how many factors the 30+ survey items were reduced. Additionally, each of the three administrations of the public safety survey was analyzed to see if the performance measures consistently reduce to the same number of factors, thereby producing empirical evidence for a shared number of underlying factors for the examined group of measures.

Once underlying factors were determined, APRI assessed what these underlying factors represented in terms of constructs by considering which measures are associated with which underlying factors and the degree to which they are associated. This was done by examining which measures grouped together on which factors and the magnitude of the factor loadings of performance measures upon each underlying factor. For instance, if measurements such as height, weight, and width load on one factor and IQ, GPA, and Educational Attainment load on another, one can argue that the first factor is related to physical dimensions and the second to psychological dimensions. For the latter factor, one would consider the relative factor loading of the IQ measure from the other two education-related measures to determine if the underlying factor was more related to intelligence than to academic success.

The confirmatory factor analysis was conducted using performance measure data provided by prosecutors' offices. The exploratory factor analysis was performed on the public safety surveys administered to community members in the two study sites.

### III. Findings

APRI's analysis focused on determining if empirical evidence existed to indicate that the performance measures for each prosecutor's office serve as valid indicators for two of the three proposed underlying goals of prosecution. To test the measures, models were prepared that posit the presumed relationships between the offices' practices, the objectives and selected performance measures, and the overall goals. Exhibits 3.1 through 3.4, on the following pages, show the models for each of the offices in the study. As discussed in Chapter 1, a model was not developed for the goal of promoting integrity in the prosecution profession and coordination in the justice system because data were not collected on this goal.

In an attempt to define the performance measures most efficiently, APRI combined related variables into single measures as rates and ratios (e.g., the variable "average sentence length" was created from the "number of cases sentenced" and the "length of sentence" variables) and removed performance measures that had no variation during the study period (e.g., number of death sentences).<sup>6</sup> The remaining performance measures were entered into two factor analyses—one for each site. The main empirical question of this analysis is whether the underlying factors revealed through these analyses confirm the proposed relationships between underlying justice goals, objectives, and the performance measures.

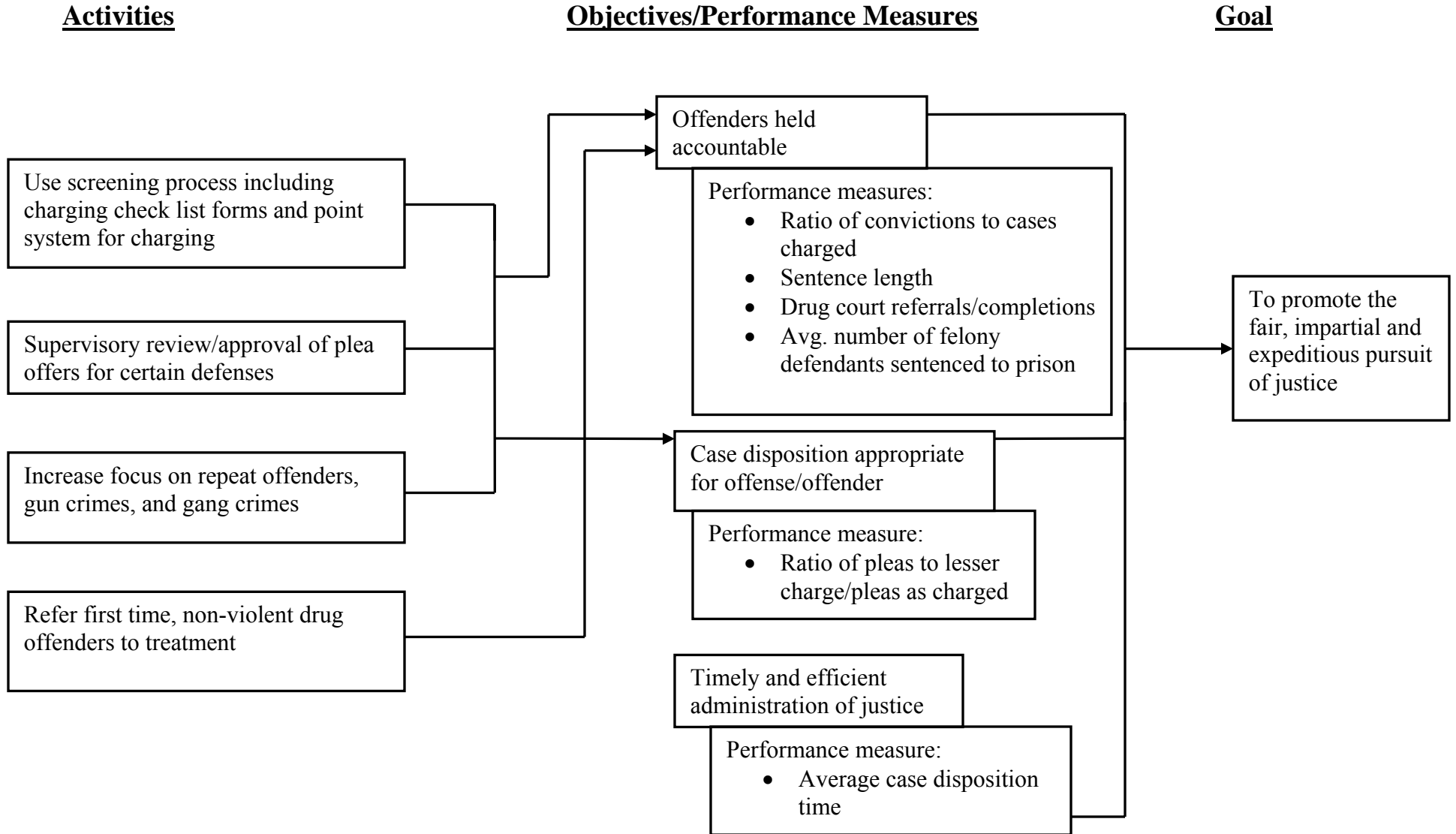
Because the number of underlying goals of prosecution was of key interest, structural equation modeling was not employed (as simulations of factor analyses using SEM often find that this method does not consistently identify the number of latent variables). Instead, confirmatory factor analysis was used to confirm whether the number of extracted latent variables matches APRI's *a priori* theory, whether those extracted variables behave in the expected manner, and if the extracted variables represented what we believed they represented.

---

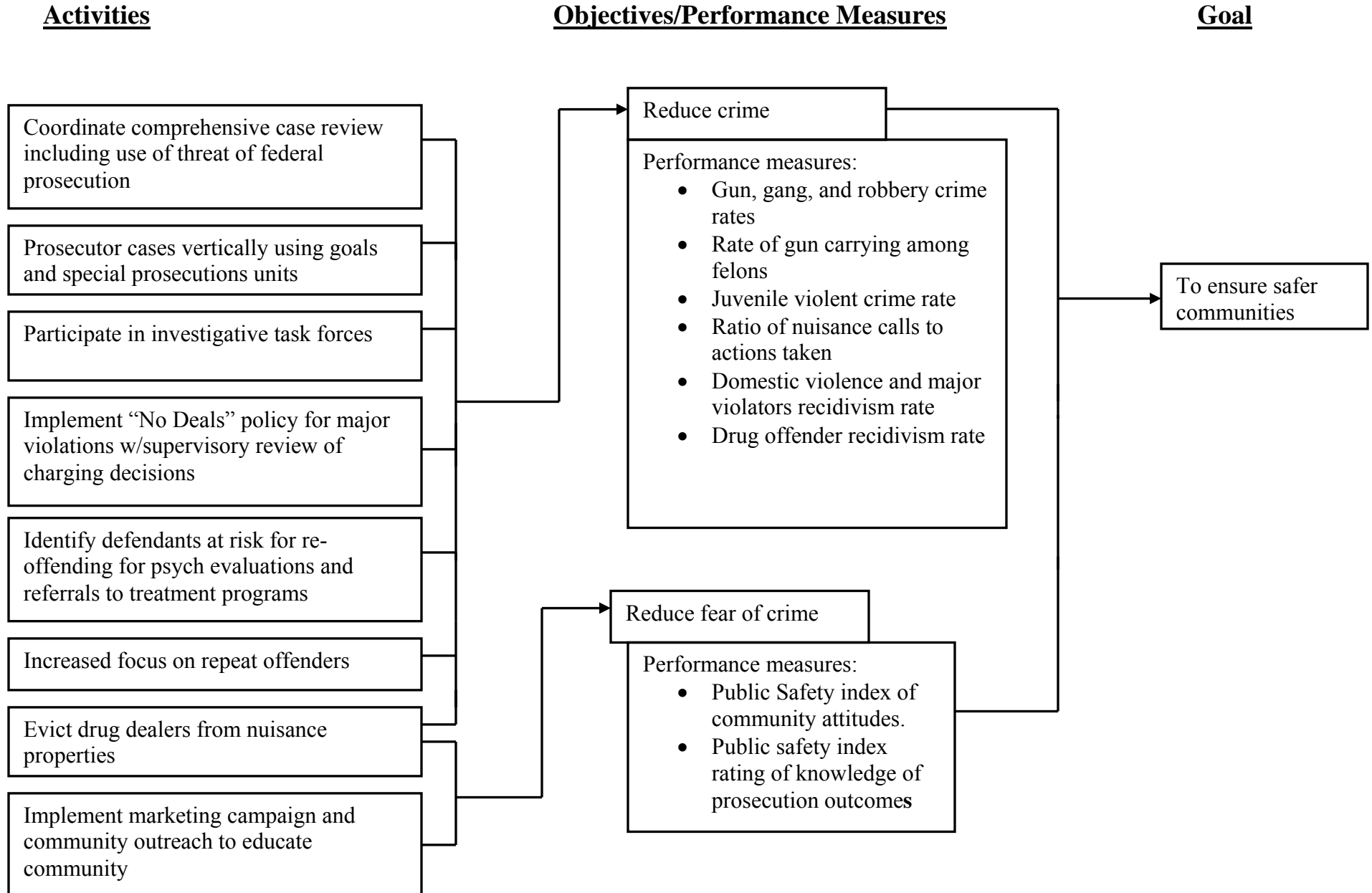
<sup>6</sup> See Exhibit 2.2 for a description of performance measure data that were included in the analyses. See Appendix A, Data Collection Instruments, for further illustration of how multiple data elements were used to create each performance measure.



