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Between Violent Crime and Progressive Prosecution in the United States

Abstract

This report analyzes data on crime and violence across hundreds of cities and counties in the United States between 2014 and 2023 to appraise the relationship between violent crime and prosecutors deemed "progressive." We find no evidence to support the claim that prosecutors of any type were responsible for the increase in homicide or other violent crimes before, during, or after the pandemic. Instead we infer that fluctuations in violence and crime during this period are likely rooted in the changing social ecology of urban centers and rural areas. We recommend that further analyses of violent crime be supplemented by quantitative research on social inequality and qualitative research into the documented practices of prosecutors in cities and counties that record divergent patterns in violent crime.

Author Collective: Todd Foglesong, Ron Levi, Léo Henry, Enrique Bouchot, Emma Wildeman

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Executive Summary

This report examines the relationship between violent crime and prosecution across cities and counties in the United States between 2014 and 2023, focusing primarily on jurisdictions for which there are (1) reliable data on the incidence of violent crime recorded by the police and (2) publicly available data on the practices of prosecutors. The first condition limits our analysis to four violent crimes (rape, robbery, homicide, assault) rather than the broad experience of crime and victimization. The second condition reduces the number of jurisdictions in which the relationship between crime and prosecution can be studied carefully: few public prosecutors publish data about pivotal decisions such as the rate at which they decide to sustain charges against suspects that have been arrested by the police or the frequency with which they dismiss cases and the profile of defendants they divert from criminal prosecution.

We supplement this analysis in three ways: First, we inspect data on homicides across all metropolitan statistical areas of the United States, which are recorded as "injury deaths" by the Centers for Disease Control and Prevention. These data multiply the number of cities and counties for which we can analyze trends in lethal violence; they also do not depend on police recording practices. Second, we investigate trends in shoplifting, which comprises a small portion of all larceny/theft recorded by the police yet is a concern that animates public debate about the role of prosecution in public safety. Third, we examine prosecutors' decisions in four big cities – San Francisco, Portland, Los Angeles, and the five boroughs of New York City – to ascertain whether there are relationships between (a) rates of recorded crime and (b) decisions to not prosecute defendants, for which prosecutors are singularly responsible.

Key Findings

Across multiple data sources and over the last decade, we find little evidence to support the idea that prosecutors of any political identity are associated with statistically significant increases or decreases in rates of major violent or property crime. We also find that the variation in crime across cities and counties does not correlate with police clearance rates or non-prosecution rates, which suggests that the operations of individual agencies in the criminal justice system such as police departments or prosecution offices are unlikely to explain large changes in crime. Taken together, these findings indicate that thorough explanations for divergent patterns in crime require closer examination of the changing social ecology of large urban areas.

Caveats

These findings come with five caveats.

First, data on victimization collected by the federal government and the commercial polling firm Gallup both suggest there may have been increases in certain kinds of violence as well as other crimes that are not captured or consistently recorded by the police. These data cannot be disaggregated by city or county, however, so there is no way to know whether cities that reported declines in major violent crime also experienced increases (or decreases) in other types of violence. Until the incongruity between the data from the National Crime Victimization Survey and the FBI's uniform crime reporting system is resolved, doubt about the precise amount of crime and violence within and across jurisdictions will persist.

Second, our analyses focus on violent crime in major cities, most of which are surrounded by suburban and rural areas that are policed by law enforcement agencies whose statistical information we could not obtain. We manage this limitation by separately analyzing crime trends where the city and county are contiguous (i.e. "consolidated counties") and inspecting CDC data for rural and urban areas of the country. Nevertheless, we cannot conclude that prosecutors have no effect on all types of crime in these suburban and rural jurisdictions since there are too few contiguous counties to resolve the question dispositively and the CDC data only offer evidence on homicide.

Third, our reliance on aggregate measures ignores variation within communities and between neighborhoods that may shape the causes, experiences, and meaning of crime and insecurity. For instance, we have not yet examined patterns in the spatial or demographic concentration of violence within cities and thus whether changes in homicide coincide with or diverge from socio-economic and geographic divides. We also have not assessed whether "hot spots" of violent crime have intensified or whether they are now more dispersed or scattered than they had been in the past. Recent research on homicide in Philadelphia suggests that violence has become more concentrated, not less; research on this question in other cities is still underway.

Fourth, in only a few cities do we have data on the incidence of misdemeanors and the conduct of suspects and defendants and who were arrested but neither charged nor booked into a detention facility and/or whose release or non-custodial sentences stemmed in part from the recommendations of prosecutors. Rates of offending in this population might have increased, as might the incidence of re-arrest for infractions,

misdemeanors, and probation violations, all of which should count in a full audit of crime.

Fifth, we have not examined or ruled out the possibly intervening or interactive effects of changes in local governance and public policy such as new legislation on bail and the consumption of illicit drugs, turnover in city and county government, and the role of federal and state agencies, community organizations, and oversight bodies in shaping the conduct of law enforcement. All these things are widely believed to play a role in sustaining social order and improving public safety.

Future Research

Our findings indicate that major changes in crime are not explained by prosecution or the system of criminal justice. This finding is supported by much criminological and research that finds that disruptions in the social ecology of big cities, including shifts in the operations of drug markets, new patterns in substance abuse, and deteriorating economic conditions such as homelessness and high rent burdens are associated with change in rates of violent crime. Because these conditions might be affected by the actions of local government, future research might examine how the social ecology of cities and counties interacts with the policies and practices of justice agencies as well as the supports that local governments put in place or withdraw during times of social strain.

Three additional findings in this report shape the design of our own future research.

First, there is more homicide today in many major cities than there was nine years ago. Despite the decline in homicide across the United States in 2023 and the apparent continuation of that trend so far this year, the homicide rate in over a dozen cities, including Seattle and Portland, Denver and Dallas, Milwaukee and Memphis, is twice the level nearly a decade ago. In over a dozen other cities, the homicide rate in 2023 was more than 50 percent greater than in 2014. We need fresh explanations for the increase in lethal violence during the pandemic, a better understanding of how violent crime has changed over the past decade, and new studies of how sudden and possibly pendular shifts in homicide affect operations in criminal justice.

Second, this difference in the level of homicide in big cities may have altered people's base sense of safety as well as their perceptions of and interactions with the police and criminal justice. Gallup data indicate there has been an appreciable increase in reported fear of crime, particularly among women, as well as perceptions that crime is increasing "in my area," alongside more fervent beliefs that crime and drugs are a serious problem locally and nationally. The way these public opinion data are

collected and reported makes it impossible to assess whether or how victimization, local modifications in policing and/or prosecution, and major social events influence such views. And yet justice officials under pressure to respond to alarm about public safety need information and insights that help them understand the beliefs of residents, including those with whom they do not directly interact. Future research might investigate whether opinions and perceptions of public safety are growing more or less divergent from individual experiences and government data about the incidence and prevalence of crime.

Third, there is no single pattern to crime in the United States and substantial variation in the way local justice officials respond to changes in crime. For this reason, many scholars recommend that future research on crime and prosecution be local or hyper-local. For instance, eschewing the concept of a "national trend" in crime, Peter Moskos, a criminologist and former police officer in Baltimore recently concluded: "To understand the meaning behind crime data, we need to focus on the local level: the city, the neighborhood, the block and even the individual." Studies of divergent patterns within cities that make up large counties such as Los Angeles may help identify this meaning.

Outline

The report begins with an account of changes in violent crime over the past decade. We analyze the data on four types of violent crime in cities that participate in the Major Cities Chiefs Association, and then consider the data on homicide from the Centers for Disease Control and Prevention, which comes from statistics on the number of "injury deaths" in all counties across the United States. The CDC data extend the geographic reach of our analysis of violence and permit us to appraise whether homicide increased more in urban centers than rural areas. Next, we analyze data on shoplifting, focusing initially on the cities participating in the MCCA and then on all cities and states. Then we appraise the effects of prosecution on violent crime by analyzing declination rates in four large cities – San Francisco, Portland, New York, and Los Angeles. In the penultimate section we examine the decline in police clearance rates and their relationship to recorded crime. Finally, we outline our future research on the social ecology of violence and the evolving range and repertoire of progressive prosecution.

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I. National Debates, Local Challenges

The publication of data depicting a decline in violent crime since the end of the pandemic has been greeted with giddy optimism. In January of this year, the Los Angeles Times celebrated what it dubbed a "double-digit drop" in violent crime in 2023. NPR reported that "crime is dropping *fast*." Forbes and ABC announced that the decline in violent crime over the preceding year was "historic," citing Jeff Asher, a prominent analyst, who said homicide rates are "plummeting" in the United States. Even before the end of the year in 2023, the police chief in Fort Worth was so confident about the future that he promised his department would henceforth be "going for double-digit decreases [in crime] every single year."[1]

This enthusiasm overlooks an increase in the base level of homicide in the country over the last decade, which some criminologists say deserves more attention.[2] It also implies a single national story to the rise and fall of crime in the United States that is belied by the data we examine here as well as by prior research on divergent patterns in crime over a longer period of time.[3] For instance, the number of homicides increased in 2023 by more than 30 percent in seven cities of different size, shape, and history, including El Paso, Greensboro, Topeka, Shreveport, and Washington DC. There also were moderate to large increases in homicide in a few dozen small and mid-sized municipalities. The cities that recorded the greatest *declines* in homicide last year also vary in size, geography, demography, and history: Atlanta, Chesapeake, Buffalo, Fresno, Long Beach, Miami, New Orleans, Pittsburgh, San Antonio, San Jose.

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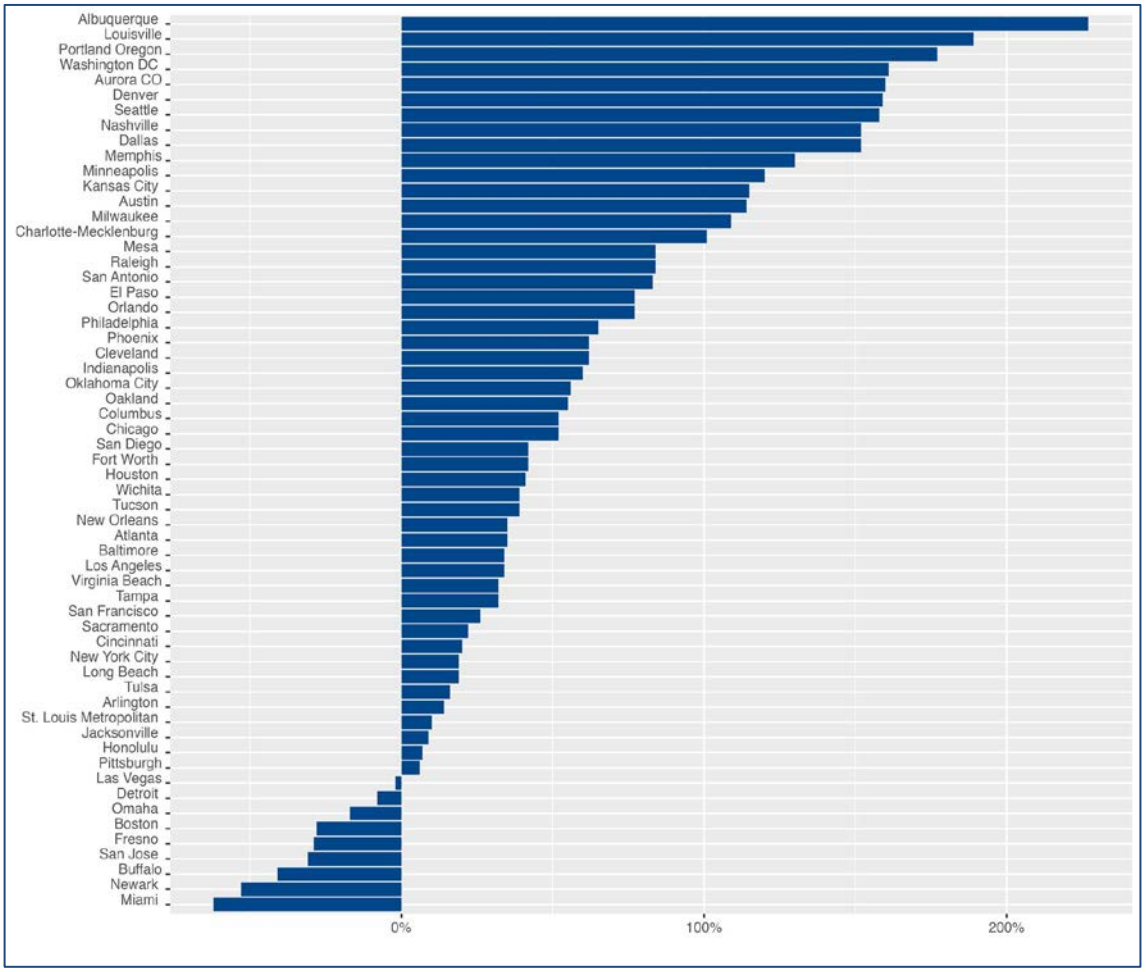
[1] See Amelia Mugavero, "City of Fort Worth gives update on 2023 crimes," CBS News Texas, December 19, 2023, available here.

