PROSECUTORS AND CRIME SURVIVORS: HOW CAN PROSECUTORS BETTER ADDRESS THE NEEDS OF CRIME SURVIVORS?

JEAN PETERS BAKER AND LENORE ANDERSON

A Paper in the Series on: Reimagining the Role of the Prosecutor in the Community

Sponsored by the Executive Session of the Institute for Innovation in Prosecution at John Jay College

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

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

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

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

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

Karol Mason  
President  
John Jay College of Criminal Justice

Cyrus Vance, Jr.  
District Attorney  
New York County, New York
JEAN PETERS BAKER  
County Prosecutor, Kansas City, MO

Jean Peters Baker has spent more than 15 years in the Jackson County Prosecutor’s Office, serving in nearly every unit of the office before she was appointed prosecutor in May 2011 and elected to the position in November 2012. She is only the second woman elected to lead the office; the first, now-U.S. Sen. Claire McCaskill, hired Ms. Peters Baker as a young assistant prosecutor. Ms. Peters Baker’s focus as prosecutor has been to make Jackson County a safer and better place to live, work and raise a family. Ms. Peters Baker has set an office goal to more closely connect the prosecutor’s office to the community and more smartly address and reduce crime, especially violent crime. In 2012, Ms. Peters Baker initiated a new violence reduction effort that now is known as the Kansas City No Violence Alliance. Led by a governing board that includes Ms. Peters Baker, Mayor Sly James, Kansas City Police Chief Darryl Forté and U.S. Attorney Tammy Dickinson, the effort is an evidence-based or proven approach known as focused deterrence. In 2014, homicides in Kansas City fell to the lowest level in four decades. Jean’s office attracted national attention in 2011, after a Jackson County grand jury indicted the bishop of the Diocese of Kansas City-St. Joseph, making him the highest ranking cleric in the United States to face a criminal charge related to church’s child sex abuse scandal. In October 2013, Baker was named special prosecutor to investigate the filing of charges in a high-profile sexual assault involving high school football players, once again attracting national attention.
LENORE ANDERSON
Executive Director,
Californians for Safety and Justice

Lenore is the founder and President of Alliance for Safety and Justice, and founder and Executive Director of Californians for Safety and Justice. She is an attorney with extensive experience working to improve our criminal justice system. She is a regular commentator in the media about challenges within our prison and justice system and new approaches to smart justice. Lenore was the Campaign Chair and co-author of Proposition 47, a California ballot initiative passed by voters in November 2014 to reduce incarceration and reallocate prison spending to mental health, drug treatment, K-12 programs and victim services. The initiative represents the first time in the nation voters have elected to reclassify multiple sections of the penal code to reduce incarceration and reallocate prison spending to communities. Previously, Lenore served as Chief of Policy and Chief of the Alternative Programs Division at the San Francisco District Attorney’s Office, where she spearheaded initiatives to reduce recidivism and improve public safety. She also crafted local and state legislation to aid victims of domestic violence, protect violent crime witnesses, reduce elementary school truancy and reduce recidivism. Lenore also previously served as Director of Public Safety for the Oakland Mayor, overseeing the Mayor’s violence-reduction and police recruitment initiatives, and as Director of the San Francisco Mayor’s Office of Criminal Justice. There she oversaw $10 million in violence-prevention grants, advised the Mayor on public safety matters, and launched a citywide gun buy-back program, Community Policing Task Force and Juvenile Justice Task Force. Lenore serves on the Advisory Board of the Institute for Innovation in Prosecution at John Jay College of Criminal Justice. She is also a cofounder and served as the inaugural Chair of the Board of the Center for Youth Wellness, an initiative to reduce the health impacts of toxic stress on urban youth. She holds a J.D. from NYU School of Law and a B.A. from UC Berkeley, and lives with her family in Oakland, California.
Prosecutors and Crime Survivors | The IIP Executive Session

Jean Peters Baker and Lenore Anderson

The prosecutor “is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer.” Berger v. United States (1935).

Abstract

For most prosecutors, the main focus of their role is centered on whether the prosecutor achieves fair and just convictions. Yet, too little dialog surrounds the second aim of the prosecutor—preventing the suffering of the innocent. Moreover, many crime survivors cope with the impacts of crime without ever laying eyes on the prosecutor or receiving as much as a phone call from the prosecutor's office.

A prosecutor has an affirmative duty to represent the interests of all members of a community, including both those accused of crimes and those victimized by crime. Prosecutors swear an oath of office that they will faithfully and justly support and defend the laws of the community in which they work. The oath illustrates the quasi-judicial role of the prosecutor, one focused on neutrality and impartiality in executing their duties. Their role is not to prevail or to secure criminal convictions; their role is to openly seek justice—a task of great dimension and unlike the role of other lawyers. A prosecutor needs to maintain a degree of detachment from advocacy, as judges do, in order to properly fulfill their role in seeking justice.

Although prosecutors bear an unparalleled degree of responsibility to all stakeholders in the criminal justice system, that responsibility has been too often quarantined to the courtroom. The traditional role of a prosecutor as confined to the courthouse and contained by a criminal indictment has proven far too limited and has failed to effectively address the needs of most victims or to advance public safety to its full potential.

This paper proposes that to truly serve the interests of public safety and better address the needs of crime survivors, prosecutors must look beyond that traditional role and engage communities beyond the courthouse. Rather than relying on police or community members alone to address public safety problems outside of formally charged cases, prosecutors need to expand their role and take on new, nontraditional responsibilities. Although prosecutors must maintain their role in holding accountable those who commit crimes, they must also reimagine their service to survivors of crimes for whom formal criminal charges are never filed. At stake is not only public safety, but also the community's trust in the legitimacy of our criminal justice and public safety systems.