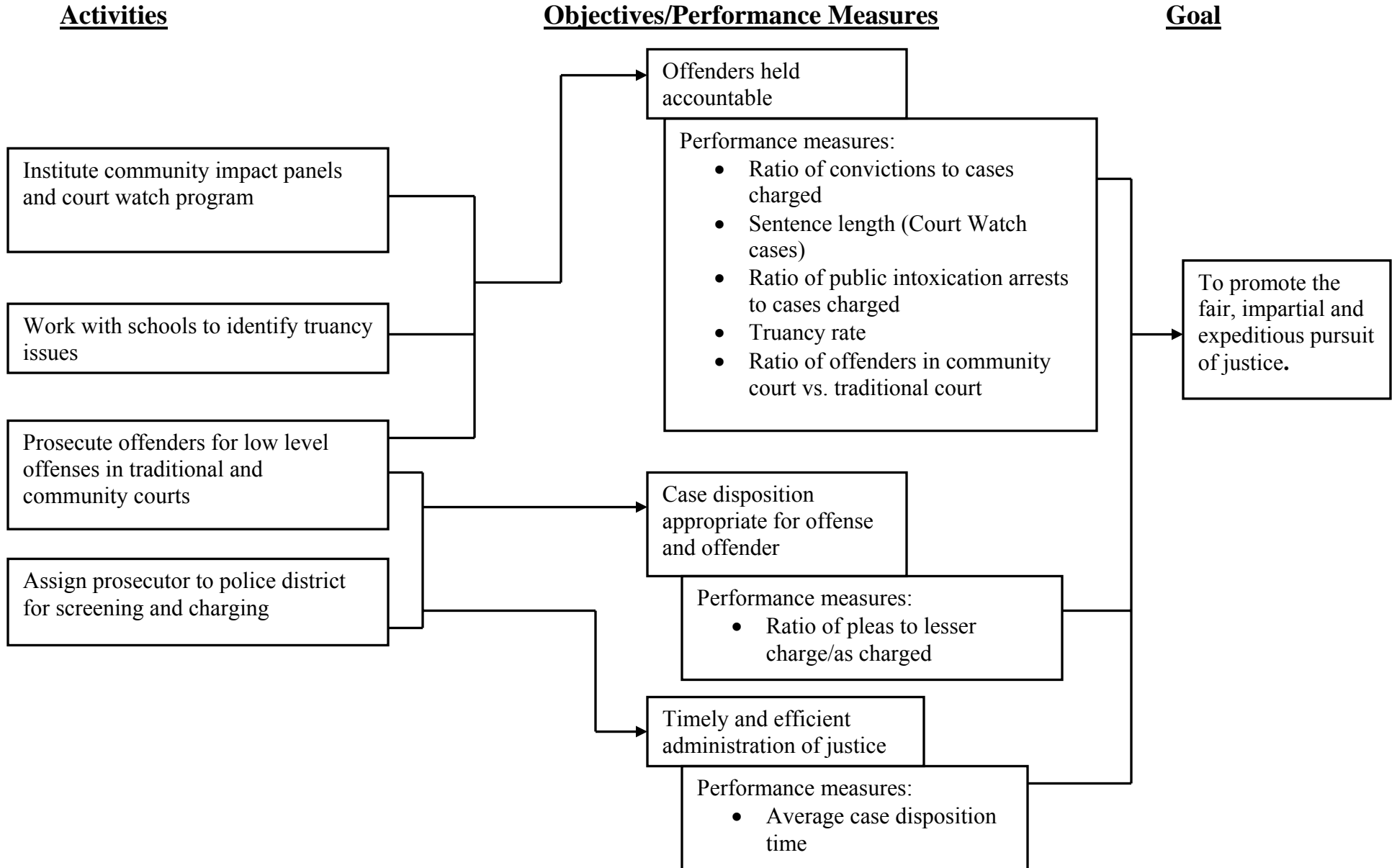
**Exhibit 3.1**  
**Site #1 Model of Relationship between Activities, Objectives/Final Selected Performance Measures, and Goal #1**



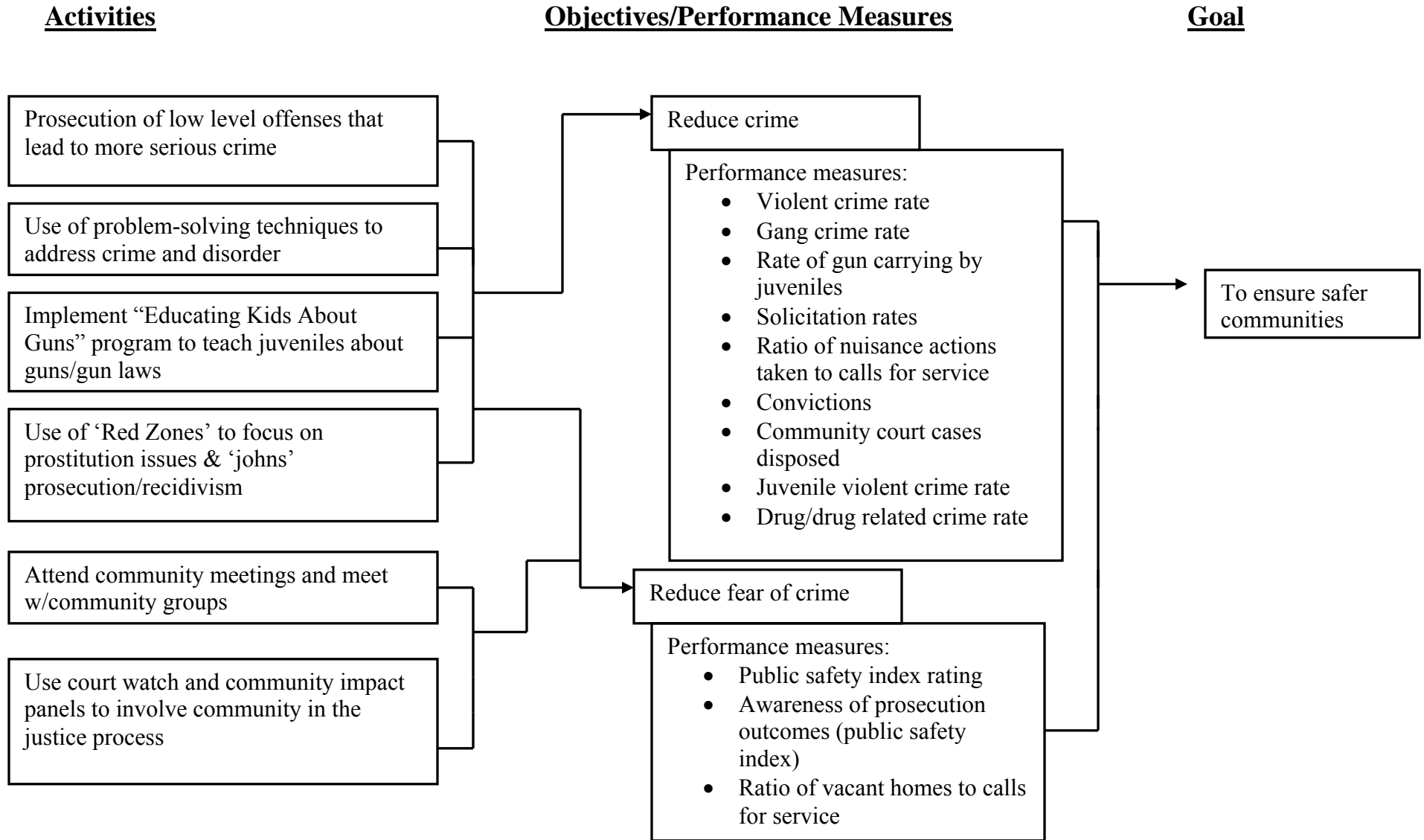
**Exhibit 3.2**  
**Site #1 Model of Relationship between Activities, Objectives/Final Selected Performance Measures, and Goal #2**



**Exhibit 3.3**  
**Site #2 Model of Relationship between Activities, Objectives/Final Selected Performance Measures, and Goal #1**



**Exhibit 3.4**  
**Site #2 Model of Relationship between Activities, Objectives/Final Selected Performance Measures, and Goal #2**



### Observed Correlations

Among the performance measures in Site #1, variables that measured the same justice objective tended to be correlated (see Exhibit 3.5). For example, the average felony A sentence and the ratio of felony convictions to felony cases charged—both measures of the holding offenders accountable objective—were positively correlated. These correlations were to be expected. More substantial evidence of the proposed underlying justice goals came from the bivariate correlation of performance measures that were thought to be indicators of differing justice *objectives*, but were proposed measures of the same justice *goal*. For instance, one measure of holding offenders accountable was the ratio of felony convictions to total felony cases. A measure of the timely and efficient administration of justice was the average case processing time. These two correlated measures, though indicators of differing justice objectives, were grouped under the same justice *goal* of promoting the fair, impartial, and expeditious pursuit of justice.