[2] The Council on Criminal Justice counseled against triumphant reporting about the recent decline in homicide for this reason; see the press release "Homicide, Gun Assaults, Most Other Violent Crimes Fall in US Cities but Remain Above Pre-Pandemic Levels," January 25, 2024.

[3] Frank Zimring's *Great American Crime Decline*, perhaps the most widely cited book on aggregate trends in recorded crime, claimed that minor changes in urban conditions explained a large proportion of the decline in violent crime in the 1990s. Roland Chilton and William Chambliss later showed how this decline occurred at a different paces and to different degrees in cities with exceptionally high homicide victimization rates such as New Orleans, Cleveland, and Memphis, and that only modest declines were recorded in Baltimore, Chicago, and Philadelphia. See Roland Chilton & William J. Chambliss, "Urban Homicide in the United States, 1980-2010: The Importance of Disaggregated Trends," *Homicide Studies*, v 19 (2015).

The extent of this variation is captured in Figure 1, which depicts change in homicide rates between 2014 and 2023 in 59 of the cities represented by the Major City Chiefs Association (MCCA).[4] It shows not only that homicide rates are much higher today -- in only 9 of these cities was the homicide rate in 2023 lower than it was in 2014 -- but also there are substantial disparities in the amount of the increase. For instance, there is more than twice as much homicide per capita today in over a dozen cities, but just a fraction more in Pittsburgh, Honolulu, and Jacksonville.

Figure 1: Change in Homicide Rates per 100000 population, 2014-2023, 59 cities, Major Cities Chiefs Association



[4] The law enforcement agencies of sixty-nine cities and counties in the United States are members of the Major City Chiefs Association, as well as six cities in Canada. We omit data from the 10 counties, many of whose residents live in rural and suburban areas and thus are not comparable to cities.

This broad finding is echoed by researchers relying on a larger number of cities and counties. Jeff Asher's "murder dashboard," which tracks annual change in the incidence of homicide in over two hundred cities, shows a wider range of patterns in crime changes. Peter Moskos's portrait of homicide in 84 cities and counties in 2023 highlights an increase in the incidence of homicide in 25 cities, no change in 4, and decreases in another 55, leading him to renounce "thinking in terms of a 'national trend' in crime." Raphael Mangual, analyzing a different set of data, was more emphatic: "using national crime rates to suggest a general direction the nation out to take in criminal justice policy is exactly the wrong way to approach these issues."[5]

The divergent trends across cities and volatility over time in violent crime within many cities make it unlikely that a rise or fall can be explained by any single factor. It may also mean that schemes for curbing violence and the wide array of prevention and suppression strategies funded by city councils and state legislatures will not work in the same way everywhere. A widely cited ABC news report highlighted this starkly by reporting claims that reductions in homicide in some cities may have been the result of *increases* in police patrol and presence while in other cities they may have been the result of *decreases* in police officers.[6] What works in one setting may not work in another, and may not work the same way over time.

This diversity also raises fresh questions about the reasons for the surge in violence in the first place as well as the sources and sustainability of the recent decline. If it is true, as the Council on Criminal Justice claimed earlier this year, that "big social and economic forces [were] behind the sharp upward trends [in crime] that began in 2020," then can the decline registered in 2023 continue without pacifying these adverse forces? If it is false, then what do we need to know about the attributes of cities that experienced the greatest increase in homicide as well as the traits of cities that avoided and possibly suppressed the surge with remedial schemes?[7]

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[5] See Peter Moskos, "Homicide: Life in the Stats," and Raphael Mangual, "What Crime Stats Fail to Show," both published in *Vital City*, February 28, 2024, available here.

[6] See Bill Hutchinson, "It is Historic: US Poised to See Record Drop in Yearly Homicides Despite Public Concern Over Crime," ABC News, December 23, 2023. The same report touted community violence interrupters, shot spotter technology, the post-Covid resumption of trials, and a reduction in court backlogs as possible explanations for the reduction in homicide in different cities.

[7] The Council's report from January 2024 also emphasized substantial variation between cities and crime types and suggested "local factors are becoming more significant" in shaping trends.

A. Do Prosecutors Cause Crime?

Explanations for change in crime in the United States typically take one of three forms: (1) disruptions in the social and economic environment, (2) changes in individual behavior and group dynamics, and (3) shifts in criminal justice policy and institutions. Our report closely examines one possibility that has been attributed to shifts in criminal justice policy – namely, the election of district attorneys and state attorneys who promised "progressive" approaches to public prosecution. The idea that the election of a few dozen progressive prosecutors is responsible for the increase in violent crime in the United States has been raised by public officials and criminologists who argue that the emergence of progressive prosecutors has either caused or is "causally associated with" an increase in homicide because of (a) new messaging about criminal justice and/or (b) less frequent prosecution and incarceration of offenders apprehended by the police.[8]

This hypothesis about the effects of progressive prosecution on crime is methodologically difficult to test, as we explained in an earlier research report. First, there is no consensus or objective criterion by which to distinguish between progressive and non-progressive prosecutors. On what basis, for instance, might one conclude that the prosecutor for Seattle between 2007 and 2023 was "progressive," or less progressive than, say, peers in Albuquerque, Milwaukee, and Tampa? A second problem is the scarcity of reliable data about the practices in prosecution offices. Most public data about what prosecutors do is fragmentary, difficult to obtain, and incommensurable across jurisdictions. A third problem is uncertainty and disagreement about how to measure and compare patterns in crime and violence across places. Is the homicide rate the best gauge of change in crime, or is an index or composite measure of all types of violent crime more appropriate? What about variation in the degree of concentration of violence within cities – should that be part of an appraisal? Would cities with high or low per capita rates of violent crime be more likely to register the effects of changes in public prosecution?

One way to manage the first problem is to use the taxonomy proposed by Thomas Hogan, who distinguished between prosecutors that are "progressive," "traditional," or somewhere in the "middle" after analyzing declarations and promises made by

[8] For adamant expressions of this idea, see Thomas Hogan, "De-prosecution and death: a synthetic control analysis of the impact of de-prosecution on homicides," *Public Policy and Criminology*, 21/3, 2022, and Rafael Mangual, *Criminal (in)Justice: What the Push for Decarceration and Depolicing Gets Wrong And Who It Hurts Most*, Manhattan Institute, 2022.

prosecutors before and after an election. Although the reliability of Hogan's methodology has been debated at length elsewhere and his classification scheme did not appraise the documented practices of prosecutors, we nevertheless rely on his taxonomy here to sort data on crime from dozens of cities. [9] The second and third problems have no ideal solution, and because there is no national data base that permits comparisons of the distribution of violence within and between cities, we focus on change in per capita rates of crime over several types of violent time in this report. We confront the shortage of data on the practices of prosecutors in Section II.

B. MCCA data on Violent Crime

We begin by comparing changes in the homicide rate in sixty-two cities between 2014 and 2023, seventeen of which Hogan deemed "progressive," 19 considered "traditional" and 26 labeled "middle." Using Hogan's classification, Figure 2 shows that, on average, homicide rates increased in cities served by all three kinds of prosecutors between 2014 and 2016, followed by appreciable declines in cities served by Traditional prosecutors in 2016 to 2019. In 2020 cities with Progressive and Traditional prosecutors both recorded increases in homicide during the pandemic: the spike was steeper and more severe in cities with "progressive" prosecutors, yet the cumulative increase during the pandemic was greater in cities with "traditional" prosecutors. In 2022 and 2023, homicide rates fell in equal measure in cities with traditional and progressive prosecutors. As an average across cities with traditional and progressive prosecution, homicide rates seem to be reverting to earlier levels. [10]

[9] See the rejoinders to Hogan's article and his further reply in "De-prosecution and Death: A Reply to an Imprecise and Ideological Critique," Public Policy and Criminology, 22/1 (2023)

[10] John Roman, a criminologist at the University of Chicago, reports that the decline in homicide recorded in the first quarter of 2024 is "twice as large" as the decline in the first quarter of 2023 and may be "accelerating," in a blog, "Violence is Plummeting in the US," available here.