This paper discusses the current obstacles to supporting all victims, including those of uncharged crime, and the impact of those obstacles on victims themselves. It also suggests a path to better meeting the needs of all victims by embracing community partnerships, building community trust, utilizing data, developing expertise on the impacts of trauma, expanding trauma recovery, developing alternatives to traditional prosecution, and utilizing the prosecutor’s voice to garner broad public support for change.
How Can Prosecutors Better Address The Needs Of Crime Survivors?

Jean Peters Baker and Lenore Anderson

As democratically-elected officials and chief law enforcement officials within their communities, prosecutors must strengthen trust with the communities that they serve. When community members—including those most impacted by crime—have faith in the intention and ability of prosecutors, they are more likely to report crimes and to work with the criminal justice system to resolve cases. By building trust within the community and seeking to better meet the needs of crime victims, prosecutors will ultimately strengthen their office’s legitimacy. This, in turn, increases prosecutors’ effectiveness in achieving the ultimate collective goal of public safety.

A prosecutor is typically measured through a narrow lens focused on the number of prosecutions filed and convictions obtained. This practice has led prosecutors to focus only on a small percentage of crime, those cases in which a conviction is attainable. The failure to seek justice in all instances of crime is especially felt by low-income communities and communities of color that are disproportionately affected by crime and have limited access to legal resources or services. Aswad Thomas, a nonfatal shooting survivor who now advocates for crime survivors nationally, describes the impact:

At age 10, I lost my best friend in a senseless drive-by shooting in Highland Park [Michigan], where we both grew up. Afterward, we had no grief or trauma counselors in the community or at our school help us cope and heal after Reubin’s death.

Years later, in 2009, I lacked support again, when I was shot twice in an attempted robbery in Hartford, [Connecticut]. I had recently graduated from college and signed to play basketball professionally in Europe. Those bullets ended my basketball career. I suffered from depression, paranoia, PTSD, and had no place to turn for therapy or emotional recovery.

... Too many crime survivors never receive the care and support they need.1

Given this major gap in support for the majority of crime victims, the question is, “should prosecutors step in to fill this void?” The answer is a resounding yes. Focusing on the harm done to all survivors means not only helping to repair the bullet wound, but also the collateral impact of that harm—including the lost wages, the inability to care for other family members during recovery, the lasting intergenerational and community-wide impact of unaddressed trauma, and the chronic stress that too many survivors experience. It is also this crime survivor who, if better served, could possibly prevent the next violent act from occurring. If trauma were more quickly identified and acknowledged and treatment were more widely offered, perhaps there would be fewer victims in the first place.

PRESENT OBSTACLES TO MEETING THE NEEDS OF ALL CRIME SURVIVORS

When we seek to address the needs of victims of uncharged crime, a number of

tensions arise. Tension arises between providing greater outreach to both victims and the community and the prosecutor’s traditional focus on criminal case proceedings. Tension may also arise between the goals of strengthening community trust through enhanced engagement with all victims and keeping community relations “at arm’s-length” to maintain a quasi-judicial role. There is also tension between traditional concepts of holding guilty parties accountable through convictions and protecting the innocent, grappling with what accountability means for victims, knowing how to best heal the harm caused by crime, and understanding how victims face disparate treatment depending on the nature of the crime and their demographics. Finally, tension may arise between police officers’ perception of the expanded role of the prosecutor as a criticism of their ability to solve cases, rather than as a recognition of the prosecutor’s obligation to fully address the needs of chronically underserved crime survivors.

Prosecutors must embrace these tensions. It is an unacceptable public safety problem that many survivors are left to fend for themselves in the aftermath of crime. Trauma is too often left untreated, initiating a costly domino effect of further harm for a victim, their family, and the broader community.

i. Low Crime Reporting Means Limited Engagement Between Victims and Prosecutors

Low crime reporting results in a limited capacity for criminal justice officials to address crime and advance public safety. More than half of all crimes go unreported, and, of those that are reported, many do not result in prosecution or conviction.² That means that many victims of crime do not engage with prosecutors at all.

This lack of reporting and engagement leads to continued public safety problems and a lack of accountability that deepens mistrust and decreases legitimacy. The result is a “snowball” effect wherein prosecutors are unable to serve victims adequately because of limited reporting and engagement; prosecutors’ inability to respond to victims’ needs further diminishes the trust that victims have in the criminal justice system; the victims’ mistrust further hinders victims’ engagement with prosecutors; and the limited engagement further hinders prosecutors’ effectiveness.

This cycle compromises both public safety and the legitimacy of the criminal justice system as a whole. Violence intervention expert and John Jay College of Criminal Justice professor David Kennedy explains how low rates of arrest and prosecution impact communities: “When cops lack trust in the tiny geographic areas where most shootings occur—and where the penalties for talking to police are well understood—lots of shootings go unsolved. And that leads to more shootings.”³

In many low-income communities and communities of color, this cycle is particularly exacerbated by unfair and biased criminal justice practices. Communities of color have suffered from historically unjust policies, ranging from slavery and lynchings to racially disparate treatment and inconsistent application of criminal justice policies.⁴ Ultimately, if an individual is aggressively prosecuted when she is a defendant but is not supported or treated with dignity when she is a victim, she is likely to have even less trust in the criminal justice system and to be unwilling to engage with the system in the future. National statistics demonstrate the disproportionate impact of crime and violence on communities of color. People of color are 15 percent more likely to be victims of crime, with 18 to 24-year-olds experiencing crime at nearly twice the rate of any other age group.⁵ Further, the rate of victimization among individuals with family incomes of less than $15,000 is over three times the rate of those with family incomes of $75,000 or more.⁶

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Because prosecutors rely on the work of police departments to bring criminal charges in most cases, there can be no charges when a suspect is not identified. Typically, the percentage of nonfatal shooting cases where a suspect has been identified and the case is brought to the attention of a prosecutor represents the amount of information prosecutors have about their communities.