**Exhibit 3.5**  
**Correlation Matrix for Site #1 Performance Measures of**  
**Goal 1: Promoting the Fair, Impartial, and Expeditious Pursuit of Justice<sup>7</sup>**

Justice Objective		Holding Offenders Accountable				Appropriate case disposition for like offenders/offenses	Timely, efficient justice
		Felony Convictions per Felonies Charged	Misdemeanor Convictions per Misdemeanors Charged	Average Felony A sentence	Average Felony B sentence	'No Deal' cases pled to lesser charge/all ND cases	Average Case Processing Time
Holding Offenders Accountable	Felony Convictions per Felonies Charged	1					
	Misdemeanor Convictions per Misdemeanors Charged	-0.054	1				
	Average Felony A sentence	0.504*	0.2	1			
	Average Felony B sentence	0.147	0.249	-0.073	1		
Appropriate case disposition for like offenders/offenses	'No Deal' cases pled to lesser charge/all ND cases	0.131	.026	0.254	.324	1	
Timely, efficient justice	Average Case Processing Time	0.513*	0.542*	0.236	0.089	0.168	1

N=15 months, \* p < .05

A number of high correlations were observed in the analyses in Exhibit 3.5. It was expected that the measures within an objective would be highly correlated (e.g., the measures

<sup>7</sup> See Appendix B for complete Site #1 correlation matrix.

related to holding offenders accountable). Although high correlations were observed, the correlations were not statistically significant. This could mean that the measures were not related to the objective, but is more likely explained by the low number of cases in the dataset, particularly when the Site #2 performance measures for felony and misdemeanor convictions were taken into consideration—the correlation was .866 and did obtain significance.<sup>8</sup> Of note was that the correlation does not appear to support the proposed objective of case dispositions that are appropriate for like offenders and like offenses.

Interestingly, statistically significant correlations were observed between objectives. For example, the average case processing time (under the timely and efficient administration of justice objective) was significantly correlated with both felony convictions per felonies charged and misdemeanor convictions per misdemeanors charged (under the objective holding offenders accountable), though they are indicators of differing justice objectives. These latter sets of correlations between objectives suggest that they are measuring the same overall construct (i.e., goal) of promoting the fair, impartial, and expeditious pursuit of justice.

Similar correlation patterns were found in the analysis of the Site #2 performance measures as they relate to the goal of ensuring public safety. As above, measures of separate objectives were highly and statistically correlated, as shown in Exhibit 3.6.

**Exhibit 3.6**  
**Correlation Matrix for Site #2**  
**Performance Measures of Goal 2: Ensuring Public Safety<sup>9</sup>**

Justice Objective		Reduce Crime				Reduce Fear of Crime
		Number of reported felonies against persons	Number of reported juvenile felonies	Number of reported solicitation/prostitution incidents	Number of reported felony drug crimes	Number of police runs to problem properties
Reduce Crime	Number of reported felonies against persons	1				
	Number of reported juvenile felonies	.825*	1			
	Number of reported solicitation/prostitution incidents	.554	.661	1		
	Number of reported felony drug crimes	.574	.506	.817*	1	
Reduce Fear of Crime	Number of police runs to problem properties	.62	.645	.869*	.906*	1

N=6 months<sup>10</sup>, \*p<.05

<sup>8</sup> APRI was limited in its ability to group the performance measures together from both sites to increase the overall sample size for analyses because performance measures were not matched across sites. Where such groupings were possible, the results are shown.

<sup>9</sup> See Appendix B for complete Site #2 correlation matrix.

The analyses with regard to the goal of ensuring safer communities produced similar results as those presented in Exhibit 3.5. High correlations within objectives often only approached statistical significance. However, significant correlations were observed between the number of police runs to problem properties (a proposed indicator of the ‘reducing the fear of crime’ justice objective) and two proposed indicators of the ‘reducing crime’ justice objective—the number of reported solicitation/prostitution incidents and the number of reported drug felonies.

Correlation analyses, as fully illustrated in Appendix B, did not always provide consistent evidence in support of the proposed underlying justice goals. For instance, correlations were observed between measures that were not viewed as being related to similarly constructed measures (e.g., in Site #1, the number of reported juvenile gang crimes was correlated with the average sentence measure, though they are grouped under separate justice goals—ensuring public safety and promoting the fair, impartial and expeditious pursuit of justice, respectively). Also, instances occurred in which redundant measures, which should have been correlated, simply were not (e.g., in Site #1 the ratio of felony convictions to felonies charged and the ratio of misdemeanor convictions to misdemeanors charged should have been significantly, positively related). There were, however, more correlations than not, providing some limited support for the proposed performance measurement framework. To further explore the relationships between the goals, objectives, and measures in the proposed framework, APRI also conducted preliminary confirmatory factor analyses.

### **Confirmatory Factor Analyses**

The correlation analyses in Exhibit 3.5 and 3.6 suggest that the measures being retained for factor analysis were reasonably unique indicators of justice goals of prosecutors’ offices. APRI proposed that 3 underlying factors related to the three goals of prosecutors’ office would be noted:

- Factor 1: Promoting the fair, impartial, and expeditious pursuit of justice;
- Factor 2: Ensuring public safety; and
- Factor 3: Efficient & fiscally responsible management and administration of prosecutors’ offices.

Measures that we purport to be related to these three factors (the underlying justice goals) were available for both sites. However, the Site #1 data contained a greater number of cases, making some recognition of an underlying factor structure more likely. As such, the Site #1 performance measures were entered into a factor analysis to see if they reduced to factors that logically resembled the three proposed underlying justice goals. Factor analyses were also conducted using the Site #2 performance measures but the findings of those analyses were predicated on the understanding that there is limited statistical power as a result of the low number of cases.

---

<sup>10</sup> APRI recognizes the sample size is small and as such, a student’s t distribution was used because there was no assumption of a normal distribution.

The factor analysis produced non-rotated and varimax-rotated results.<sup>11</sup> Using the Site #1 performance measurement data, this method extracted the performance measures into three primary groupings of variables (factors). These three factors accounted for 62 percent of the variance among the performance measures. The third factor was not so readily identifiable and had no factor loadings greater than .50. The measures that loaded on factor 3 also loaded more highly on other factors, and because there was no logically discernible pattern, APRI believed that these loadings represented “residual variation.” As such, this third factor is not discussed in this chapter but rather is considered in the conclusion. For Site #2, there were only two primary groupings of variables, which accounted for 75 percent of the variance among the performance measures.

### **Site #1 Factor 1—Promoting the Fair, Impartial, and Expedient Pursuit of Justice**

Factor 1 appeared to link together a number of the indicators proposed under the promoting the fair, impartial and expeditious pursuit of justice goal. The highest loading measure related to factor 1 was the average case processing time (.787). The second loading measure (.591) was the ratio of felony convictions to total felonies. The two highest loading measures were related to two differing justice objectives (holding offenders accountable and the timely and efficient administration of justice, respectively) which confirmed the initial observations from the correlation analyses and partially supported the proposed structure of the promoting the fair, impartial and expeditious pursuit of justice goal.

The outcomes for this goal included two objectives (presented in Exhibit 1.1) that seemed well-represented by the available performance measures—holding offenders accountable and the timely and efficient administration of justice. Two other objectives proposed in the framework were not well-represented in the analyses in part due to insufficient data. APRI did not obtain any data related to the objective of improving service delivery to victims and witnesses. The remaining objective—case dispositions are appropriate for offense and offender, which is a measure of impartiality—was not supported by the analysis. The ratio of No Deal cases that plead as charged to those that plead to lesser charges that APRI believed was related to this objective actually loaded onto the factor related to the timely and efficient administration of justice but had low correlations.

### **Site #2 Factor 1—Promoting the Fair, Impartial, and Expedient Pursuit of Justice**

Among the variables collected from the prosecutor’s office in Site #2, the highest loading measure related to factor 1 was the number of misdemeanor pleas to lesser charges (.974) followed by the average sentence for “Court Watch”<sup>12</sup> cases (-.859). The third highest loading measure (.716) was the number of repeat offenders.

---

<sup>11</sup> Varimax rotation can reveal a different set of outcome factors. It is generally only performed when specific theoretical considerations would warrant it, in this case, testing if most measures load on a single factor. The varimax rotation was performed in this analysis but did not substantially differ from the non-rotated results, producing generally the same loadings. As such, only the non-rotated results are discussed.

<sup>12</sup> One of the strategies used in Site #2 is to bring citizens into the courtroom to reinforce the importance of the case, from the community’s perspective, to the judge in an attempt to ensure that the offender is sanctioned appropriately.