Figure 2: Per capita rate of homicide in 62 major cities in the US, by prosecutor type, 2014-2023

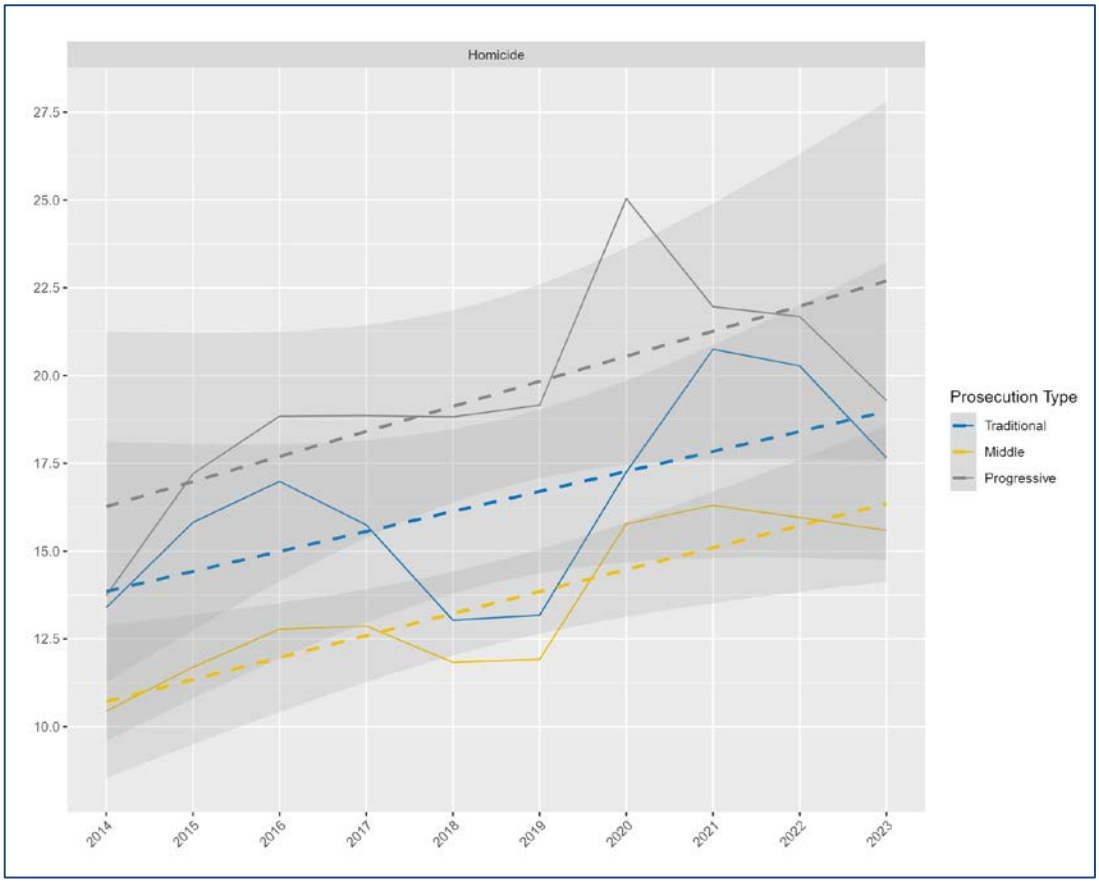
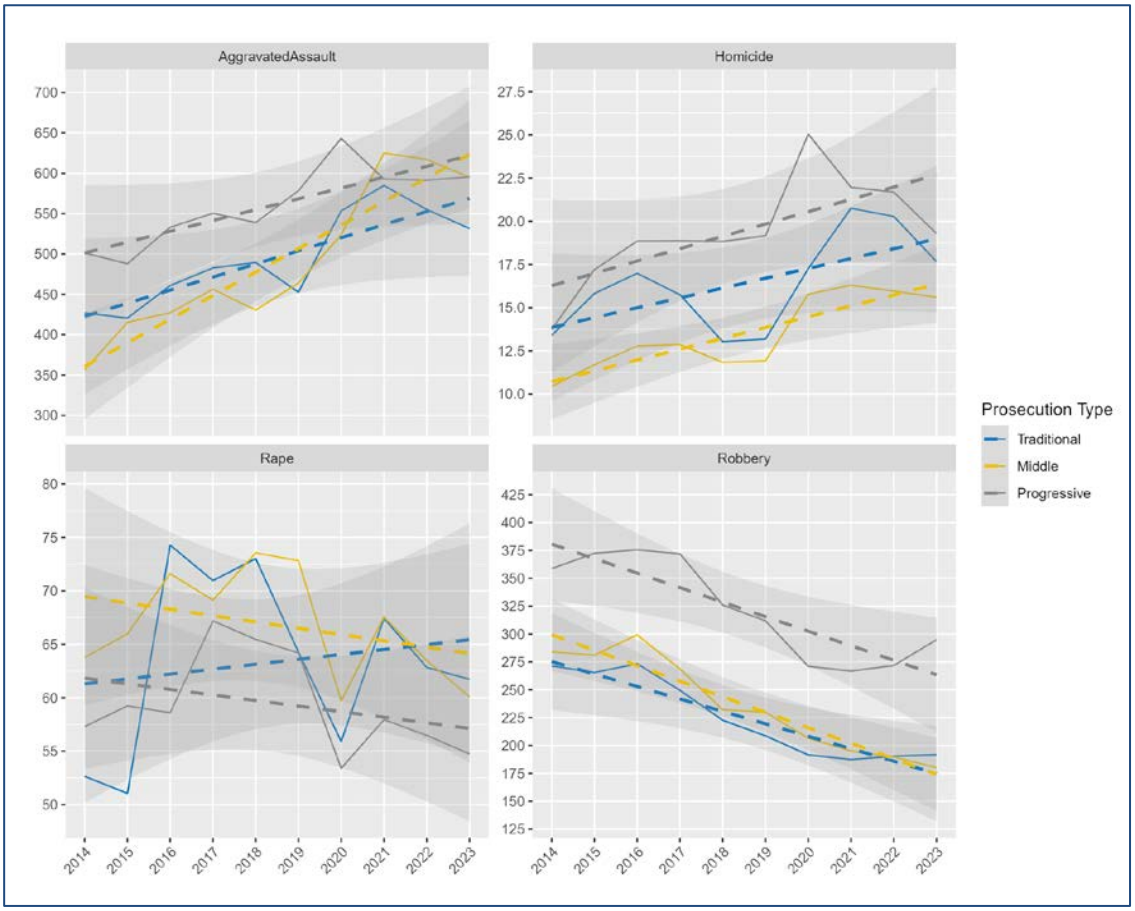


Figure 3 similarly casts doubt on the hypothesis of progressive prosecutors' responsibility for shifts in violent crime by comparing rates of homicide with aggravated assault, rape, and robbery. It shows that between 2014 and 2023 average rates of aggravated assault increased more in cities served by prosecutors considered Traditional and Middle than those deemed Progressive, and that average rates of rape and robbery decreased more in cities with progressive prosecutors. However, there is no statistically significant relationship between these changes and the political identity of the prosecutor in these cities. Accordingly, we conclude that the changes in rates of violent crime during this period must have been influenced by forces other than the "type" of elected prosecutor in the jurisdiction.

Figure 3: Per capita rate of four violent crimes in 62 major cities in the US, by prosecutor type, 2014-2023

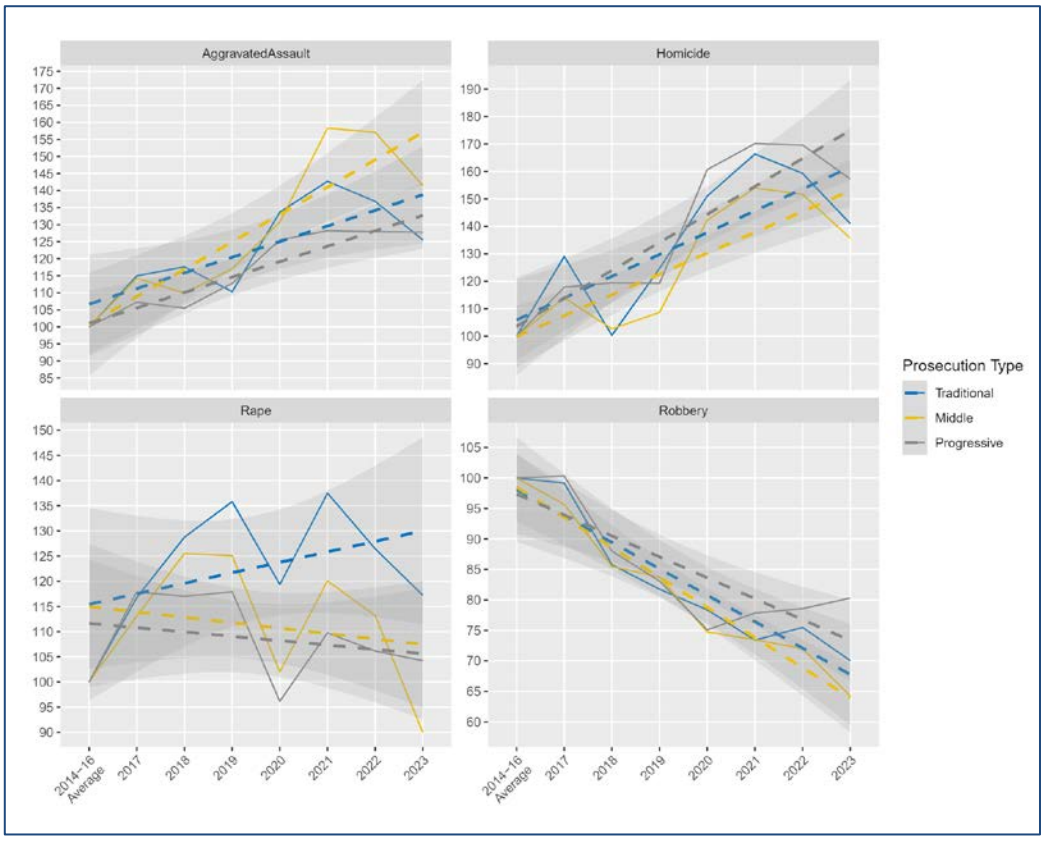


Note that our analysis in Figure 2 and Figure 3 above begin with 2014, which is the first year MCCA published these data. This is itself an arbitrary starting point. If instead we were to begin the comparison in 2018, cities with progressive prosecutors would appear to have experienced a smaller yet more sudden surge in homicide and a much faster recovery from the spike. Notice also that different cities begin with different baseline rates of homicide (indeed, rates of homicide, robbery, and aggravated assault are typically higher in cities that elected progressive prosecutors).

To remove the arbitrary starting point and commensurate change in cities with disparate levels of homicide, the charts in Figure 4 below extend our analysis of the rates of violent crime across all cities, now using the average rate for 2014-2016 as the starting point for each city. It shows that homicide and robbery rates increased and declined, respectively, in nearly equal proportions regardless of prosecutor type, that aggravated assault increased less in cities with progressive prosecutors, and that rates of rape increased more in cities served by traditional prosecutors. These

measures further suggest that the type of prosecutor has had no independent effect on levels and trends in violent crime.

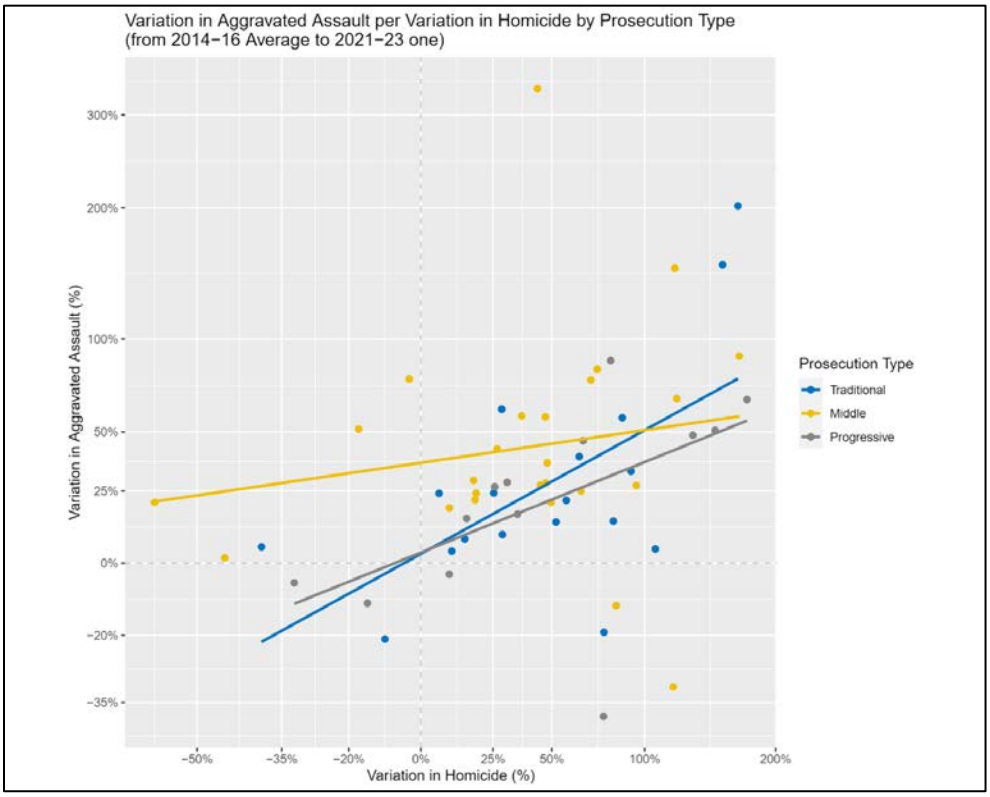
Figure 4: Change in Indexed Rates of Four Violent Crimes Recorded by the Police, 2014-2023