Although limited, the data we do have paints a grim picture of the continuous cycle of low reporting rates leading to low prosecution rates and communities’ lack of confidence in the effectiveness of the criminal justice system. For example, the Major Cities Chiefs Association reported that in 2017, Chicago had 328 homicides and, the number of reported, nonfatal shootings was 1371—over four times the number of homicides. This crisis of under reporting is demonstrated by a single weekend in Chicago in August 2018, wherein 74 people were shot despite an increased police presence in the most at-risk neighborhoods. No arrests were made and no criminal charges were filed, prompting the mayor and the police superintendent to appeal to the community to come forward with information to hold people accountable for the carnage, which included 12 fatalities. Following that weekend, Cook County State’s Attorney Kim Foxx reported remarked “I think it is disheartening that we are at Tuesday after the weekend we had without anyone being charged. The feeling that people can do this with impunity makes the work that much more difficult.”

Likewise, in 2017 in Kansas City, Missouri, the number of nonfatal shootings reported was more than triple the number of homicides: 149 homicides versus 506 nonfatal shootings. Yet, the percentage of nonfatal shooting cases where an arrest or identification of a suspect was made was less than 50 percent. Between 2014 and 2017, an average of 422 nonfatal shootings per year were reported by the Kansas City Police Department. However, an average of 74 incidents per year were submitted to the prosecutor’s office for formal charges, resulting in the prosecution of only 17.6 percent of nonfatal shootings. Thus, 82.3 percent of shooting victims never had their cases addressed by the justice system.

Many other U.S. cities similarly struggle with shockingly low clearance rates, especially in cases involving gun violence and nonfatal shootings. The Federal Bureau of Investigation reported that in 2014, police identified a suspect or made an arrest in just 39.4 percent of aggravated assaults involving a firearm nationally. In 2015, this number fell to just 37.3 percent. The inability of prosecutors to address such a large number of violent crimes further discourages cooperation between victims and prosecutors because the likelihood that criminal charges will be filed is too low to give victims the confidence to bear the risks and burdens of cooperating with law enforcement.

Low crime reporting rates also mean that many crime survivors never receive services to address their trauma. Because many victims’ services are only accessed at the

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11Ibid.
12Data analysis by the Jackson County Prosecutor’s Office of Jackson County KARPEL data system, conducted on July 12, 2018 for non-fatality shooting reported between 2014 and 2017.
point of prosecution, few victims gain access to counseling, compensation, or other forms of support to recover from the crime incident. Thus, many victims are left to suffer from unaddressed trauma and to live in fear of being re-victimized, particularly when the people who perpetrated the crimes are not held accountable. This unaddressed trauma can cause a lifetime of challenges, such as economic or familial instability, mental health or substance abuse issues, re-victimization, and even future criminal involvement.

**ii. The Prosecutor’s Focus on the Courtroom Fails to Acknowledge the Victim as a Whole**

The rights of victims in criminal proceedings have changed substantially in the last few decades. Historically, the role of the prosecutor has been to act as a neutral seeker of justice. The client is the community as a whole, not any single victim, and the prosecutor has a responsibility to vigorously pursue justice in each case using her independent judgment. While the role of prosecutors as neutral seekers of justice remains today, the proliferation of victims’ rights laws across the country has increased prosecutorial obligations to engage with crime victims during the criminal process when a criminal indictment is filed. Most jurisdictions require that victims be notified of criminal proceedings and of their right to be present and heard at different stages of the process. Victims also have rights including restitution and compensation in some circumstances and jurisdictions. As these legal changes have emerged, prosecutors’ offices have adapted. Many now have protocols to ensure victims receive proper notification of criminal proceedings and many prosecutor offices have victim/witness assistance departments to help victims with compensation applications or restitution procedures.

Despite these changes in law and practices, the prosecutor’s obligation to victims is generally limited to instances in which a prosecution has commenced. This means that prosecutors engage victims with a limited view—adhering to basic victim notification laws and focusing primarily on how a victim will present as a witness in the criminal case, how a victim’s participation or testimony will impact the probability of obtaining a conviction.

Although this prosecution-focused engagement is important and understandable, a focus on the criminal proceedings alone is not sufficient to meet the needs of most crime victims or advance the broader goal of public safety.

The emphasis on criminal proceedings prevents many prosecutors from seeing victims as whole persons and survivors of crimes. For example, in cases involving nonfatal shootings, victims may be reluctant to cooperate out of a fear of retaliation, a lack of trust in the likelihood of a conviction, or a fear of their own involvement in street-level violence. Prosecutors often believe that victims who are reluctant to cooperate will not make “good” witnesses because they fear that a victim’s reluctance to testify will lead a jury to construe the victim as being disingenuous. When victims are labeled as either “good” or “bad,” the “bad” victims are more likely to feel disregarded throughout the criminal justice process. Prosecutors struggling with an uncooperative shooting victim may decide not to bring charges at all, which exacerbates the victim’s feeling that she is unsafe. So instead of first asking, “is there a case?” perhaps the first question should be, “is the victim safe?” Only after a victim is safe can recovery occur, even if ultimately there is no criminal case.