The loadings of these measures suggest that factor 1 was related to the justice goal of promoting the fair, impartial, and expeditious pursuit of justice. Two measures of holding offenders accountable (the ratio of felony convictions to total felony cases and its companion misdemeanor measure) were among the three highest loading measures. The median detention time measure was also in the top three highest loading measures as an indicator of the ‘timely administration of justice’ objective. For Site #2, the measures that loaded on Factor 1 provided empirical evidence of an underlying goal of prosecution to promote the fair, impartial, and expeditious pursuit of justice as had been the case with Site #1.

### **Site #1 Factor 2—Ensuring Public Safety**

For Site #1, the available data for the factor analyses focused on the objectives related to reduced crime. APRI was not able to gather an indicator, from the Site #1 prosecutors’ office, related to reducing the fear of crime. Fear of crime is examined through the public safety survey that APRI administered, which is discussed in the following section.

The extracted factor from the data provided by the Site #1 prosecutor’s office that appeared to be related to the goal of ensuring public safety and was supported by high factor loadings of three crime reduction measures. The highest loading measure related to factor 2 was the number of reported gang crimes (.794). The next highest loading measure was the number of robberies reported (.678). The third highest loading measure (.622) was the reported number of gun crimes.

### **Site #2 Factor 2—Ensuring Public Safety**

The nature of factor 2 was revealed, preliminarily, in the correlational analysis on the Site #2 measures related to the ensuring community safety goal. Two of the three highest loading measures on factor 2 were measures related to the reduction of crime—the number of reported felony drug crimes and reported incidents of solicitation and prostitution. The third highest loading measure, number of police runs to problem properties/vacant homes, was related to the reducing the fear of crime objective. Both of these objectives were related, as discussed earlier, to the goal of ensuring public safety.

Exhibit 3.7 summarizes the findings of the factor analyses conducted in each site.

### Exhibit 3.7 Final Factor Analyses Findings

Justice Goal	Objective	Measure	Site #1	Site #2
Promoting the fair, impartial and expeditious pursuit of justice	Holding Offenders Accountable	Ratio of convictions/cases charged	Loads on Factor 1	Non-loading measure
		Sentence Length	Loads on Factor 1	Loads on Factor 1
	Timely and efficient administration of justice	Case processing time	Loads on Factor 1	Loads on Factor 1
		Pleas to lesser charges	Non-loading measure	Loads on Factor 1
Ensuring safe communities	Reducing crime	Gun, gang, & robbery crime rates	Loads on Factor 2	Loads on Factor 2
		Crimes involving juveniles	Loads on Factor 2	Loads on Factor 2
		Reports of incidents of solicitation/prostitution	No comparable measure	Loads on Factor 2
	Prosecution Outcomes	Ratio of repeat offenders/total offenders	Loads on Factor 1	Loads on Factor 1
	Reducing fear of crime	Responding to calls for service to problem properties	No comparable measure	Loads on Factor 2

#### Exploratory Factor Analysis-Public Safety Surveys

Measures of the performance of prosecutors’ offices are incomplete without an assessment of the impact of prosecution on communities, the degree to which citizens interact with the prosecutor’s office, and citizens’ general feelings of security and impressions of whether or not the criminal justice system works effectively. In an effort to identify appropriate performance measures to capture the community’s perceptions of public safety, APRI conducted three rounds of surveys, in both Site #1 (two surveys) and Site #2 (one survey). For each survey, 325 randomly selected residents responded.

To assess the reliability of measures and identify latent variables behind these measures, a series of three factor analyses were conducted. The three factor analyses corresponded to the single administration of the public safety survey in Site #2 and the two administrations of the survey in Site #1. The degree to which the public safety survey measures reduced to the same latent variables in the three separate administrations should speak to the reliability and replicability of these measures.

For each of the three factor analyses, non-rotated and varimax-rotated results were examined. Exhibit 3.8 summarizes the three factor analyses. Each of the factor analyses reduced the 30+ public safety survey items into six factors which generally explained about half of the total variation in the observed values of the survey items. The results in Exhibit 3.8, with a few exceptions, show survey items loading on the same factor consistently across both sites.

### Exhibit 3.8 Public Safety Survey Factor Analysis Findings

		Site #1 (T1)	Site #1 (T2)	Site #2
<b>Survey Items</b>	<b>Variance Explained by Six Factors</b>	54.52%	58.71%	56.63%
	In your opinion, how has the level of crime changed in your neighborhood in the past 12 months?	1	1,6	1
	In your opinion, how has the level of crime changed in the city/county in the past 12 months?	1,6	1,5	1
	How fearful are you of becoming a victim of violent crime (for example, murder, rape, assault, and robbery)?	1	1	1
	How fearful are you of someone breaking into your home?	1	1,6	1,3
	How fearful are you of having your automobile stolen?	1	1	1,5
	How many people do you know that have been the victim of a violent crime (i.e. murder, rape, robbery, assault, carjacking) in the last 12 months?	1,5,6	3,5	5
	How many people do you know that have been the victim of a property crime (i.e. burglary, theft, arson) in the last 12 months?	1,3	5	2
	How safe do you feel in your community as a whole?	1	1,2,5	1
	How safe are you from crime in your NEIGHBORHOOD at night?	1,2,5	1,2,3	1
	How safe are you from crime in your NEIGHBORHOOD during the day?	1,2	1	1
	How safe do you feel from crime in your home?	1,2	1	1,3
	Over the last 12 months, has your fear of crime increased, decreased, or stayed the same?	1	1	1
	Abandoned cars in the community make me feel unsafe	1,2	1	1,2
	Rundown/ neglected buildings in the community make me feel unsafe.	1,2,3	1	1,2,5
	Poor street/ house lighting in the community makes me feel unsafe.	1,2,5	1	1,5
	Vandalism or Graffiti in the community makes me feel unsafe.	1,2	1	1,2
	Transients/ Homeless sleeping on benches, streets in the community makes me feel unsafe.	1,2	1,2	1,2
	People panhandling/begging in the community makes me feel unsafe.	1,2	1,2	1,2
	Prostitution in the community makes me feel unsafe.	1,2,3	1,2	1,2
	People drunk/drinking in public make me feel unsafe.	2	1,2	1,2,5
	Overall, how aware are you of the District Attorney's Office work in your community?	3	3,4	3,4
	How much interaction have you had with the District Attorney's Office in the last 12 months?	6	4	3
	How knowledgeable are you of why some cases go to trial and others cases don't?	4	3,4	3,4
	How knowledgeable are you of the legal reasons why the District Attorney's Office does or does not file charges against an individual?	4	3,4	3,4
	Is the District Attorney's Office important for public safety/reduction in crime?	2,6	2	2
	How would you best describe the handling of cases by the District Attorney's Office?	2	2	2,3
	The District Attorney's Office does a good job addressing neighborhood problems.	2,3	2,3	1,2,3
	The District Attorney's Office holds people accountable when they create problems (i.e. prostitution, panhandling, drinking, trespassing, etc.) in the neighborhood.	2,3	2,3	1,2,3
	The District Attorney's Office fosters community participation in the judicial process and gives citizens a vital role in the community.	2,3	2,3	2,3
	The District Attorney's Office addresses problems of unemployment, substance abuse, homelessness, etc.	2,3	2,3	2,3
	The District Attorney's Office swiftly administers justice for crimes such as prostitution, marijuana use, public intoxication, trespassing, etc.	2,3	2,3	2

Factor 1, considering the items that loaded on it, measures a *fear of crime* construct. The highest loading measure for both Site #1 waves of the survey was the item related to fear of a home break-in. For Site #2, the item related to fear of being the victim of a violent offense was the highest loading measure (whereas the fear of a home break-in loaded second highest). In each of the three waves of the public safety survey, items related to “how safe do you feel... (at night, in your home, etc)” consistently had high, but negative loadings, suggesting they relate to the same factor as the “how fearful measures” but in nearly a polar manner.

Factor 2, considering the items that loaded on it, measures a *climate of safety* construct. Two sets of items with similar wordings tended to group together on factor 2. The first group were items that asked “How well the DA’s office...(holds offenders accountable, addresses community problems, etc.);” the second group were generally items that asked “How safe do you feel in the presence of...(panhandlers, graffiti, abandoned cars, etc).” The first set of questions was related to the degree of protection subjects believe prosecutors provide from unsafe conditions; the latter addressed specific conditions that lead to feeling unsafe. Though these two sets of questions, which loaded on the same factor, measured identifiably different concerns, they can be described generally as indicators of a ‘climate of safety’ construct.

Factor 3 measured an *assessment of prosecutor effectiveness* construct. There were 9 items in the public safety survey related to aspects of the local prosecutor’s performance. Six of these 9 measures were among the highest leading items on Factor 3 for both Site #1 waves of the public safety survey. Seven of these 9 measures were the highest loading items for Site #2.

Factor 4 measured a *familiarity with prosecution and the legal system* construct. For all three waves of the public safety survey, the two highest loading items were items assessing the subject’s understanding of why certain cases do not have charges filed and why certain cases do not go to trial. In two of the waves, the item related to whether the respondent has dealt directly with the local prosecutor’s office loaded with the items related to their knowledge of the legal system.