We also examined whether an increase in Homicide coincides with an increase in Aggravated Assault, which is a far more common type of violent crime (on average, there are 36 assaults per homicide in cities participating in the MCCA). Figure 5 below displays the relationship between these two violent crimes across the array of cities in the MCCA according to the type of prosecutor that serves them. It shows that there is a clear relationship between homicide and aggravated assault, with incremental increases in one co-occurring with the other. This relationship holds true for most cities, regardless of the type of prosecutor serving that city, though it is slightly stronger for cities with traditional prosecutors than those with progressive or middle prosecutors. Note, though, that there is no clear clustering of prosecutor types and roughly equal numbers of cities with progressive prosecutors and middle prosecutors defied the trend toward more violent crime. Two cities with progressive prosecutors recorded no increase in homicide combined with a decrease in aggravated assault, while three cities with Middle prosecutors recorded a decline in homicide and a

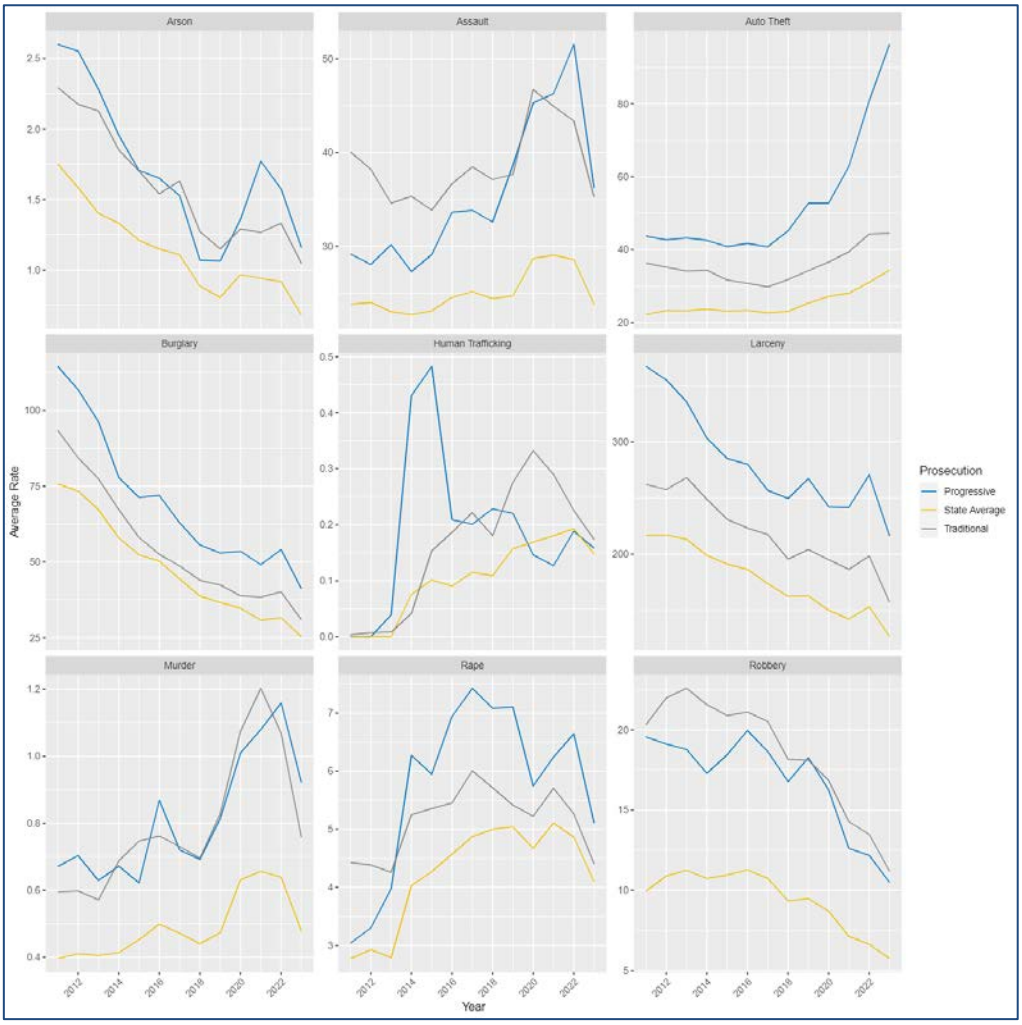
modest increase in assault. In short, the most relevant finding here is that the degree of variation between cities with a common prosecutor type is greater than the variation between cities that have different types of prosecutors. This variation further suggests that types of cities are more salient than the type of prosecutor for understanding variation in levels and rates of increase in violent crime over time.

Figure 5: Relationship between Homicide and Aggravated Assault, Logarithmic Scale, MCCA data



Finally, we extend our analysis beyond violent crime to include property crime such as burglary or larceny. In Figure 6 below, we focus on Texas to control for minor variation in the way penal codes of different states define property crimes. We find that in cities with progressive prosecutors, per capita rates of auto theft and larceny are considerably higher, a disparity that precedes but also increases after their appointment (in 2018 in Dallas and San Antonio, and 2020 in Austin). Moreover, auto theft skyrocketed after 2020 in the three cities with progressive prosecutors, while increasing slowly in all other cities. That said, we find that rates of burglary and larceny fell throughout this period in all cities, regardless of prosecutor type, and that rates of homicide and assault increased in roughly equal proportions and similar times for cities of all prosecutor types in the state.

Figure 6: Crime Rates in Texas by Offense Type, 2014-2023.

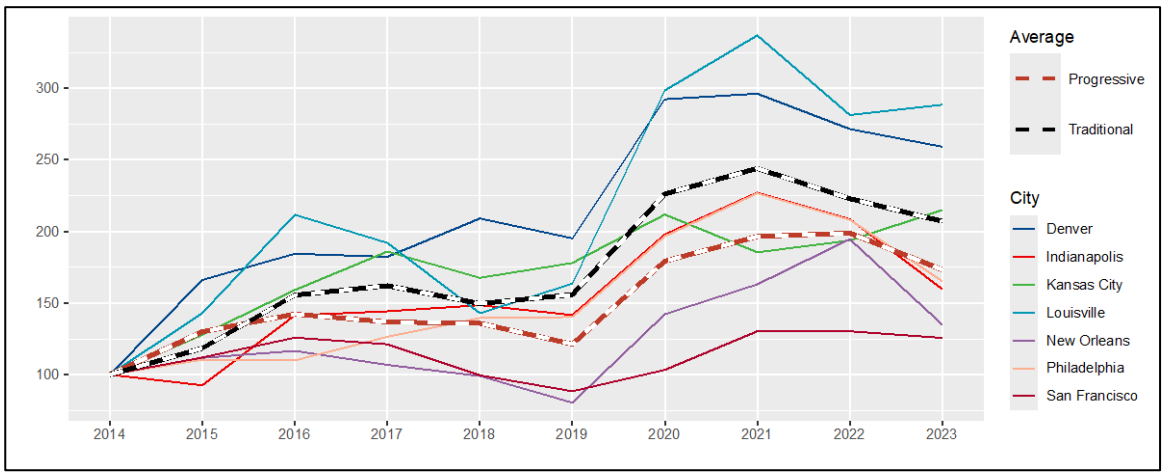


From cities to counties

One of the limitations of the MCCA data is the misalignment of data on crime, which is based on cities, and the jurisdiction of prosecutors, which in most states encompasses the broader county. Most prosecutors serve more than the metropolis, prosecuting (or not) individuals arrested by law enforcement agencies in suburban and rural areas whose crime data are not included in the MCCA reports. To gain purchase on this methodological challenge, we conducted a separate analysis of crime trends in those few cities in the MCCA data set that are contiguous with county governments, or "consolidated." There are only seven such cities, only three of which were served by prosecutors not considered progressive. While representing a small number of cities, Figure 7 shows that the indexed rate of change in homicide was

greater in the two consolidated city-counties served by prosecutors considered "traditional" (Indianapolis, Kansas City, Louisville). This could mean that progressive prosecutors suppressed the increase in homicide in the other five cities or it could mean that some other factor explains the variation.

Figure 7: Indexed Rate of Change, Homicides per 100k, Consolidated Counties, MCCA



C. CDC data on "Injury Deaths"

There are several reasons why we turn our attention here to data on the number of "injury deaths" certified by a medical examiner or coroner and reported to the Centers for Disease Control and Prevention. First, the MCCA data do not include cities with populations below 250,000. Second, the police departments of several cities whose populations exceed a quarter million are not members of that organization (Spokane, Scottsdale, Greensboro, Lubbock, and Laredo, for example). Third, these data help us manage the misalignment between the city and county in most jurisdictions participating in the MCCA; most elected prosecutors serve a large county, which may comprise multiple municipalities.[11] In short, CDC data on injury deaths cover over 1000 counties and lend our analysis greater geographic reach.

Another virtue of the CDC data is that they direct attention to the diverse socio-economic and demographic attributes of communities in which most violence occurs, which vary greatly even across cities with high rates of homicide. Debates about whether there is more violence in "red-states" or "blue-states" have pushed attention toward public safety policies, gun legislation, electoral districting, the dispositions of

[11] State Attorneys in Florida and District Attorneys in Colorado serve judicial districts, which typically encompass several counties.

voters, and the identity of elected officials at the level of state government as possible explanations for variation in lethal violence across the US. And yet the preoccupation with state-level politics and policies is misplaced, according to two researchers at the Manhattan Institute; it also might be mischievous. "If we look at the county level," they argue, "democratic areas seem particularly murder-ridden; but when we look at the state level, Republican states are clearly more violent."[12] Instead of focusing on politics, they conclude, we should scrutinize "the merits of actual policies," especially those adopted by local government and law enforcement agencies.

Yet another reason to examine data from the CDC is to understand variation in the evolution of homicide rates in rural and urban areas, about which there also is active political debate. For example, using CDC data, Mike Males, a researcher at the Center for Juvenile and Criminal Justice, recently claimed that "rural America (especially in states governed by conservatives) has become dramatically more dangerous, with much larger increases in homicide and gun killings than in large cities in liberal states."[13] That claim echoes beliefs that an epidemic of violent crime in large US cities has spread to rural America.[14]

Homicide in Urban and Rural Areas

Our analysis below focuses on variation in homicide rates in the six types of "major statistical areas" the CDC uses to sort health data across counties the United States: (1) large central metro; (2) large fringe metro; (3) medium metro, and (4) small metro, (5) micropolitan, and (6) non-core.[15] This classification scheme is not ideal for comparing violence in rural and urban areas since "large fringe metro" corresponds to what the CDC terms a "suburban" area. The CDC's also data cannot refute or confirm claims that progressive prosecutors cause or exacerbate crime since there are too few Major Statistical Areas with progressive prosecutors in the data set to test the proposition systematically. Nevertheless, we reason that if the extent of variation in homicide between metro and non-metro areas is greater than the variation between cities with progressive and less progressive prosecutors in the

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[12] See George Borjas and Robert VerBruggen, "The 'Red' vs 'Blue' Crime Debate and the Limits of Social Science," Manhattan Institute, February 8, 2024, available here.