**iii. Limited Funding Perpetuates Limited Victim Support**

Despite the growth of victims’ rights in criminal proceedings and greater awareness of the breadth of victims’ needs in the criminal justice system, there is no independently-mandated government function to provide holistic support to victims of crime.

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Although prosecutors’ offices are one of the lead criminal justice vehicles through which victims access support services, the funding for prosecutors’ offices do not reflect this core function and major public safety need. Instead, the funding for prosecutors’ offices reflects the priority and expectation that prosecutors are focused on formal criminal proceedings in pursuit of criminal convictions. As a result, office resources are generally dedicated to supporting attorneys in prosecuting cases, rather than supporting victims. Indeed, budgets are often driven by an analysis of attorney caseloads. Most prosecutors’ offices do not have the resources to carry out a broader mandate to engage with more victims outside the courtroom or to offer more holistic support at the community level to reach victims of uncharged crime.

Although innovative approaches for reaching more victims of crime are emerging in many prosecutors’ offices, those innovations are often under-supported and not fully integrated into the culture of the prosecutors’ office. Many survivors of violence face substantial legal, financial, and mental and physical health issues that require long-term support, but many innovations in crime victim outreach are of limited utility because of the limited amount of support that can be provided by prosecutor’s offices.

**iv. Inequities in Victim Treatment Prevent Many Victims from Getting Support**

The victims’ rights movement has greatly improved the justice system’s responsiveness to the needs of many crime victims and has educated the public on a range of victimization issues that were historically misunderstood or poorly addressed. Although some crime survivors now have advocacy groups that speak up for their rights, not all victims have a public voice. Specifically, there are few established or well-resourced advocacy groups for nonfatal shooting victims, despite the size of the population. As Crime Survivors for Safety’s Aswad Thomas noted, “It’s nearly impossible to focus on healing and safety while trying to pay medical bills, handle inquiries from law enforcement and return to work. Services intended to help survivors are unknown or hard to find. Meanwhile, community groups that have credibility with residents operate with little to no support. This must change.”

In 2011, there were nearly half a million nonfatal shootings nationwide, yet victims of these crimes are not always perceived as “real” victims of crime. This is largely because current and historic racial biases have dominated the public narrative and categorized some victims of crime as unworthy of sympathy. As a result, the public narrative prevents services and resources from reaching those who need them and jeopardizes equal protection under the law.

Even though some victims are engaged in high-risk behaviors that can contribute to cycles of violence and impact prosecutions, many others are not. It is important to recognize that an over-emphasis on victim behavior leads to disparate treatment of victims. Additionally, the complex nature of the cycle of crime is difficult to interrupt without interventions that adequately engage with and seek to support all victims.

The justice system is adversarial and there is often an assumption of a bright-line distinction between victims of crime and those who commit crime, but in reality, crime cycles are more complicated. Much of crime and violence occurs between people who know each other, and research shows that victims and defendants often come from the same backgrounds or communities. Many victims who have great mistrust of the criminal justice system have arrest or criminal records themselves, despite also being the victims of violence. If victims feel blamed by the justice system for their involvement or are treated as if they are at fault for their victimization, they may...
feel isolated and may feel the need to respond to instances of violence on their own. They may disengage from the justice system or seek other avenues to access justice. It is important that all crime victims feel treated with dignity and concern.

v. The Criminal Justice Process Can Exacerbate Victim's Trauma

People who feel blamed for their own victimization may become re-traumatized by their interactions with the criminal justice system, worsening the impact of the initial drama on their overall health and life.

Even initial engagement with the criminal justice system can worsen a victim's trauma. Victims may fear system engagement because they do not want to relive traumatic events, are afraid of exposure to the media or the public, or are suffering from traumatic stress that may be triggered by the stressful experience of going through the criminal justice process. Although increased attention has been paid to the impact of trauma, there remains a knowledge gap among justice system agencies about how trauma, especially repeated or chronic exposure to crime and violence, impacts crime survivors.

Most criminal justice agencies do not have the competency or capacity to train staff about the impacts of trauma for crime survivors or to develop trauma-informed systems to help reduce stress and limit re-traumatization for victims. In turn, victims become more reluctant to engage with the justice system, preventing interactions between justice system representatives and victims that could lead to support.

vi. A Focus on Convictions over Healing Harm Limits Victim Satisfaction

A final obstacle to victim engagement emerges when victims do not want to resolve crime incidents through traditional criminal justice system channels. The emphasis on obtaining criminal convictions and sentences of prison or probation to hold perpetrators accountable has proliferated over decades as state corrections systems have grown, and laws have changed to mandate specific incarceration or probation terms as the required sentences for certain crimes. There are limited options to resolve criminal cases through alternative solutions, despite the fact that many survivors of crime would prefer alternatives to these traditional sentences. When given options such as restorative justice programs or collaborative court models that provide holistic responses to address crime drivers, many victims experience greater satisfaction with the criminal process. Additionally, many participants in these programs experience lower recidivism rates than similarly situated people who are sentenced to incarceration. Yet, the opportunities for victims to advocate for alternative resolutions are limited because few jurisdictions have such options available. Additionally, the prosecutorial obligation to make impartial decisions about how to pursue accountability independent of a victim’s wishes limits consultation with victims regarding alternative options they may be interested in pursuing to resolve a case. Prosecutors should be educated about the potential benefit of alternative models as a way of improving victims’ experiences with the justice system, and should learn to explain such options to victims.