Factor 5 measured a *proximity to violence* construct. For all three waves, the highest loading item asked whether the subject knew someone who had been the victim of a violent attack. The next highest loading measures were either related to conditions opportune for violence (an item related to feelings of safety in the presence of public drinking loaded second highest for Site #2) or indicators of a changing urban crime rate (in both waves of the public safety survey in Site #1, the item asking the degree to which city crime was changing loaded second highest).

Factor 6 poses a problem of identification. The highest loading items in each of the three waves were those related to perceived changes in neighborhood and city crime rates. Along with these items, the next highest loading item, in each wave, was related to an assessment of the prosecutor’s importance. It is unclear if the extracted factor was related to some construct of prosecutor involvement in community problem-solving or some other construct yet to be defined.

## *Summary*

The analysis conducted above provided some empirical evidence for the proposed relationships between justice goals, outcomes and measures as presented in Exhibit 1.1. For each of the two goals tested, there were two primary groupings of variables related to two objectives within each group. For the goal of promoting the fair, impartial, and expeditious pursuit of justice, the notion of two objectives was supported: holding offenders accountable and the timely and efficient administration of justice. Other objectives established *a priori* relating to the appropriateness of the disposition for like offenses/like offenders and improved service delivery to victims/witnesses were not supported by the analysis. With regard to service delivery to victims and witnesses, APRI did not collect measures related to this objective and thus, the factor analysis was not expected to produce any findings on this objective. However, APRI did expect that the ratio of cases pled as charged to cases pled to lesser charges would load onto a factor related to the appropriateness of case disposition. Such was not the case.

For the goal of ensuring public safety, both objectives (reducing crime and reducing fear of crime) were supported by high correlations of crime rates and reported crime/calls for service. The analysis of the public safety survey also suggested, as conceptualize, that six primary factors measured the public's perception of crime and fear of crime.

#### IV. Conclusion

Based on the analyses, it would appear that performance measurement related to two of the three goals articulated in Exhibit 3.1—promoting fair, impartial, and expeditious pursuit of justice and ensuring safer communities—is possible. The factor analyses provide empirical support for several of the objectives in APRI’s proposed measurement framework, but not all. Among the objectives found to be valid are:

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

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

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

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

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

The one exception with regard to the public safety survey was the extraction of an unidentifiable factor. Measures related to crime rates and prosecutor involvement in the community grouped together, which was not expected. Although this grouping may represent some “residual variation,” it is more likely that it is a construct of something not yet defined.

APRI's hypothesis is that it may be a construct of community involvement with problem solving or community prosecution, but the public safety survey did not include specific questions in this area. Additional measures related to prosecutor involvement in the community and problem-solving efforts should be added to the survey to test if this hypothesis holds.

Overall, the study provided empirical support that the proposed measurement framework is a valid tool for the assessment of prosecutor performance on two primary goals. Also, with minor modification (e.g., adding plea ratios and recidivism to the holding offenders accountable objective), the study confirms a logical relationship between the measures used by the sites and the objectives articulated in the framework. Based on the study findings, there do appear to be a set of measures that are reliable across sites, suggesting the possibility of a set of core performance measures:

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

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

One of the shortcomings of this study was the inability to test the goal of promoting integrity in the prosecution profession and coordination in the justice system as well as the objective related to victim/witness service delivery. Without performance measurement data to explore these areas, APRI cannot judge the utility of the integrity goal or service delivery to victim/witnesses. Logic would indicate the measures articulated in the proposed framework related to victims and witnesses would likely withstand the type of analyses employed for this study. APRI has less confidence about the goal of promoting integrity and the hypothesized correlation with the various objectives and measures promulgated in the original framework. As

such, additional research is needed to determine how best to operationalize the measures related to this goal in a manner that would lend itself to analysis.

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

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

Based on the study results, APRI believes that the performance measurement framework has value for prosecutors with some adjustment and specific guidance on its usage. First, Goals 1 and 2 are clearly appropriate goals for prosecutors and are best measured with data that support the objectives of holding offenders accountable, administering justice in a timely and efficient manner, reducing crime, and reducing fear of crime. As tested in this study, data related to convictions, sentencing, pleas, average disposition time, crime rates, repeat offenders, and public perception of crime are valid performance measures for these goals and objectives.

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

The study findings would seem to suggest that with current data availability, there is limited opportunity to measure performance on objectives related to service delivery to victims and witnesses and promoting integrity in the justice system. What is unclear, given the inability to explore these objectives more closely, is whether prosecutors' performance should be judged against these indicators. Theoretically, it would seem to make sense that prosecutors should have these as primary goals and objectives. However, much work remains to be done by prosecutors to define and collect data that would allow for performance measurement over time.



Moreover, definitional issues with the performance measures (e.g., what constitutes a gang crime, how the office defines and counts a “case,” etc.) will preclude comparisons of performance between offices.

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

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

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

## References

- Anderson, S. (2001). "The Changing Role of the Prosecutor." *The Prosecutor's Deskbook: Ethical Issues and Emerging Roles for 21<sup>st</sup> Century Prosecutors*. American Prosecutors Research Institute: Alexandria, VA.
- Barry, D. & Greer, A. (1981). "Sentencing Versus Prosecutorial Discretion: The Application of New Disparity Measure." *Journal of Research in Crime & Delinquency*. 18(2): 254-271.
- Church, T. (1985). "Examining Local Legal Culture." *American Bar Foundation Research Journal*. No. 3: 449-518.
- Cole, G. F. (1993). "Performance Measures for the Trial Courts, Prosecution, and Public Defense. In *Performance Measures for the Justice System*. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics: Washington, DC.
- DiIulio, Jr. J. (1992). *Rethinking the Criminal Justice System: Toward a New Paradigm*. Discussion Paper from the Bureau of Justice Statistics-Princeton Project. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics: Washington, DC.
- Dillingham, S., Nugent, M.E., Whitcomb, D. (2004). *Prosecution in the 21<sup>st</sup> Century: Goals, Objectives, and Performance Measures*. American Prosecutors Research Institute: Alexandria, VA.
- Dorer, P. (1997). "North Carolina's Response to Burgeoning Prosecution Needs." *The Prosecutor* 31(1).
- Fisher, S. Z. (1989). "Zealousness and 'Overzealousness:' Making Sense of the Prosecutor's Duty to Seek Justice." *The Prosecutor*. National District Attorneys Association: Alexandria, VA.
- Forst, B. (2001). *Measuring What Matters in Prosecution*. National Institute of Justice Commissioned Report. APRI White Paper. American Prosecutors Research Institute: Alexandria, VA.
- Forst, B. (1993). "The Prosecutor and the Public." In B. Forst, *The Socio-economics of Crime and Justice*." M.E. Sharpe: Armonk, NY.
- Forst, B. (1990). "Prosecution's Coming of Age." *Justice Research and Policy Journal* 2(1): 21-46.
- Garner, J. (2005). "What Does the 'Prosecution' of Domestic Violence Mean?" *Criminology & Public Policy* 4(3): 567-574.
- Griffin, L. C. (2001). "The Prudent Prosecutor." *Georgetown Journal of Legal Ethics*. 14(2): 259-308.

- Heymann, P. & Petrie, C. (eds.) (2001). *What's Changing in Prosecution?* National Academy Press: Washington, DC
- Jacoby, J. (1997). "The American Prosecutor's Discretionary Power." *The Prosecutor*. National District Attorneys Association: Alexandria, VA.
- Jacoby, J. (1982). *Basic Issues in Prosecution and Public Defender Performance*. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice: Washington, DC.
- Jacoby, J. (1980). *The American Prosecutor: A Search for Identity*. Lexington Books, D.C. Heath and Company.
- Jacoby, J. (1978). "The Charging Policies of Prosecutors." *The Prosecutor*. William F. McDonald (Ed.). Sage Publications: Beverly Hills, CA.
- Johnson, C., Webster, B., and Connors, E. (1995). *Prosecuting Gangs: A National Assessment*. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice: Washington, DC.
- Kuykendall, M. (2004). *From the Courtroom to the Community: Ethics and Liability Issues for the Community Prosecutor*. American Prosecutors Research Institute: Alexandria, VA.
- Misner, R. L. (1996). "Recasting Prosecutorial Discretion." *Journal of Criminal Law & Criminology* 86(3): 717-778.
- Mulkey, M. (1974). "The Role of Prosecution and Defense in Plea Bargaining." *Policy Studies Journal*. 3(1): 54-60.
- National District Attorneys Association. (1991). *National Prosecution Standards* (2<sup>nd</sup> ed). National District Attorneys Association: Alexandria, VA.
- Nugent, H. & McEwen, J.T. (1988). *Prosecutors' National Assessment of Needs*. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice: Washington, DC.
- Nugent, M.E., Fanflik, P., & Bromirski, D. (2004). *The Changing Nature of Prosecution: Community Prosecution vs. Traditional Prosecution*. American Prosecutors Research Institute: Alexandria, VA.
- Nugent, M.E.; Rainville, G., et al. (2002). *How Many Cases Can A Prosecutor Handle?* American Prosecutors Research Institute: Alexandria, VA.
- Packer, H.L. (1968). "Two Models of the Criminal Justice Process," In *The Limits of the Criminal Sanctions*. Stanford University Press: Stanford, CA.