[13] See Males, "Where are Murder Rates Actually Higher?" in *LA Progressive*, November 25, 2023. https://www.laprogressive.com/law-and-the-justice-system/homicide-and-gun-murder-rates

[14] In 2022, the Wall Street Journal reported that "urban violence has *reached* America's smallest communities." See Dan Frosch et. al., "Murder Rates Soar in Rural America," *WSJ*, June 19, 2022.

[15] An explication of the CDC's taxonomy and counting rules can be found here.

MCCA data, then something other than prosecutor identity has a greater influence on changes in rates of homicide.

Figure 8 below shows that between 2014 and 2022 injury death rates increased most in "large central metro" areas (90%), followed by medium metro (51%) and then small metro areas (50%). The least change (17%) was recorded in large fringe metro areas, which are "suburban." The most metropolitan areas, in short, recorded the greatest proportional increase in injury deaths per capita.

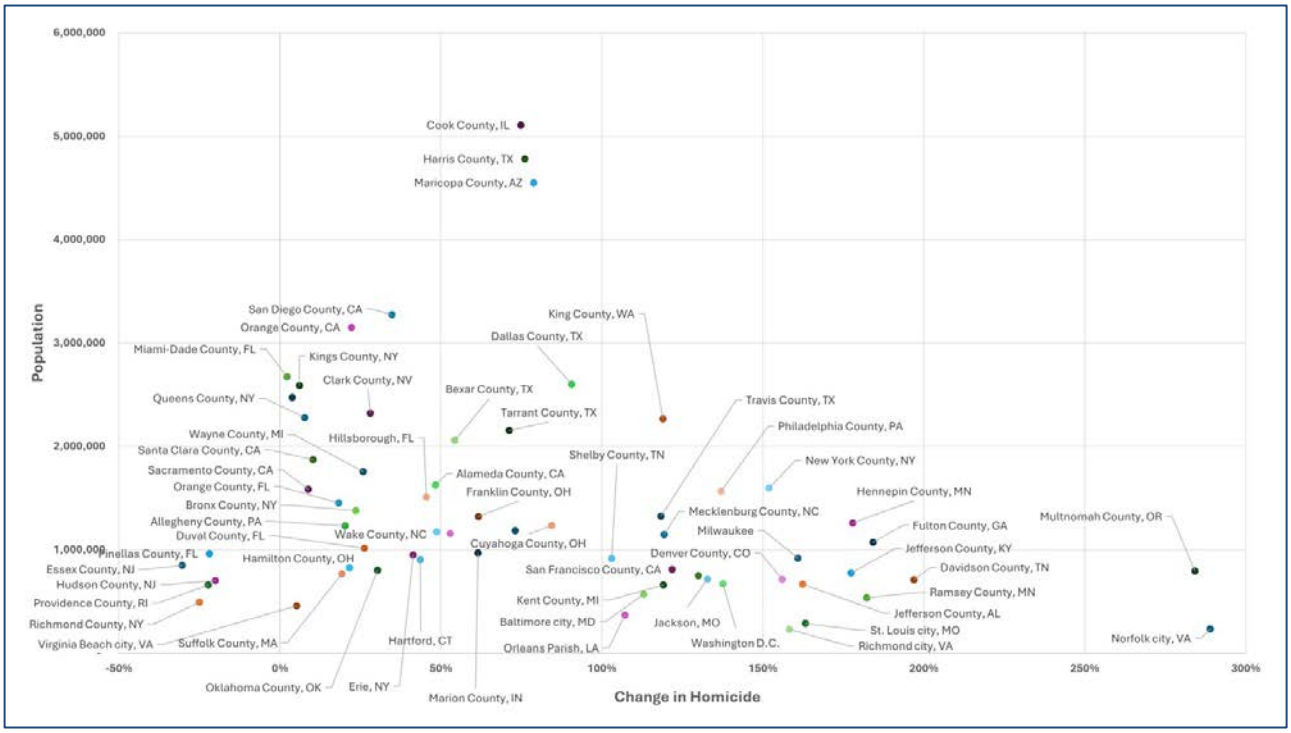
Figure 8: Change in Injury Deaths per capita between 2014 and 2022, by Major Statistical Area

	Major Statistical Areas considered "Metropolitan" by the CDC				MSAs considered "Non-Metropolitan" by the CDC	
	Large Central Metro	Medium Metro	Large Fringe Metro	Small Metro	Micro-politan	Non-Core
N counties in data set	67	379	368	358	640	1339
Average homicide rate 2014	8.1	5.01	3.45	4.19	4.04	4.06
Average homicide rate 2022	15.3	7.54	4.03	6.3	5.58	5.65
% change 2014-2022	90%	51%	17%	50%	38%	39%

These average measures conceal considerable variation within these areas as well as across states. For instance, just 13 percent of the population of Alabama resides in areas dubbed "large central metro" by the CDC, compared to 62 percent for Arizona and 63 percent for California. Counties deemed "large central metro" range considerably in population size, too, from over 10 million in Los Angeles County to just over a quarter million in Norfolk, Virginia. Figure 9 illustrates the extent of such variation in large central metro areas. It shows that homicide rates have moved in different directions in these 67 large central metro areas. Within large metro counties populated by less than 1 million residents, injury deaths per capita doubled in 17 counties between 2014 and 2022 but declined in five such counties within the same period. Similarly, the ten cities with the greatest increase in injury deaths per capita had a wide range of population density – from 600 people per square mile in Jefferson

County, Alabama, and 1700 in Multnomah County, Oregon, to 3800 in Milwaukee County, Wisconsin and 4600 in St. Louis City, Missouri. Moreover, the increase in per capita injury deaths in the most populous counties – Cook (Chicago, Illinois), Maricopa (Phoenix, Arizona), and Harris (Houston, Texas) -- approximated the group average, which suggests that the attributes of cities that matter for understanding variation in homicide are not consistent within the CDC categorization of cities.

Figure 9: Change in Injury Deaths in "Large Central Metro" areas, by County Population, 2014-2022



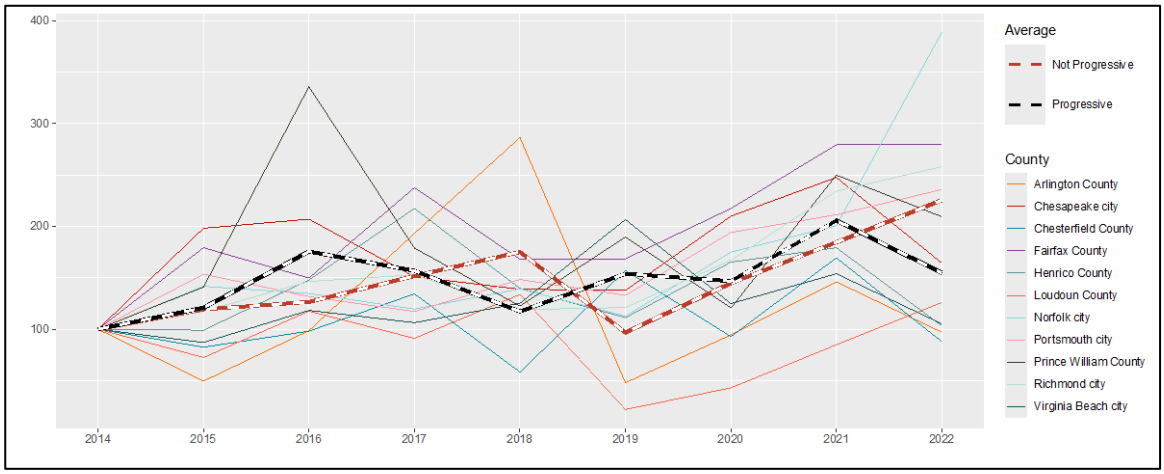
CDC data and Progressive Prosecutors

The CDC data are organized by county rather than city, so it might be a better source for discerning the divergent impacts progressive or non-progressive prosecutors might have on homicide. However, only in Virginia and Texas are enough counties served by progressive prosecutors to organize a meaningful comparison. For Virginia, we adapt and supplement Hogan's classification since he rated only four cities in that state – Richmond (which he deemed "middle"), Virginia Beach and Chesapeake ("traditional"), and Norfolk ("progressive"). We lumped together his middle and traditional prosecutors and added Chesterfield, Henrico, and Prince William County. We treat as "progressive" the prosecutors elected in three other counties since 2020 (Arlington, Fairfax, Loudon) and add the commonwealth attorney in Portsmouth, elected in 2015 as an avowedly progressive prosecutor.

Virginia

Homicide rates within Virginia vary considerably. In Richmond County there were 14.7 injury deaths per capita in 2014, whereas in Fairfax County that year there was less than 1 injury death per 100000 population. To facilitate a comparison across this variation, we indexed the rate of injury deaths per capita in the ten most populous counties of Virginia, assigning a common score (100) to each county's rate in 2014. We added Portsmouth, the 20th most populous county in the state, to increase the sample of progressives to six. Figure 10 shows that, on average, the five counties with traditional prosecutors recorded a greater increase in homicide than in counties with progressive prosecutors, though the greatest proportional increase took place in Norfolk, where a progressive prosecutor was elected at the end of 2021. Note that two counties record high volatility -- Prince William, deemed traditional by Hogan and Arlington, which we consider progressive. Note also that the largest increase in homicide in all counties took place between 2019 and 2021, after which it subsided or declined in most areas.

Figure 10: Injury Deaths Per Capita, Virginia, 10 most populous counties (plus Portsmouth)

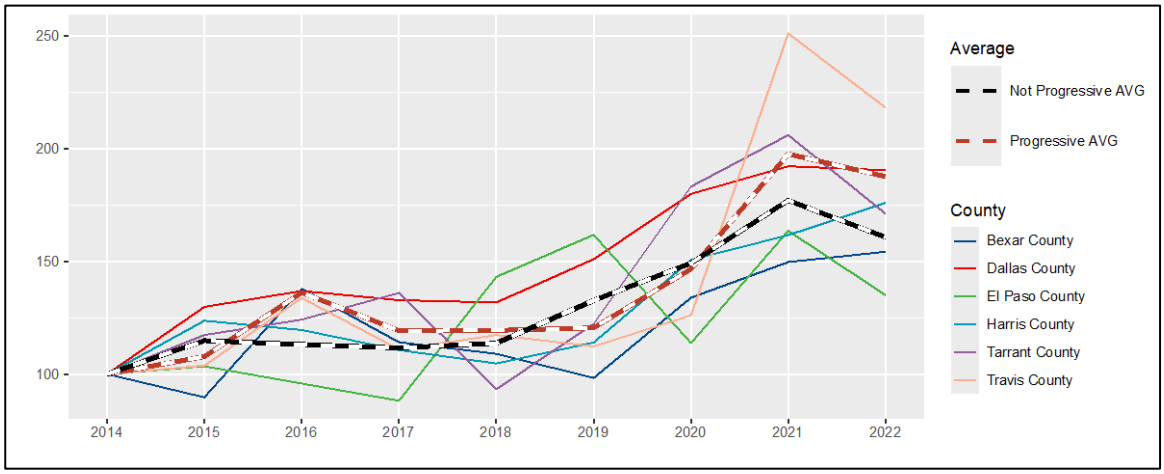


Texas

Three of the five most populous countries in Texas are now served by progressive prosecutors – Bexar (San Antonio) and Dallas, where, respectively, Joe Gonzales and John Creuzot were elected in November 2018, and Travis (Austin), where Jose Garza was elected in November 2020. The elected district attorneys in the other two large counties – Tarrant (Forth Worth) and Harris (Houston) are not progressive according to the classification scheme developed by Hogan. To these two we added El Paso County, the 9th most populous county, because it has the sixth most populous city in

the state and has a "middle" prosecutor we label "not progressive." Figure 11 below shows that the rate of injury deaths increased in all six of these populous counties, whether progressive or traditional, at nearly the same rate until 2020, after which it rose more in progressive counties, and particularly in Travis County, so that in the end homicide increased marginally more in counties with progressive prosecutors. Yet, except for the sharp rise in homicide in Travis County in 2021, the differences in the scale or the increase and the trajectories are not stark.