BETTER PATHS FORWARD

Although none of these challenges are easy to address, there are promising efforts already underway that can pave a path forward for prosecutors to strengthen community trust and better meet the needs of survivors, especially victims of uncharged crime.

i. Increase Access to More Comprehensive Data on Victimization

As prosecutors increase their role in supporting victims beyond the courtroom, the need for more complete and accurate data about crime victims becomes increasingly evident. Data across different communities on rates of victimization, how victims access services, and victim satisfaction within the justice system can help prosecutors better understand crime survivors’ needs and aid the justice system in refining its strategies for improving public safety and reducing victimization.

Because many instances of criminal conduct and violence are not reported, other local systems like the public health system often have information about victimization patterns or
neighborhood violence that the justice system often lacks. For example, hospital emergency room data generally indicates that the rate of intimate relationship violence is four times higher than what is reported in the Bureau of Justice Statistics' National Crime Victimization Survey.

Studies have demonstrated the benefits of sharing data between emergency rooms and law enforcement to combat crime and address the needs of those most impacted by crime. Decisions justice system leaders need to make related to resource deployment, community outreach, and the expansion of violence prevention strategies can be greatly improved through communication with local hospitals, schools, and other public systems to understand safety patterns and needs.

Few local or state jurisdictions regularly collect or maintain information about victims or victimization trends, further limiting the effectiveness of criminal justice responses. Beyond collaborating with other public systems that may have more information, prosecutors can also help address the data gap by advocating for state and local jurisdictions to conduct annual victimization studies. These can be modeled after the national annual crime victimization survey, a comprehensive national survey about who experiences crime and violence, which helps paint a holistic picture of victimization without relying solely on reported crime.

In an effort to build trust and identify victims’ needs, prosecutors can increase transparency by sharing internal data and statistics with the public. In 2017, for instance, Cook County, Illinois State’s Attorney Kim Foxx made the unprecedented move of releasing over six years of felony criminal case data. Delineated by intake, initiation, disposition, and sentencing, Foxx’s data report included more than 45 million data points presented in a format that allowed the public to understand and track prosecution information that had not been publicly available in the past. The Cook County data showed that in 2013 only 11 percent of nonfatal shootings resulted in an arrest, and in 2014 and 2015 the percentages of arrests in nonfatal shootings fell to 10 percent and 7.5 percent, respectively.

This data highlighted the urgent need for increased resources for victims of nonfatal shootings in Cook County. With over half a million cases per year, the release of this data served to enhance transparency regarding the decisions and outcomes of the State Attorney’s Office and enabled the Office to use data to track the impact of its prosecution priorities and to communicate with the public.

**ii. Prioritize Community Partnerships to Develop New Approaches to Reach Survivors**

One key to strengthening trust and supporting more victims is the recognition that a focus on convictions and prison time cannot solve public safety crises. The more prosecutors embrace community partnerships as central parts of local public safety strategies, the more collective action beyond the courtroom can grow to support victims and stop cycles of crime. Engaging at the community level and emphasizing support for victims of uncharged crime is a large shift. It is one that needs to be understood as a core concern for achieving safety and must be embraced by partners in the criminal justice system, community partners, and state and local administrators who provide funding for local prosecutor offices.

Prosecutors can embrace and support community partnerships by building relationships with community leaders, championing and investing in community-led safety initiatives, and joining with other elected officials and justice system leaders to collaborate with community partners and launch new public safety strategies.

Some jurisdictions offer pioneering examples of the kind of community partnerships that prosecutors and elected officials should embrace. In Newark, New Jersey, for instance, Mayor Ras Baraka, in partnership with violence intervention expert Aqeela Sherrills implemented the Newark Community Street Teams to work with young people impacted by gun violence. Through this initiative, community members are trained in trauma-informed care as “mediators and interrupters” who engage in outreach and de-escalation to help resolve neighborhood issues.

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conflicts and provide mentoring and support for life skills development for young people. The “interrupters” are on call 24 hours a day and inform the community about access to resources for crime victims and their families while also proactively working to prevent future violence.\(^9\)

Advance Peace, created and led by Devone Boggan, a violence prevention expert, in Richmond, California, seeks to interrupt gun violence by providing conflict mediation, mentoring, and financial support. The goal of Advance Peace is to disrupt the cycle of retaliatory gun violence by offering “peacemaker fellowships” to those young people who are at the greatest risk of becoming either a victim or perpetrator of gun violence. The peacemaker fellows pledge not to engage in gun violence and are given job training and a stipend if they demonstrate positive behavior.\(^19\)

In Watts, California, homicide rates dropped dramatically after community leaders came together to create the Watts Gang Task Force, which formed a partnership between law enforcement and other public agencies. The reductions in nonfatal shootings and homicides have been credited to the relationships between community and law enforcement forged by community need.\(^21\)

Initiatives like these have reduced neighborhood violence rates by building relationships with survivors of uncharged crimes and using nontraditional strategies rooted in community trust. Prosecutors are in a key position in the justice system to legitimize and cultivate support for these and other nontraditional strategies.

### iii. Build Community Trust

Beyond embracing community partnerships as a core public safety strategy, prosecutors’ offices can also directly engage with survivors of uncharged crime to build trust with the communities they serve.