Parent, D., Dunworth, T.; McDonald, D., and Rhodes, W. (1997). *Key Legislative Issues in Criminal Justice: Mandatory Sentencing*. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice: Washington, DC.

Roach, K. (1999). "Four Models of the Criminal Process." *Journal of Criminal Law and Criminology*. 89(2): 671-717.

Schoenfeld, H. (2005). "Violated Trust: Conceptualizing Prosecutorial Misconduct." *Journal of Contemporary Criminal Justice*. 21(3): 250-271.

Surrette, R. (1997). *Media, Crime, and Criminal Justice: Images and Realities*. Wadsworth Publishing:

Tonry, M. (1987). *Sentencing Reform Impacts*. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice: Washington, DC.

Tumin, Z. (2002). "Summary of Proceedings: Findings and Discoveries from the Harvard University Executive Session for State and Local Prosecutors." *Working Paper* No. 90-02-05.

Wright, R. & Miller, M. (2002). "The Screening/Bargaining Tradeoff." *Stanford Law Review*. 55: 29-118.

## APPENDIX A:

### Data Collection Instruments

## Performance Measures & Required Data Elements

### Site #1

NOTE: These data collection instruments represent the original data expected for collection from each site. Not all measures were ultimately collected or used for the study due to lack of availability, lack of necessary comparable measures, or lack of applicability as originally intended. For actual final selected measures, refer to Exhibit 2.2.

OBJECTIVE	PERFORMANCE MEASURE(S)	DATA ELEMENT(S)
<b><i>Holding Offenders Accountable</i></b>	Ratio of pleas/lesser charge to pleas/as charged	<ul style="list-style-type: none"> <li>• Number of No Deals and MVU cases plead to lesser charge (2003-4)</li> <li>• Number of No Deals and MVU cases plead as charged (2003-4)</li> </ul>
	Ratio of convictions to cases charge	<ul style="list-style-type: none"> <li>• Total number of convictions (guilty pleas, guilty verdicts) by felony and misdemeanor (2003-4)</li> <li>• Total number of felony and misdemeanor cases charged (2003-4)</li> </ul>
	Average number of years felony offenders sentenced to incarceration	<ul style="list-style-type: none"> <li>• Length of sentence by felony class type divided by total number of felony cases by class type (2003-4)</li> </ul>
	Drug Court completion rate	<ul style="list-style-type: none"> <li>• Number of drug court referrals (2003-4)</li> <li>• Number of successful completions (2003-4)</li> </ul>
<b><i>Reducing Crime/Reducing Recidivism</i></b>	Gun, gang, & robbery crime rates	<ul style="list-style-type: none"> <li>• Number of reported gun, gang, &amp; robbery crimes (2003-4)</li> <li>• Site #1 population (2003-4)</li> </ul>
	Rate of gun carrying among felons	<ul style="list-style-type: none"> <li>• Number of felony cases involving guns (2003-4)</li> <li>• Total number of felony cases (2003-4)</li> </ul>
	Domestic violence and MVU recidivism rate	<ul style="list-style-type: none"> <li>• Number of repeat domestic violence offenders (2003-4)</li> <li>• Total number of domestic violence cases filed (2003-4)</li> <li>• Number of repeat MVU offenders (2003-4)</li> <li>• Total number of MVU cases filed (2003-4)</li> </ul>
	Juvenile violent crime and gang crime rates	<ul style="list-style-type: none"> <li>• Number of reported crimes involving juveniles (2003-4)</li> <li>• Site #1 juvenile population (2003-4)</li> <li>• Number of reported juvenile gang crimes (2003-4)</li> </ul>
	Drug offender recidivism rate	<ul style="list-style-type: none"> <li>• Number of defendants who successfully completed drug court (2003-4)</li> <li>• Number of drug court defendants who completed drug court and were re-arrested (2003-4)</li> <li>• Number of non-drug court defendants (2003-4)</li> <li>• Number of non-drug court defendants who were re-arrested (2003-4)</li> </ul>
	Public safety rating	<ul style="list-style-type: none"> <li>• Crime severity scale (to be developed by APRI)</li> <li>• Crime frequency scale (to be developed by APRI)</li> <li>• Overall feelings of safety scale (to be developed by APRI)</li> </ul>

## Performance Measures & Required Data Elements

Site #1

OBJECTIVE	PERFORMANCE MEASURE(S)	DATA ELEMENT(S)
<b><i>Deterring Violent Crime &amp; Other Crime that Encourages Violence</i></b>	Ratio of nuisance actions to calls for service for property/violent crimes	<ul style="list-style-type: none"> <li>• Number of nuisance actions taken by address (2003-4)</li> <li>• Date of nuisance action by address (2003-4)</li> <li>• Number of calls for service by month by address (2003-4)</li> </ul>
	Calls for service for nuisance crimes	<ul style="list-style-type: none"> <li>• Number of nuisance crime calls for service by police district (2003-4)</li> </ul>
	Sense of security in neighborhood	<ul style="list-style-type: none"> <li>• Community feelings about safety (post-nuisance action)—APRI</li> </ul>
<b><i>Timely and Efficient Processing of Cases</i></b>	Case disposition time	<ul style="list-style-type: none"> <li>• List of dates that cases were opened and closed (disposed) <b>OR</b></li> <li>• Number of hours for case processing divided by total number of dispositions</li> </ul>
	Cost of administering justice (ratio of cost per case using drug dealer eviction & nuisance abatement to costs per case using traditional prosecution)	<p><b><i>For all (need 6 months to 1 year prior to action and 6 months to 1 year after action):</i></b></p> <ul style="list-style-type: none"> <li>• Hourly rate for law enforcement</li> <li>• Number of calls for service to problem locations</li> <li>• Number of officers responding to calls for service</li> <li>• Amount of time spent on site for calls for service</li> <li>• Number of warrants served per location</li> <li>• Number of officers per warrant</li> <li>• Amount of time spent per warrant</li> <li>• Number of arrests at problem locations</li> <li>• Number of officers responding to problem locations</li> <li>• Hourly rate for prosecutor</li> <li>• Number of prosecutor hours spent on drug dealer eviction and nuisance action</li> <li>• Hourly rate for other prosecutor staff?</li> <li>• Number of hours for other prosecutor staff?</li> <li>• Average cost per defendant per day in jail awaiting prosecution</li> <li>• Average number of days in jail awaiting prosecution</li> </ul>

**Performance Measures & Required Data Elements**

Site #2

OBJECTIVE	PERFORMANCE MEASURE(S)	DATA ELEMENT(S)
<b><i>Holding Offenders Accountable</i></b>	Sentence length	<ul style="list-style-type: none"> <li>• Sentences in court watch cases; number of cases sentenced (2003-2004)</li> </ul>
	Ratio of pleas to lesser charges and pleas as charged	<ul style="list-style-type: none"> <li>• Number of misdemeanor pleas as charged (2003-2004)</li> <li>• Number of misdemeanor pleas to lesser charges (2003-2004)</li> </ul>
	Ratio of offenders sent to community court vs. total offenders in traditional court	<ul style="list-style-type: none"> <li>• Number of offenders sent to community court</li> <li>• Number of offenders sent to traditional court</li> </ul>
	Ratio of public intoxication arrests to cases charged	<ul style="list-style-type: none"> <li>• Number of public intoxication arrests</li> <li>• Number of public intoxication cases charged</li> </ul>
	Ratio of convictions to cases charged	<ul style="list-style-type: none"> <li>• Number of misdemeanor and felony convictions (2003-2004)</li> <li>• Number of misdemeanor and felony charges filed (2003-2004)</li> </ul>
	Defendant's understanding of social responsibility	<ul style="list-style-type: none"> <li>• CIP defendant survey</li> </ul>
	Decreased truancy	<ul style="list-style-type: none"> <li>• Number of juvenile detention orders (2003-2004)</li> </ul>
<b><i>Reducing Crime/Reducing Recidivism</i></b>	Drug crime rate/drug-related crime rate	<ul style="list-style-type: none"> <li>• Number of reported felony drug crimes (2003-2004)</li> <li>• Number of reported drug-related crimes (2003-2004)</li> <li>• Site #2 population (2003-2004)</li> <li>• Number of narcotics evictions (2003-2004)</li> <li>• Number of runs to problem/narcotics properties (2003-2004)</li> </ul>
	Rate of gun carrying among juveniles	<ul style="list-style-type: none"> <li>• Number of juvenile felony cases involving guns (2003-2004)</li> <li>• Total number of juvenile felony cases (2003-2004)</li> </ul>
	Juvenile violent crime rate	<ul style="list-style-type: none"> <li>• Number of reported crimes involving juveniles (2003-2004)</li> <li>• Site #2 juvenile population (2003-2004)</li> </ul>
	Solicitation rates	<ul style="list-style-type: none"> <li>• Number of reported incidents of solicitation/prostitution (2003-2004)</li> <li>• Number of arrests for solicitation (2003-2004)</li> <li>• Number of repeat offenders (2003-2004)</li> </ul>
	Public safety rating	<ul style="list-style-type: none"> <li>• Public safety survey (to be developed by APRI)               <ul style="list-style-type: none"> <li>○ Crime severity scale</li> <li>○ Crime frequency scale</li> <li>○ Feelings of safety scale</li> </ul> </li> </ul>