Figure 11: Indexed Rate of Injury Deaths in Texas, six major counties, 2014-2022



Note that these data end in 2022. If we include police-recorded data on homicide for 2023, we would conclude homicide rates increased by over 30 percent in El Paso, while declining by nearly a third in San Antonio. By contrast, homicide declined by double-digits in Fort Worth and Houston in 2023 when it increased by small margins in Austin and Dallas, yet the net reduction in homicide in cities served by progressive prosecutors in 2023 (-19%) was much greater than in cities served by non-progressive prosecutors (-1%), which suggests that the distinction between types of prosecutors is not helpful in elucidating the reasons for this variation.

D. Shoplifting

Concerns about retail theft, especially organized "smash-and-grab" operations, have fueled criticism of progressive prosecutors in San Francisco, Los Angeles and New York City. This is so even though shoplifting comprises a small fraction of all property crime: in California over the last decade, less than 10 percent of all property crime recorded by the police consisted of shoplifting, and just 15 percent of all larcenies were classified this way. The increase in shoplifting also has not been universal. A recent study by the Council on Criminal Justice found a 16 percent increase in

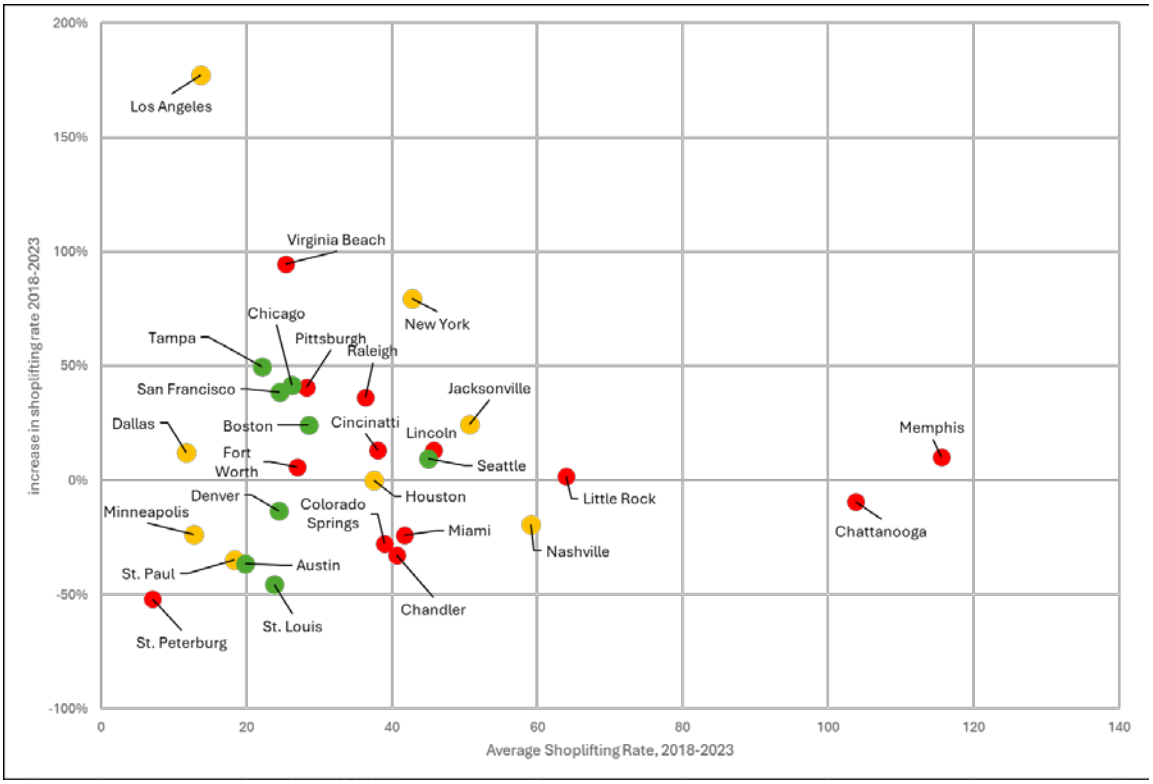
shoplifting across 24 cities between 2018 and July 2023, and a large portion of that increase came from just two cities, New York and Los Angeles, both with a few progressive prosecutors. Without New York City, the increase in shoplifting in these 24 cities was 7 percent. [16] Researchers at the Public Policy Institute of California found increases in shoplifting in 3 of the 15 most populous counties of the state.[17]

To examine the effect of prosecutorial identity on shoplifting, we supplemented the CCJ data with figures for three cities in Florida, which is one of the few states for which city-level data on this offense is available, and one for each of the three categories Hogan used to classify prosecutors as Progressive (Tampa), Middle (Jacksonville), or Traditional (Miami), and another two cities in Texas (Houston, Fort Worth), both of which he labeled Traditional. As Figure 12 below shows, per capita rates of shoplifting vary greatly across these 29 cities, with a high of over 100 per 100,000 population in Memphis and Chattanooga, and less than 10 per capita in Jacksonville and Florida. On average, cities with prosecutors deemed Traditional by Hogan had nearly twice the rate of shoplifting as cities with prosecutors deemed Middle or Progressive. At the same time, shoplifting rates *increased* slightly more, on average, in cities served by progressive prosecutors between 2018 and 2023 than in cities served by Traditional prosecutors (8 vs 5 percent).

[16] See Ernesto Lopez, et. al., "Shoplifting Trends: What you Need to Know," CCJ, November 2023.

[17] See Magnus Lofstrum, "Retail Theft in California," January 25, 2024, available here. See also Eduardo Medina, "Retail Group Retracts Startling Claim About 'Organized' Shoplifting," *New York Times*, December 8, 2023.

Figure 12: Change in Average Shoplifting Rates Per Capita by Type of Prosecutor, 29 cities, 2018-2023



Public policy experts as well as industry analysts believe that variation in rates of shoplifting reflect the geography of retail commerce and differences in the role of private security, human resource policies, and the inclinations of businesses to deter or insure against such loss, all of which affect the rate at which such incidents are reported to the police. [18] The response of the police to the revelation of such crime also varies greatly. For instance, the proportion of reported incidents of shoplifting that involved an arrest increased from 12 to 33 percent in Minneapolis between 2020 and 2023, a bump that might have been noticed by offenders, especially if they are indeed organized and communicate well. [19]

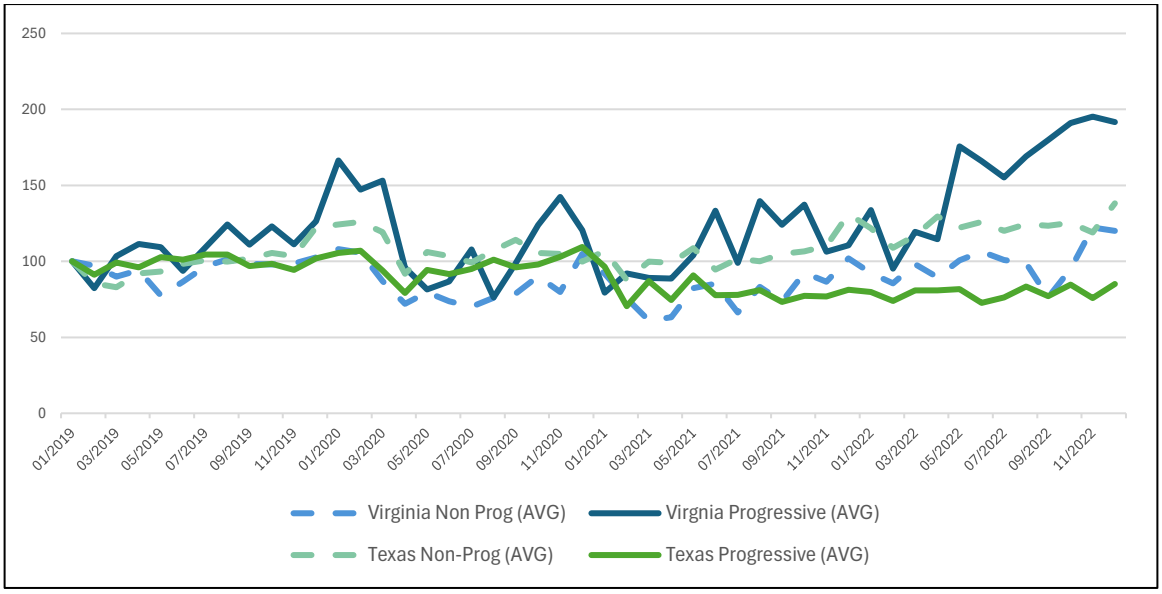
To boost the sample size in our analysis, we analyzed police recorded crime data that is collected by the ICPSR for over a thousand cities, based on reporting through the FBI's Uniform Crime Reporting program. Because these rates vary greatly across

[18] See Eduardo Medina, "Retail Group Retracts Startling Claim About 'Organized' Shoplifting," *New York Times*, December 8, 2023.

[19] We have been unable to measure rates of referral to the prosecutor nor charging rates for shoplifting in Minneapolis. Most such incidents are classified as misdemeanors and the Hennepin County Attorney only receives felony referrals and misdemeanors involving juvenile suspects.

cities and states, we indexed the per capita rate of recorded shoplifting for all cities, using that rate in January 2019 as the starting point. Recall that only in two states, Texas and Virginia, is the number of progressive prosecutors large enough to enable comparisons with their peers as a cohort. The trends in these two states diverge. Figure 13 below shows that per capita rates of shoplifting in Texas increased more in cities *without* progressive prosecutors. In Virginia, by contrast, shoplifting rates increased more in cities *with* progressive prosecutors, although most of the increase in shoplifting in counties with progressive prosecutors began in March 2022.

Figure 13: Indexed Average Rates of Shoplifting in Virginia and Texas, 2019-2022.



Summary

Our analysis of both the MCCA and CDC data indicates there is no clear or statistically significant relationship between prosecutor type and homicide or other violent crime across jurisdictions. Nor is there one for shoplifting. Note, though, that our analysis so far merely confirms that the election and notoriety of progressive prosecutors are not positively associated with changes in violent crime. To assess whether the *conduct* of prosecutors might be related to changes in violent crime we need to analyze the actual practices of prosecutors and then control for variation in the character, intensity, or duration of progressive prosecution across cities. This is only possible for a few cities in which prosecutors publish data about their work.