Prosecutors can build mutual understanding through direct outreach and by providing support. For example, in Jackson County, Missouri, County Attorney Jean Peters Baker - a co-author of this paper - and other prosecutors are partnering with community organizations to reach out to witnesses and survivors of crime. Through a program called Caring for Crime Survivors, which aims to help victims of nonfatal shootings within days of the crime without regard to whether the case was solved or charged, prosecutors and community partners knock on doors and coordinate support and services to address the victims’ and witnesses’ immediate needs.\(^22\) The primary focus is addressing needs, not investigation. When prosecutors demonstrate a commitment to the needs and perspectives of those directly impacted by crime, victims experience dignity, support, and concern, and prosecutors build trust. These creative strategies enable prosecutors to understand survivors of crime beyond traditional investigative strategies and better enhance public safety.

For another example of District Attorney-community partnership, consider District Attorney Hillar Moore of East Baton Rouge, Louisiana, who in collaboration with the National Network for Safe Communities at John Jay College, coordinates outreach and home visits. The aim of these “custom notification” home visits is to make contact with individuals who may be at high risk for becoming either victims or perpetrators of gun violence. The goal is to deter all parties from engaging in violence and to offer services and support, including education, counseling, and job training.\(^23\)

Offering services directly to survivors of uncharged crime has the immediate positive


impact of supporting people in the aftermath of traumatic incidents and sending messages of care and concern, which are frequently missing from the experiences that survivors of uncharged crime have when engaging with the criminal justice system. It is important to urgently get help to those in need, thereby supporting survivors and increasing trust between communities and the justice system. This expansion of trust can help improve prosecutorial outcomes as well. When community members – including those most impacted by crime – have faith in the intent and competency of the criminal justice system, they are more likely to report crime and work with prosecutors to solve cases, increasing public safety and law enforcement legitimacy.

iv. Develop Trainings on Trauma and Trauma-Informed Practices

Growing research on the physical and mental impact of trauma on crime survivors demonstrates that survivors experience a wide range of challenges that have dramatic impacts on wellbeing, stability, and life outcomes. Unfortunately, these impacts are rarely understood by the public systems with which victims interact. Survivors are more likely to utilize the justice system to get help and experience the justice system positively if system officials are trained in and capable of engaging with survivors through a trauma-informed lens.

Understanding the impact of trauma on the brain and body can help prosecutors better moderate their interactions with crime survivors and more comprehensively meet their needs. Training and the development of trauma-informed practices can reduce re-traumatization for victims, increase collaboration between victims and prosecutors on cases, and expand opportunities for victims to gain the long-term support needed to recover from crime.

Some prosecutors’ offices are beginning to train staff and partners in responding to the needs of traumatized victims and are taking steps toward revamping prosecutorial practices to be more trauma-informed. Manhattan District Attorney, Cyrus Vance Jr., for example, initiated trainings through the Special Victim’s Bureau for prosecutors on the effects of trauma on the brain, including a discussion of how trauma impacts victims’ memory and reactions to stress.24 Through the office’s Criminal Justice Investment Initiative, the District Attorney is also investing millions of dollars in expanding best practices to address trauma among underserved crime victims, provide support to nonprofit organizations that help survivors recover from trauma, and train justice system personnel to recognize the signs and symptoms of trauma.25

v. Advocate for Greater Victim Access to Trauma Recovery Support

Despite growing awareness about the debilitating impacts of trauma, especially for people exposed to chronic or repeat violence, very few crime survivors have ready access to trauma recovery support. Fortunately, new models are emerging that can provide holistic mental health and recovery support services to survivors to improve wellbeing and life expectancy outcomes. As chief public safety leaders, prosecutors are well positioned to advocate for the development of partnerships that can expand trauma recovery support.

For example, the Trauma Recovery Center (“TRC”) Model emerged from a partnership between local health and criminal justice system leaders to provide holistic, wrap-around, and long-term services for victims of violence. It is focused on providing mental health treatment, justice system navigation, and family support services to victims at the community-level, through community-based organizations, universities, hospitals, and other clinical service providers.26 This collaborative model began in San Francisco as a pilot program for victims of sexual assault, a crime for which there is often very low reporting and prosecution. The TRC model has evolved into

an example of how to deliver trauma recovery support for all types of victims of violence across the nation. Its dual aims are to reduce cycles of violence and address the trauma caused by them.

Initially, while there was some concern that this model would further hinder victim engagement or cooperation with the criminal justice system, the opposite has happened; the San Francisco TRC has seen a significant increase in victim engagement with law enforcement for victims who went through the TRC as compared to those that did not. With health care professionals and social workers trained in case management and crisis intervention support, victims have access to evidence-based services and build relationships with trusted service providers. This model has helped improve crime reporting, access to services, and victim satisfaction with justice system interactions, and has also helped reduce the debilitating impacts of trauma.

The TRC Model has been adapted in Ohio and Michigan, with a particular focus on victims of traumatic violent crimes such as gunshot and stab wounds, gang violence, sexual assault, human trafficking, domestic violence, and hate crimes. Further, each replication of the model has enhanced partnerships between service providers, communities, and the criminal justice system, with particular benefits for prosecutors’ case resolution.

Hospital-based violence intervention programs offer another example of groundbreaking ways to engage with survivors to address trauma. Hospital-based violence intervention programs are dedicated to engaging hospital patients in the immediate aftermath of violence when they are recovering in the hospital after a violent injury, providing trauma-informed care, and reducing the chance of retaliation and recurrence. These programs engage in direct outreach at the point of hospitalization to young victims of violent crime to offer wrap-around support. Such programs have a strong track record of reducing repeat victimization and addressing the long-term impacts of trauma.