**Performance Measures & Required Data Elements**

Site #2

OBJECTIVE	PERFORMANCE MEASURE(S)	DATA ELEMENT(S)
<p><b><i>Deterring Violent Crime &amp; Other Crime that Encourages Violence</i></b></p>	Violent crime rate	<ul style="list-style-type: none"> <li>• Number of felony crimes against persons reported (2003-2004)</li> <li>• Site #2 population (2003-2004)</li> </ul>
	Public nuisance calls for service	<ul style="list-style-type: none"> <li>• Number of calls for public nuisances (2003-2004)</li> <li>• Site #2 population (2003-2004)</li> </ul>
	Ratio of nuisance actions taken to calls for service for property/violent crimes	<ul style="list-style-type: none"> <li>• Number of nuisance actions taken by address (2003-2004)</li> <li>• Date of nuisance action by address (2003-2004)</li> <li>• Number of calls for service by month by address (2003-2004)</li> <li>• Number of vacant homes</li> <li>• Number of calls for service by month by address (2003-2004)</li> </ul>
	Ratio of vacant homes to calls for service	<ul style="list-style-type: none"> <li>• Number of calls for service by month by address (2003-2004)</li> </ul>
<p><b><i>Timely and Efficient Processing of Cases</i></b></p>	Sense of security in neighborhood	<ul style="list-style-type: none"> <li>• Community feelings about safety (post-nuisance action)</li> </ul>
	Case disposition time	<ul style="list-style-type: none"> <li>• List of dates that cases were opened and closed/disposed (2003-2004)</li> <li>• Number of hours for case processing divided by total number of dispositions (2003-2004)</li> <li>• Amount of time needed to file cases</li> </ul>
	Cost of administering justice	<ul style="list-style-type: none"> <li>• Costs of community court vs. traditional court               <ul style="list-style-type: none"> <li>○ Number of defendants in court</li> <li>○ Time spent in court</li> <li>○ Time spent preparing cases</li> <li>○ Hourly rate of prosecutor</li> <li>○ Hourly rate of public defender</li> <li>○ Hourly rate of judge</li> <li>○ Hourly rate of court clerk</li> <li>○ Hourly rate of bailiff(s)</li> <li>○ Amount of police overtime paid</li> </ul> </li> </ul>

**Performance Measures & Required Data Elements**

Site #2

		<ul style="list-style-type: none"> <li>• Costs of nuisance abatement <ul style="list-style-type: none"> <li>○ Hourly rate for law enforcement</li> <li>○ Hourly rate for zoning officers</li> <li>○ Hourly rate for code enforcement/health inspectors</li> <li>○ Hourly rate for fire marshal</li> <li>○ Hourly rate for community prosecutor(s)</li> <li>○ Number of calls for law enforcement service to problem locations</li> <li>○ Number of calls for inspections/number of inspection visits</li> <li>○ Number of law enforcement responding to calls</li> <li>○ Number of law enforcement calls for service</li> <li>○ Number of zoning officers responding</li> <li>○ Number of code enforcement/health inspectors responding</li> <li>○ Number of fire marshals responding</li> <li>○ Number of prosecutors responding</li> <li>○ Amount of time spent per call</li> <li>○ Amount of time spent for law enforcement calls for service</li> <li>○ Amount of time spent for inspections</li> <li>○ Number of warrants served per location</li> <li>○ Number of officers per warrant</li> <li>○ Number of arrests at problem locations</li> <li>○ Amount of time spent per warrant</li> <li>○ Number of prosecution hours spent on nuisance abatement</li> <li>○ Average cost per defendant per day in jail awaiting prosecution</li> <li>○ Average number of days in jail awaiting prosecution</li> <li>○ Number of return calls per property after initial visit</li> <li>○ Number and type of person on monitoring/compliance visits (e.g., housing, fire, law enforcement, etc.)</li> </ul> </li> <li>• Average amount of time spent per monitoring/compliance visit</li> </ul>
	Cost of screening cases	<ul style="list-style-type: none"> <li>• Number of cases picked up/dropped off</li> <li>• Hourly rate of detectives</li> <li>• Average amount of time spent on each case</li> </ul>

## Public Safety Survey

Respondent Telephone # \_\_\_\_\_

Date \_\_\_\_\_

Interviewer \_\_\_\_\_

Good evening, I'm \_\_\_\_\_ with \_\_\_\_\_. We are conducting a brief public opinion survey about important issues of the day. This survey is confidential and we are not selling anything.

Are you at least 18 years old?

Yes.....1 -> CONTINUE

No.....2 -> TERMINATE

In this survey we would like to ask your opinion about public safety in your County.

**First, I'd like to ask you about the seriousness of local crime.**

*(Please circle only ONE response per question.)*

<b>On a scale of 1 to 5, with 1 being a lot of a decrease and 5 being a lot of an increase:</b>	<i>Decreased a lot</i>	<i>Decreased somewhat</i>	<i>Neutral</i>	<i>Increased somewhat</i>	<i>Increased a lot</i>
1) In your opinion, how has the level of crime changed in your <i>neighborhood</i> in the past 12 months?	1	2	3	4	5
2) In your opinion, how has the level of crime changed in the <i>city/county</i> in the past 12 months?	1	2	3	4	5

<b>On a scale of 1 to 5, with 1 being not fearful and 5 being very fearful:</b>	<i>Not fearful at all</i>	<i>Not very fearful</i>	<i>Neutral</i>	<i>Fearful</i>	<i>Very Fearful</i>
3) How fearful are you of becoming a victim of violent crime (for example, murder, rape, assault, and robbery)?	1	2	3	4	5
4) How fearful are you of someone <i>breaking into your home</i> ?	1	2	3	4	5
5) How fearful are you of having your <i>automobile stolen</i> ?	1	2	3	4	5
	<i>None</i>	<i>1-3</i>	<i>4-6</i>	<i>7-9</i>	<i>10 people or more</i>
6) How many people do you know that have been the victim of a violent crime (i.e. murder, rape, robbery, assault, carjacking) in the last 12 months?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7) How many people do you know that have been the victim of a property crime (i.e. burglary, theft, arson) in the last 12 months?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Public Safety Survey

**Next, I'd like to ask you about your personal safety in your neighborhood.**

*(Please circle only ONE response per question.)*

<b>On a scale of 1 to 5, with 1 being not safe and 5 being very safe:</b>	<i>Not safe at all</i>	<i>Not very safe</i>	<i>Neutral</i>	<i>Safe</i>	<i>Very Safe</i>
8) How safe do you feel in your <i>community</i> as a whole?	1	2	3	4	5
9) How safe are you from crime in your NEIGHBORHOOD <i>at night</i> ?	1	2	3	4	5
10) How safe are you from crime in your NEIGHBORHOOD <i>during the day</i> ?	1	2	3	4	5
11) How safe do you feel from crime in your <i>home</i> ?	1	2	3	4	5

12) Over the last 12 months, has your fear of crime increased, decreased, or stayed the same?

Increased

Decreased

Stayed the same

**Please rate how strongly you agree or disagree with whether the following conditions affect your feeling of safety in the community.**

*(Please circle only ONE response per question.)*

<b>On a scale of 1 to 5, with 1 being strong disagreement and 5 being strong agreement, how much do you agree that:</b>	<i>Strongly Disagree</i>	<i>Somewhat disagree</i>	<i>Neutral</i>	<i>Agree</i>	<i>Strongly Agree</i>
13) Abandoned cars in the community make me feel unsafe.	1	2	3	4	5
14) Rundown/neglected buildings in the community make me feel unsafe.	1	2	3	4	5
15) Poor street/ house lighting in the community makes me feel unsafe.	1	2	3	4	5
16) Vandalism or Graffiti in the community makes me feel unsafe.	1	2	3	4	5
17) Transients/Homeless sleeping on benches, streets in the community makes me feel unsafe.	1	2	3	4	5
18) People panhandling/begging in the community makes me feel unsafe.	1	2	3	4	5
19) Prostitution in the community makes me feel unsafe.	1	2	3	4	5
20) People drunk/drinking in public make me feel unsafe.	1	2	3	4	5

## Public Safety Survey

The following questions are about the local Prosecutor's Office.

21) In the past 12 months, have you been in contact with the local Prosecutor's Office for any reason?

Yes  No  Don't know/Cant remember

**If answered YES to Question #21, please ask Questions #21a through 24. If answered NO, skip to Question #25.**

21a) If yes, what part of the prosecutor's office (fraud and economic crime, investigators, victim witness unit, etc.) did you have contact?