II. What is a progressive prosecutor?

Before we assess the impact of the *practices* of progressive prosecution on crime, we need to address two methodological challenges. One is a system for classifying prosecutors that distinguishes different degrees of progressivism. If differences in the style and substance of prosecution have effects on crime, then comparisons of crime rates across jurisdictions ought to account for variation in the type and dosage of treatment applied by prosecutors. A second challenge is the scarcity of data about prosecutors' practices. There is no national data base of what local prosecutors do, and so few prosecutors publish statistical information about their decisions that it is difficult to discern whether there is a pattern to the practices of progressive prosecutors and, if so, to what extent they differ from peers and predecessors.

Taxonomies

Hogan's classification scheme derived from appraisals of the rhetoric and professional pedigree of prosecutors rather than an assessment of their practices.[20] It also did not gauge differences in the character or "dosage" of progressivism, which might change over time as well as vary within jurisdictions that have different kinds of problems with crime and violence. For instance, in some cities such as Denver and Milwaukee, progressive prosecutors have been in office for nearly a decade, whereas in others, such as Manhattan and Minneapolis, a progressive prosecutor has served since January 2022 and January 2023, respectively. Yet gradations in the "dose" or degree of progressivism are not captured well by the duration of a progressive prosecutor in office: some introduce new policies immediately, while others do so gradually over time, and both might modify policies after reviewing their effects or responding to feedback from the communities they represent. Prosecutors' decisions also may vary considerably by the community and law enforcement agencies that make up the jurisdiction, as we show later in our analysis of practices in Los Angeles.

Some proponents of progressive prosecution portray it as a "movement" to reduce incarceration and diminish racial disparities in criminal justice by introducing more

[20] Hogan cited fifteen "salient factors" that distinguish prosecutors, including whether they expressed concern about "systemic racism" or had prior experience as a line prosecutor. Hogan therefore labelled John Creuzot, a former judge and current district attorney for Dallas, a "Middle" prosecutor, although many observers consider him "Progressive." Hogan also deemed "traditional" Katherine Rundell, the prosecutor for Miami-Dade County, and yet her staff and other observers consider her "Middle" or "Progressive."

equity, lenity, and integrity in the way prosecutors treat defendants.[21] Others say progressive prosecutors combine democratic commitments to greater "accountability" and "transparency" in public administration, humanitarian beliefs in "harm reduction," and technocratic ideas about "evidence-based" and "data-driven" policy development.[22] These accounts of what progressive prosecutors say and believe may be valid, but they do not reveal whether their practices diverge from their presumably less progressive peers, nor how they differ from one another.

Some critics of progressive prosecution suggest their *policies* are what distinguish them from their peers rather than their political commitments and theories of crime and justice. For instance, two researchers at the Manhattan Institute recently stated that since the political leanings of prosecutors or their electorate cannot by themselves account for changes in crime "it would be far more productive to spend time studying the merits of actual policies."[23] They did not specify which policies most need evaluation, nor whether their merits are to be found in data on crime and public safety or in indicators of equity, timeliness, and well-being.[24] And because neither of the two national professional associations of prosecutors collect and catalog local policies, any comparison of these policies must be artisanal.

Data Scarcity

The scarcity of direct evidence about practices in criminal justice makes it difficult to know whether the "actual policies" of elected DAs and State Attorneys affect the decisions of line prosecutors. Only a few dozen prosecutors publish data about their

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[21] See, for examples, Angela Davis, "Reimagining Prosecution: A Growing Progressive Movement," *UCLA Criminal Justice Law Review*, 3/1, 2019, and Kim Taylor Thompson and Anthony Thompson, eds., *Progressive Prosecution: Race and Reform in Criminal Justice*, NYU, 2022.

[22] See, for example, Jeffrey Bellin, "Defending Progressive Prosecution," *Yale Law and Policy Review*, 39, 2020, and Benjamin Levin, "Imagining the Progressive Prosecutor," *Minnesota Law Review*, 2021. Heather Pickerell proposed a checklist of changes progressive prosecutors have introduced or should be introducing in "How to Assess Whether Your District Attorney is a Bona Fide Progressive Prosecutor," *Harvard Law and Policy Review*, 15/1, 2020.

[23] See Borjas and VerBruggen, Manhattan Institute, February 8, 2024, available here. They do not mention the research on voting patterns and suburban sentiment in elections of progressive prosecutors in John Pfaff, "The Poor Reform Prosecutor: So Far from the State Capital, So Close to the Suburbs," *Fordham Urban Law Journal,* 50 (2023).

[24] Several legal scholars have attempted to define the value proposition of progressive prosecution beyond changes in public safety. See for example David Sklansky, "the Progressive Prosecutor's Handbook," UC Davis Law Review, 50 (2107), Brandon Garrett, et. al., "Open Prosecution," Stanford Law Review, 75/6 (June 2023) and most recently Carissa Hessick on the "pitfalls" of progressive prosecution in *Fordham Urban Law Journal*, 50/5 (2023) available here.

decisions (most of whom are considered "progressive").[25] Some of the practices quantified on public dashboards convey what prosecutors have decided *not* to do (such as not file charges). Few offices publish information about changes in pretrial discovery, pre-sentencing reports, and the continuity of care for victims and witnesses. Still fewer align their measures with indices of community safety or social misery such as poverty, addiction, homelessness.[26]

We know of no systematic and empirical comparisons of differences in the *practices* of elected prosecutors across multiple jurisdictions.[27] There is no national data base that commensurates charging decisions, bail and sentencing recommendations, and other facets of public prosecution across different jurisdictions. We cannot ascertain whether filing rates for people accused of petty larceny or armed robbery are higher or lower in jurisdictions with and without a progressive prosecutor. Nor is it possible to determine where guilty pleas are reached with greater celerity or where sentences for comparable offenses and offenders are longer or shorter. In short, we cannot tell whether there is a pattern to the practice of progressive prosecution.

We do not have a comprehensive solution to the problems of classifying prosecutors and comparing their practices, and we are wary of efforts to rate prosecutors on a spectrum of progressivism based solely on their policies.[28] We outline an approach to a synthetic study of prosecutor practices in the conclusion to this report, and we illustrate a way to manage one aspect of this challenge in our analysis of variation in rates of declination, dismissal, and conviction across in the five boroughs of New York. In short, our strategy in this report is opportunistic, comparing prosecution practices and crimes rates in cities where (a) there have been decisive shifts in the identity, policy, *and* practice of prosecutors and (b) there is data available to measure them.

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[25] For example, the most recent national Survey of Prosecutors in State Courts, which appraises difference in the staffing, remuneration, and threats to local prosecutors, found that less than 50 percent of prosecutors' offices report declination rates to any public authority. See Steven Perry and Duren Banks, "Prosecutors in State Courts, 2007," Bureau of Justice Statistics, 2011, here.

[26] The dashboard for the Multnomah County Prosecutor, available here, is an exception; it tracks filing rates and other decisions by demographic traits and poverty levels in different census tracks.

[27] The "dashboards" developed for the judicial districts in Colorado, available here, may constitute a partial exception since they were designed to unify the way prosecutors report their activities.

[28] Two researchers have recently proposed a new system for classifying progressive prosecutors that relies on 9 categories of policy development. See Nick Peterson et. al., "Do Progressive Prosecutors Increase Crime? A Quasi-Experimental Analysis of Crime Rates in the 100 Most Populous Counties, 2000-2020," *Public Policy and Criminology*, 23 (2024).

A. Declinations and progressive non-prosecution

To appraise the effects on crime of prosecutors' practices, we focus on declinations. We do so for three reasons. First, the discretion to not prosecute may be the only form of authority in which prosecutors have a monopoly and thus can be credited or blamed for any demonstrably direct consequence. Second, some of the most acute criticism of progressive prosecution revolves around the non-prosecution of criminal suspects, which some critics have likened to jury nullification. Third, we have access to more information about declinations than other prosecution practice.

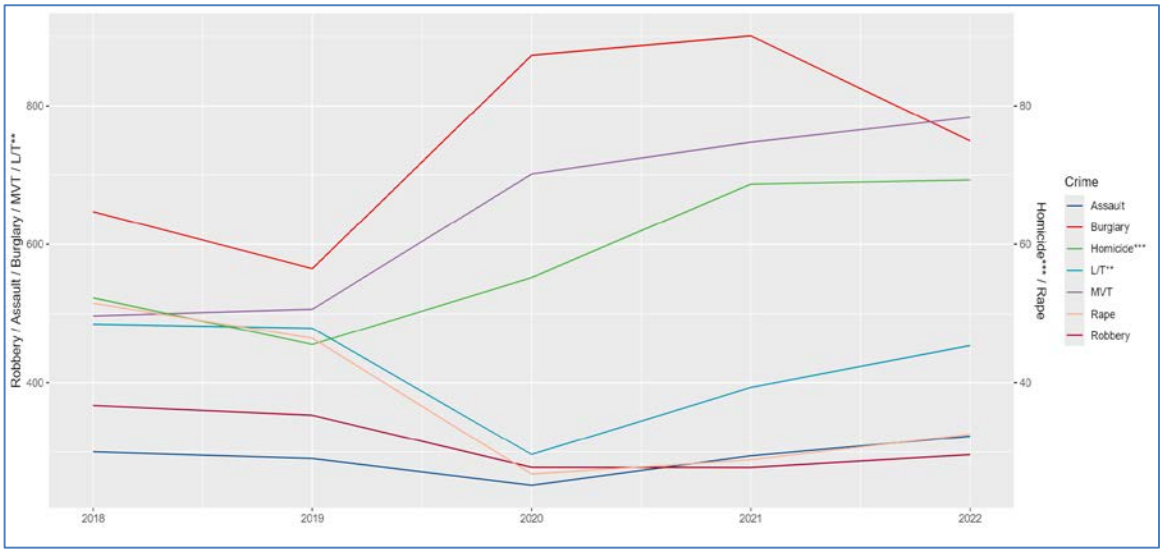
We emphasize that the inferences we draw here are tentative since we have no direct knowledge of what happens between the decision of a prosecutor and the behavior of persons not charged or prosecuted. We further stress that the analysis of declinations is implicitly an analysis of the relationship between police and prosecution. This is unsteady and constantly shifting ground, with recent shifts in policing arguably more voluble and profound than changes in public prosecution.[29]

a. San Francisco

Critics of Chesa Boudin, who was District Attorney in San Francisco between January 2020 and July 2022, claimed that his policies of non-prosecution for certain offenses and use of diversion rehabilitation programs for convicted defendants were responsible for a marked deterioration in public safety in the city. Yet the evidence for these claims is frail. As Figure 14 below shows, rates of motor vehicle theft and larceny-theft increased substantially during his tenure, though they appear to have begun their incline before Boudin's election, as did homicide. Rates of robbery and assault were stable, and burglary decreased. Homicide rates increased further in 2020, as they did in many major cities that year, and then were stable until the recall in the summer of 2022. Rates of rape increased slightly.

[29] Some scholars suggest there has been a structural adjustment in policing over the last decade, with changes in the relationship between budgets, technology, oversight, and personnel altering the nature of the job as well as organizational culture in police departments. For example, Jeremy Wilson and Clifford Grammich show how well documented problems of attrition, transfer, morale in policing, which at times have been branded as "generational," emerged before public protests in 2020 and have broader roots. See "Reframing the Police Staffing Challenge: A Systems Approach to Workforce Planning and Managing Workload Demand," *Policing: A Journal of Policy and Practice*, 18 (2024).