Prosecutors can champion the development of trauma recovery centers and hospital-based intervention programs and scale these programs to meet local and statewide needs.

vi. Develop Effective Alternatives to Traditional Prosecutions

As the nation grapples with the extraordinarily high costs associated with the dramatic increases in incarceration, associated disparities, and high rates of recidivism, victims are calling for new solutions that build stronger, safer communities through more balanced approaches to public safety. People most impacted by crime often recognize that safety encompasses a broader set of goals than justice and desire approaches to public safety that emphasize crime prevention, rehabilitation, and trauma recovery. For example, the first national survey of crime survivors, conducted by the Alliance for Safety and Justice, found that when weighing the importance of investments in public safety, victims prefer restorative justice and treatment options to investments in incarceration. In fact, seven in ten “victims prefer that prosecutors focus on solving neighborhood problems and stopping repeat crimes through rehabilitation, even if it means fewer convictions and prison sentences.”

Expanding the options available to hold those responsible for victimization holds promise to build safer communities while addressing the root causes of crime. As we have seen in San Francisco and other places, trauma-informed courts and trauma recovery centers are key to breaking cycles of violence and truly healing communities.

**Footnotes:**


29See, National Network of Hospital-Based Violence Intervention Programs.


who commit crime accountable can reduce recidivism, increase victim participation in the justice system and improve victim satisfaction with case outcomes.

Restorative justice is a leading example of an effective alternative to the traditional criminal justice case resolution processes. Restorative justice is a transformative approach to resolving incidents of crime and violence that uses dialogues focused on solutions to repair the harm caused to the survivor and the community, and to rehabilitate the person that committed the crime. The process prioritizes restoring the victim and addresses the root causes that lead the person who committed the crime to do so. Research indicates that restorative justice programs are more effective than traditional prosecutions at reducing recidivism and improving victim satisfaction than traditional prosecutions and sentences.33

Many local jurisdictions across the country are developing and expanding restorative justice programs as mechanisms to reduce recidivism, support crime victims, and address chronic cycles of crime more effectively.

For example, Common Justice, a nonprofit organization in Brooklyn and the Bronx, offers a groundbreaking restorative justice model that operates as an alternative to incarceration and provides victim service programing so long as the survivors of assault, robbery, and other nonfatal violent crimes consent to the Common Justice model as an alternative to other available sentences. Common Justice operates as a diversion program using a restorative process that acknowledges the harm done, addresses the needs of the harmed person, and develops responses to hold the person responsible for the harm accountable.34

Additionally, the national nonprofit organization, Impact Justice, offers training and technical assistance to seven different jurisdictions through the Restorative Justice Project’s National Restorative Justice Diversion program to develop pre-charge diversion programs to meet survivor needs through “restorative community conferencing” in lieu of traditional responses to youth crime. This model is highly effective at reducing youth recidivism. It brings together the person harmed, the responsible youth, family members, and community members to talk about what happened and its impact. With guidance from the survivor, a plan is created for the young person to make things right, and, once completed, the case is dismissed without being charged.35

Several prosecutors have also pioneered innovative restorative justice initiatives in their offices. San Francisco District Attorney George Gascón, for instance, implemented “Make it Right,” a “restorative community conference” model in partnership with two community-based programs.36 The program was started with particular attention to ameliorating racial disparities in the criminal justice system: African-American young people represented 67 percent of detentions but only six percent of the city’s population. Through Make It Right, young people aged 13-17 who are facing a violent felony charge have an opportunity to participate in a facilitated dialogue with their victim and their supporters—including family, teachers, coaches—with the aim of developing an agreement for the young person to “repair harm, address root causes, and make amends.” With support from a case manager, the young person has six months to complete their agreement, at which time, if successful, the case is not charged. Since Make It Right’s inception, 32 youth have completed the program, with a 14 percent recidivism rate.37

37Ibid.
In King County, Washington, Prosecuting Attorney Dan Satterberg has implemented Peace Circles. This initiative incorporates some of the restorative justice principles of tribes native to the region, with the aim of engaging young people in discussion and conflict resolution as an alternative to detention. Offered through community service rather than detention, over a dozen youth have completed Peace Circles, and the program has coalesced a diverse group of supporters including public defenders, probation officers, Seattle School District representatives, victim advocates, and faith leaders.

Similarly, behavioral health courts, mental health diversion, community justice, neighborhood prosecution programs, and a myriad of other alternatives to incarceration strive to increase public safety without resorting to incarceration. When victims are afforded an opportunity to participate in case resolutions that both meet their needs and address underlying drivers of crime, such initiatives can contribute to their recovery from the crime incident, reduce the likelihood of continued engagement in crime by the person that committed the offense, and provide greater victim satisfaction with the criminal justice process overall.

vii. Use the Power of the Prosecutors Office to Give Voice to the Needs of All Victims

Even beyond initiatives led from within their offices, prosecutors play a very powerful role in the public square. As elected officials and chief local law enforcement officers, prosecutors hold significant influence in shaping both the public’s understanding of public safety issues and decision-makers’ understandings of crime policy priorities. State elected officials rely on the voices of prosecutors to understand public safety matters that come before legislative, gubernatorial, and state administrative bodies. Often, prosecutors’ opinions alone can trump those of other stakeholders or interest groups in determining public safety priorities at the state and local level.