*(Please circle only ONE response per question.)*

<b>On a scale of 1 to 5, with 1 being not at all helpful and 5 being extremely helpful:</b>	<i>Not at all helpful</i>	<i>Somewhat helpful</i>	<i>Neutral</i>	<i>Very helpful</i>	<i>Extremely helpful</i>
22) How would you best describe your contact with the local Prosecutor's Office?	1	2	3	4	5
<b>On a scale of 1 to 5, with 1 being not at all favorable and 5 being extremely favorable:</b>	<i>Not at all favorable</i>	<i>Somewhat favorable</i>	<i>Neutral</i>	<i>Very favorable</i>	<i>Extremely favorable</i>
23) How favorable are your feelings towards the local Prosecutor's Office?	1	2	3	4	5
<b>On a scale of 1 to 5, with 1 being not at all fair and 5 being extremely fair:</b>	<i>Not at all fair</i>	<i>Somewhat fair</i>	<i>Neutral</i>	<i>Very fair</i>	<i>Extremely fair</i>
24) How would you best describe how the local Prosecutor's Office treats victims?	1	2	3	4	5

**And now I'd like to ask you about interaction with and knowledge of the local Prosecutor's Office.**

*(Please circle only ONE response per question.)*

<b>On a scale of 1 to 5, with 1 being not at all aware and 5 being very aware:</b>	<i>Not aware at all</i>	<i>Slightly aware</i>	<i>Neutral</i>	<i>Aware</i>	<i>Very aware</i>
25) Overall, how aware are you of the local Prosecutor's Office work in your community?	1	2	3	4	5
<b>On a scale of 1 to 5, with 1 being no interaction and 5 being a lot of interaction:</b>	<i>None</i>	<i>Very little</i>	<i>Neutral</i>	<i>Some</i>	<i>A lot</i>
26) How much interaction have you had with local Prosecutor's Office in the last 12 months?	1	2	3	4	5

## Public Safety Survey

*(Please circle only ONE response per question.)*

<b>On a scale of 1 to 5, with 1 being totally un knowledgeable and 5 being very knowledgeable:</b>	<i>Totally un- knowledgeable</i>	<i>Slightly knowledgeable</i>	<i>Unsure</i>	<i>Knowledgeable</i>	<i>Very knowledgeable</i>
27) How knowledgeable are you of why some cases go to trial and others cases don't?	1	2	3	4	5
28) How knowledgeable are you of the legal reasons why the local Prosecutor's Office does or does not file charges against an individual?	1	2	3	4	5

29) Have you ever served as a juror in the past 5 years?

Yes                            No                            Unsure     

30) Have you served as a juror in any court in the county in the past five years?

Yes                            No                            Unsure     

***If answered YES to Question #29 and/or 30, please ask Question #31. If answered NO, skip to Question #32.***

<b>On a scale of 1 to 5, with 1 being no increase and 5 being a substantial increase:</b>	<i>No increase at all</i>	<i>Slight increase</i>	<i>Neutral</i>	<i>Increased</i>	<i>Increased substantially</i>
31) Since you served as a juror, how would you rate your overall level of knowledge of the criminal justice system/ prosecution process?	1	2	3	4	5

**Finally, I'd like to ask your general opinion about the work of the local Prosecutor's Office**

*(Please circle only ONE response per question.)*

<b>On a scale of 1 to 5, with 1 being unimportant and 5 being very important:</b>	<i>Not important at all</i>	<i>Slightly important</i>	<i>Neutral</i>	<i>Important</i>	<i>Very important</i>
32) Is the local Prosecutor's Office important for public safety/reduction in crime?	1	2	3	4	5
<b>On a scale of 1 to 5, with 1 being not at all competent and 5 being extremely competent:</b>	<i>Not all competent</i>	<i>Somewhat competent</i>	<i>Neutral</i>	<i>Very competent</i>	<i>Extremely competent</i>
33) How would you best describe the handling of cases by the local Prosecutor's Office?	1	2	3	4	5

### Public Safety Survey

(Please circle only ONE response per question.)

On a scale of 1 to 5, with 1 being strong disagreement and 5 being strong agreement, how much do you agree that:	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Neutral</i>	<i>Agree</i>	<i>Strongly Agree</i>
34) The local Prosecutor's Office does a good job addressing neighborhood problems.	1	2	3	4	5
35) The local Prosecutor's Office holds people accountable when they create problems (i.e. prostitution, panhandling, drinking, trespassing, etc.) in the neighborhood.	1	2	3	4	5
36) Community Prosecution programs such as TAG ("Take Away Graffiti"), Court Watch, etc. give citizens a vital role in the community.	1	2	3	4	5
37) The local Prosecutor's Office addresses problems of unemployment, substance abuse, homelessness, etc.	1	2	3	4	5
38) The local Prosecutor's Office swiftly administers justice for crimes such as prostitution, marijuana use, public intoxication, trespassing, etc.	1	2	3	4	5

39. A few final questions: May I ask your age please? (WRITE AGE IN BLANK.)

\_\_\_\_\_

40. What is your race?

- 1 Black/African American      2 White      3 Hispanic      4 Native American  
 5 Asian      6 Other      7 Mixed

41. What zip code do you live in? (WRITE ZIP CODE IN BLANK)

\_\_\_\_\_

42. Overall, where would you say you get most of your news from: local television, national television, newspapers, radio, magazines, the Internet, or some other source? (PROBE IF NECESSARY: If you had to choose one, which would it be?) WRITE ANSWER IN BLANK.

\_\_\_\_\_

43. INTERVIEWER: DO NOT ASK. PLEASE CIRCLE:

- 1 Male  
 2 Female

This completes our interview. Thank you for your cooperation.

## APPENDIX B: Correlation Matrices



This document is a research report submitted to the U.S. Department of Justice. This report has not been published by the Department. Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

	Ratio of felony convictions/ felony cases charged	Ratio of misdemeanor convictions/ misdemeanor cases charged	Average prison sentence A felonies (in years)	Average prison sentence B felonies (in years)	Ratio of pleas to lesser charges/ pleas as charged for No Deals cases	Number of hours for case processing/ number of dispositions	Number of gun crimes/ month	Number of gang-related crimes/ month	Number of robbery reports/ month	Ratio of crimes involving juveniles/ juvenile population	Ratio of repeat DV offenders/ total number of DV cases filed
Ratio of felony convictions/felony cases charged	1										
Ratio of misdemeanor convictions/ misdemeanor cases charged	-0.054	1									
Average prison sentence A felonies (in years)	0.504*	0.2	1								
Average prison sentence B felonies (in years)	0.147	-0.249	-0.073	1							
Ratio of pleas to lesser charges/pleas as charged for No Deals cases	-0.131	-0.026	-0.254	0.324	1						
Number of hours for case processing/ number of dispositions	0.513*	0.542*	0.236	0.089	0.168	1					
Number of gun crimes/ month	-0.149	-0.066	-0.544*	0.068	0.44*	0.117	1				
Number of gang-related crimes/month	-0.07	-0.468*	-0.062	0.385	0.452*	-0.123	0.47*	1			
Number of robbery reports/ month	-0.023	-0.321	-0.09	0.267	0.233	-0.157	0.302	0.771*	1		
Ratio of crimes involving juveniles juvenile population	-0.243	-0.072	-0.49*	0.002	0.39	-0.025	0.574*	0.267	0.358	1	
Ratio of repeat DV offenders/total number of DV cases filed	-0.229	-0.029	-0.358	-0.176	-0.071	0.036	0.264	-0.162	-0.053	0.525*	1

This document is a research report submitted to the U.S. Department of Justice. This report has not been published by the Department. Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

	Ratio of felony convictions/felony cases charged	Ratio of misdemeanor convictions/misdemeanor cases charged	Sentences in Court Watch cases/ number of cases sentenced	Ratio of public intoxication cases charged/ public intoxication arrests	Ratio of offenders sent to community court/ offenders sent to traditional court	Ratio of misdemeanor pleas to lesser charges/ misdemeanor pleas as charged	Median length of stay for detained defendants	Ratio of felony crimes against persons/ population	Ratio of juvenile felony cases involving guns/ total number of juvenile felony cases	Ratio of reported incidents/ arrests for solicitation	Number of reported felony drug crimes	Number of repeat offenders	Ratio of vacant homes/ calls for service
Ratio of felony convictions/ felony cases charged	1												
Ratio of misdemeanor convictions/ misdemeanor cases charged	0.866*	1											
Sentences in Court Watch cases/ number of cases sentenced	0.338	0.171	1										
Ratio of public intoxication cases charged/ public intoxication arrests	0.44	0.542	0.299	1									
Ratio of offenders sent to community court/ offenders sent to traditional court	-0.588	-0.638	-0.416	0.061	1								
Ratio of misdemeanor pleas to lesser charges/ misdemeanor pleas as charged	-0.148	0.032	-0.494	-0.716	-0.441	1							
Median length of stay for detained defendants	0.592	0.362	-0.17	-0.281	-0.218	0.255	1						
Ratio of felony crimes against persons/ population	0.007	0.41	-0.324	-0.22	-0.546	0.796	0.011	1					
Ratio of juvenile felony cases involving guns/ total number of juvenile felony cases	0.336	0.601	-0.257	-0.038	-0.719	0.693	0.084	0.825*	1				
Ratio of reported incidents/ arrests for solicitation	-0.006	0.3	-0.798	0.124	0.031	0.441	-0.023	0.554	0.661	1			
Number of reported felony drug crimes	-0.509	-0.213	-0.85*	-0.351	0.159	0.668	-0.215	0.574	0.506	0.817*	1		
Number of repeat offenders	-0.643	-0.483	-0.45	0.168	0.91*	-0.333	-0.377	-0.225	-0.535	0.188	0.293	1	
Ratio of vacant homes/ calls for service	-0.161	0.056	-0.891*	-0.377	-0.026	0.769	0.191	0.62	0.645	0.869*	0.906*	0.055	1