This level of influence is a power that should be wielded with careful consideration. Prosecutors should utilize this influential role to give a voice to the unmet needs of underserved crime survivors. When prosecutors speak to elevate these needs, they bring those needs into focus and help build a coalition around increasing support for underserved community members. Prosecutors can persuasively call for increased investments in community-based victim services programs, street outreach workers and violence interrupters, hospital-based intervention- programs, trauma recovery programs, restorative justice programs, and other largely underfunded strategies that can more capably reach and support survivors of uncharged crime than traditional prosecution models. Advocating for the finances to make these strategies a reality would legitimize prosecutors among decision-makers and the general public, and help innovative programming become core public safety investments in jurisdictions across the nation.

The power of the prosecutor can also be used to bring together stakeholders outside of the criminal justice system and develop partnerships in crime prevention and outreach to victims. Prosecutors can offer their subject matter expertise on crime and victimization to guide collaborative initiatives. For instance, in Kansas City, Missouri county attorney, Peters Baker launched a program with local schools to offer cognitive behavioral therapy and conflict resolution to young people in public schools. This convening power, like the power to have significant influence over public policy, can be leveraged to prioritize the needs of victims of uncharged crimes.

CONCLUSION

Prosecutors are in a unique position to ensure that crime survivors, especially those least served by and least trusting of the criminal justice system, are served and supported. Although the role and defining metrics of prosecutors have traditionally concerned largely charges and convictions, there is an increasing recognition by elected prosecutors, as well as by the communities they serve, that prosecutors
have an obligation to do much more. By stepping beyond the boundaries of the courthouse to meet the needs of crime survivors, prosecutors can better meet their mission to enhance public safety. Through this paradigm shift, prosecutors can fully live up to the oath of their office to represent the interests of all members of a community and to pursue justice.

The cycles of crime and reasons why some survivors’ needs are not met are complex and nuanced. We have touched on the particular lack of support, services, and justice for victims of non-fatal shootings, and have unearthed some of the dynamics behind this gap. It is our hope that this discussion will inspire prosecutors to rethink how they address all crimes and all community members, regardless of whether that person is accused of a crime, is a testifying victim of a crime, or is a victim of a crime who never sees justice in a courtroom.

By embracing community partnerships, building community trust, expanding the availability of data about victimization, developing trauma-informed office practices, expanding trauma recovery and supports, developing alternatives to case resolutions beyond traditional proceedings, and utilizing the power of the prosecutors’ office to bring victims’ experiences and needs to light, prosecutors can cultivate a breakthrough in how the justice system sees and supports survivors of crime.

At a time of significant attention to the need for changes to our nation’s approach to criminal justice, it is critical that prosecutors seize the moment to transform how survivors of uncharged crime, who represents the vast majority of victims, are treated and supported. By placing the needs of survivors of uncharged crime at the center of advancements in victim services, community outreach and public safety priorities, prosecutors have the potential to build a more equitable and effective criminal justice system that strengthens trust with community and gets us much closer to achieving safety for all.
MEMBERS OF THE EXECUTIVE SESSION

Lenore Anderson, President, Alliance for Safety and Justice
Roy L. Austin Jr., Partner, Harris, Wiltshire & Grannis, LLP
Sherry Boston, District Attorney, DeKalb County, GA
John Chisholm, District Attorney, Milwaukee, WI
John Choi, County Attorney, Ramsey County, MN
Darcel Clark, District Attorney, Bronx, NY
Christine Cole, Executive Director, Crime and Justice Institute at Community Resources for Justice (CRJ)
Scott Colom, District Attorney, 16th District, MS
Angela J. Davis, Professor, American University Washington College of Law
James Doyle, Fellow, National Institute of Justice
Kim Foxx, State’s Attorney, Cook County, IL
Karen Friedman-Agnifilo, Chief Assistant District Attorney, Manhattan District Attorney’s Office
Adam Gelb, Director of Public Safety Performance Project, Pew Charitable Trusts
Mark Gonzalez, District Attorney, Nueces County, TX
Bob Gualtieri, Sheriff, Pinellas County, FL
Frank Hartmann, Senior Research Fellow, Harvard Kennedy School
David Kennedy, Director, National Network for Safe Communities
Lucy Lang, Executive Director, The Institute for Innovation in Prosecution at John Jay College
Marc Levin, Vice President of Criminal Justice, Texas Public Policy Foundation & Right on Crime
Carlos J. Martinez, Public Defender, Miami Dade, FL
Beth McCann, District Attorney, Denver, CO
Hillar Moore, District Attorney, East Baton Rouge, LA
Jean Peters Baker, County Prosecutor, Kansas City, MO
Charles H. Ramsey, Former Police Commissioner, Philadelphia Police Department
Jeff Robinson, Deputy Legal Director & Director of the Trone Center for Justice and Equality, ACLU
Dan Satterberg, Prosecuting Attorney, King County, WA
David Sklansky, Stanley Morrison Professor of Law, Stanford Law School
Carter Stewart, Managing Director, Draper Richards Kaplan Foundation
Jeremy Travis, Former President, John Jay College of Criminal Justice & Executive Vice President of Criminal Justice, Laura and John Arnold Foundation
Tori Verber Salazar, District Attorney, San Joaquin County, CA
Cyrus R. Vance Jr., District Attorney, Manhattan, NY
Lynneice Washington, District Attorney, Jefferson County, AL
Ronald Wright, Law Professor, Wake Forest University
Ellen Yaroshefsky, Howard Lichtenstein Professor of Legal Ethics & Director of the Monroe Freedman Institute for the Study of Legal Ethics