*Figure 14: Per Capita rates of violent and property crime, San Francisco, 2018-2023***



** Larceny Theft rates, abbreviated L/T, are reported per million population in this chart, as are Homicide rates so that the trends can be compared with offenses on both axes.

If practices in prosecution were responsible for these changes in crime, we might expect filing rates to have declined. Yet the overall rate at which prosecutors sustained charges against all arrested suspects *increased* from 50 percent to 66 percent during Boudin's tenure. These rates increased for nearly all serious offenses, including robbery (from 58 to 71 percent), assault (from 39 to 58 percent) commercial burglary (from 64 to 88 percent), residential burglary (from 62 to 76 percent), motor vehicle theft (from 33 to 54 percent), theft from autos (57 to 87 percent), and both types of weapons offenses (from 46 to 71 percent) between 2020 and the end of 2022. The filing rate also increased for vandalism and trespass. Moreover, filing rates for all misdemeanors declined in the first year under Boudin's successor, from 51 percent at the end of 2022 to 32 percent in 2023.

It is possible that the increase in the prosecution rate is itself tied to the drop in the arrest rate, with police focusing on the detection of more serious offenses and/or only referring cases that have evidentiary merit. We cannot confirm this hypothesis because neither the police nor prosecutor's data dashboards contain information about changes in the quality or character of policing or offending. And yet Figure 15 below shows that the proportion of recorded incidents of burglary in which the police made an arrest declined from 9.6 to 8.4 percent in 2022 and fell further to 7.4 percent at the end of 2023. Figure 16 shows that the police arrest rate for all "weapons offenses" and reported violations of the "weapons laws" also fell from 53 to 33

percent the year in which Boudin was elected; and in turn, the proportion of these crimes that were prosecuted increased from 51 to 65 percent in 2021 and rose to 73 percent the following year. These data have been updated on the dashboard since we accessed it in January 2024, but the figures and trends remain almost identical.

Figure 15: Incidents, Arrests, and Filing Rates for Burglary, SFDA Dashboard

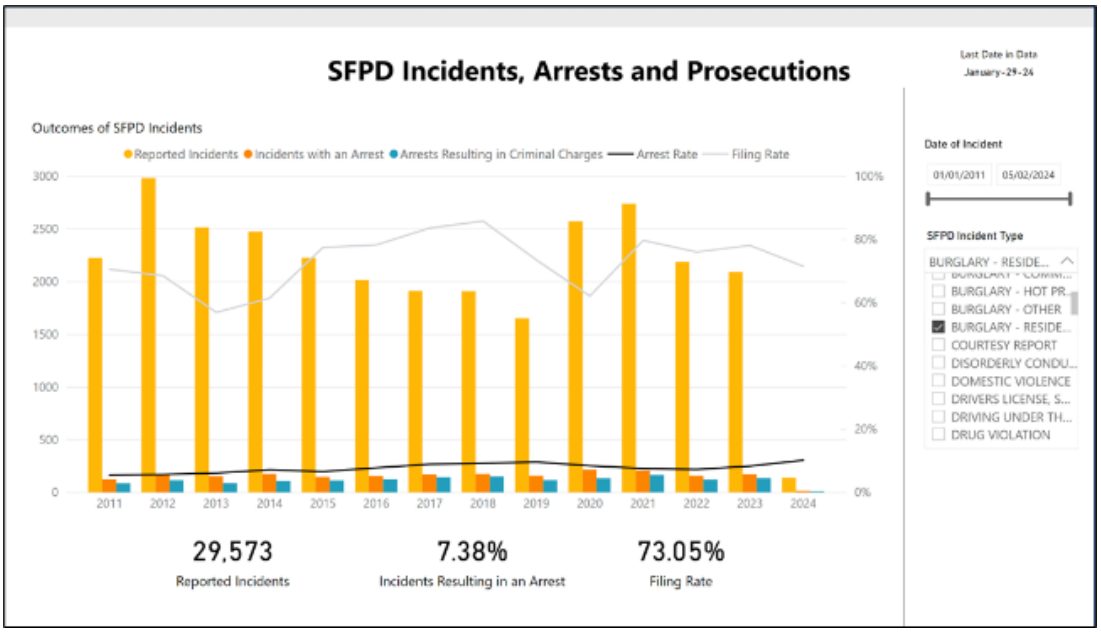
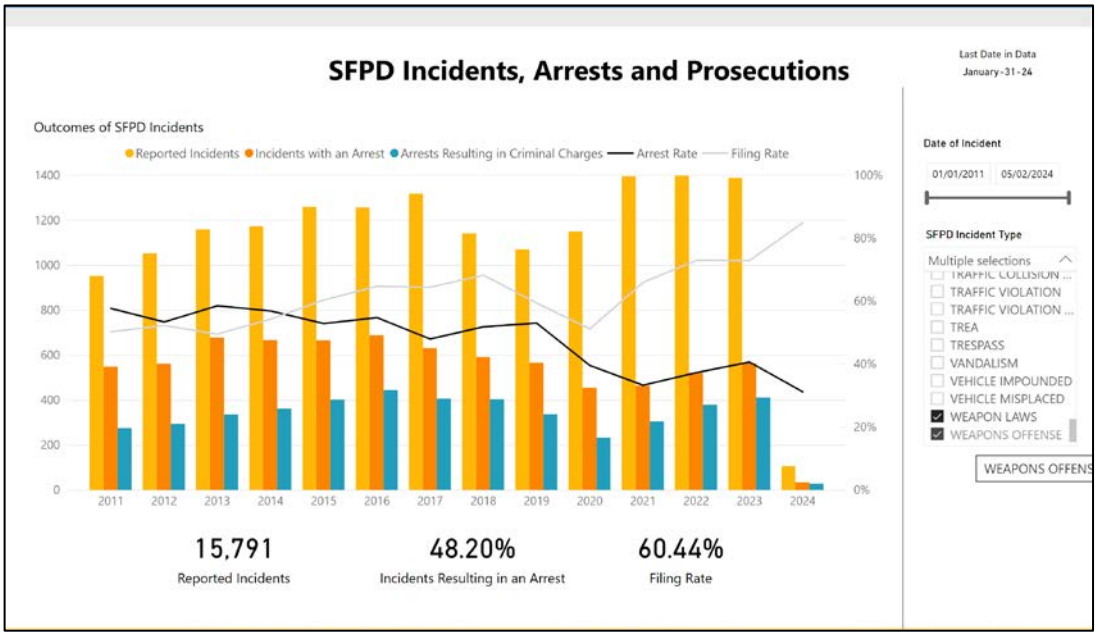


Figure 16: Incidents, Arrests, and Filing Rates for Weapons Offenses, SFDA Dashboard

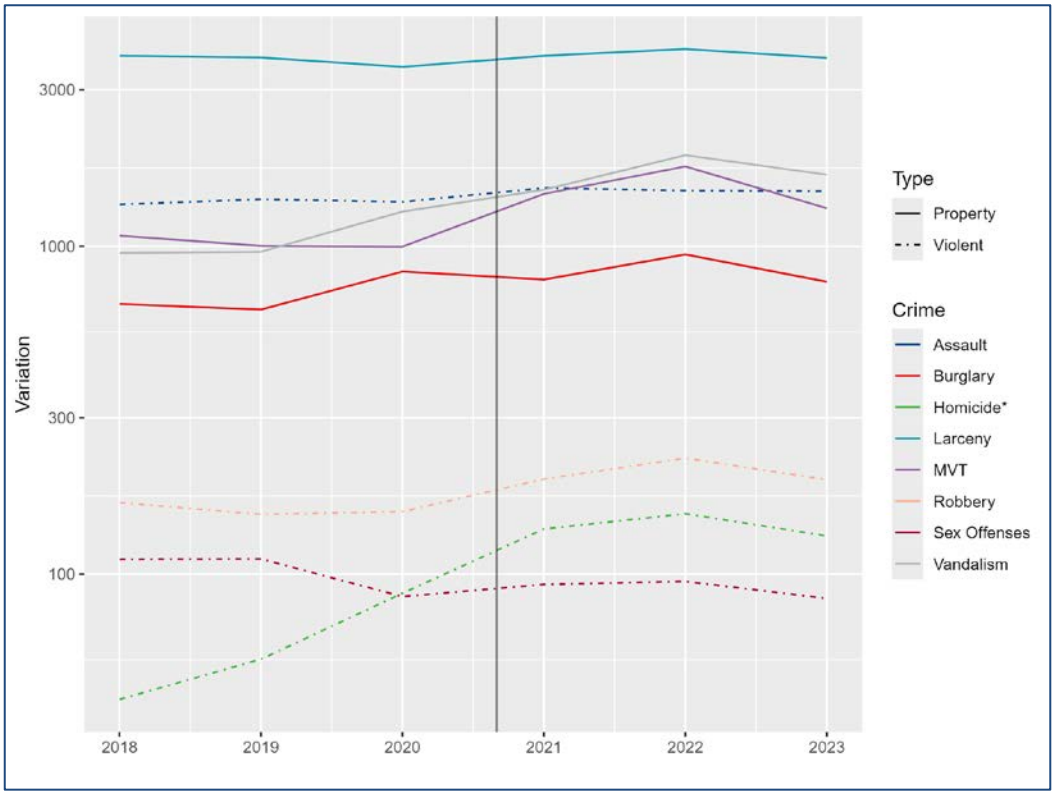


b. Portland, Oregon

Critics of Mike Schmidt, the district attorney of Multnomah County, Oregon since August 2020, claim he is responsible for an increase in violent crime in that city and a deterioration in the quality of public life downtown. These complaints are buoyed by data and news on the rise in the rate of homicide, motor vehicle theft, and vandalism in Portland during the pandemic as well as the fallout from the violent protests in the city in the summer of 2020, none of whose participants were prosecuted (one officer was charged and later settled with the victim out of court). Throughout this period, however, the prosecution rate for both felonies and misdemeanors in Multnomah County increased, which suggests that prosecution practices did not cause or exacerbate the increase in crime. Moreover, much of the increase in violent crime preceded Schmidt's initial appointment and later election.

Figure 17 below depicts per-capita rates of recorded violent crime in Portland from 2018 to 2023. It shows that rates of homicide increased in 2019, grew at an accelerated pace in 2020, and nearly doubled in the following two years before declining in 2023. The rate of assault also increased in 2019; it fell in the first months of 2020 and then increased sharply in the months immediately before Schmidt's appointment (from 627 recorded incidents in April to 807 in August). The rate of assault rose after Schmidt assumed office; it more than doubled in 2021 before declining slightly in the following two years. Robbery also increased between 2020 and 2022 and then followed the downward trend for other violent crimes in 2023.

Figure 17: Trends in Violent Crime Recorded by the Police, Portland



*the homicide rate here is calculated per million in order to facilitate comparison of trends with other offenses.

The increase in crime in Portland in this period coincided with a precipitous decline in the number of arrests made by the police.[30] Between 2016 and 2020, the Portland Police Bureau made 1709 arrests each month, on average. In May 2020, immediately before the summer protests, the police made 1511 arrests; in August, when Schmidt assumed office, the police made 926 arrests, a 39 percent reduction. Clearance rates fell for property and violent crime throughout this period along with perceptions of the quality of relationships between residents and the police.[31]

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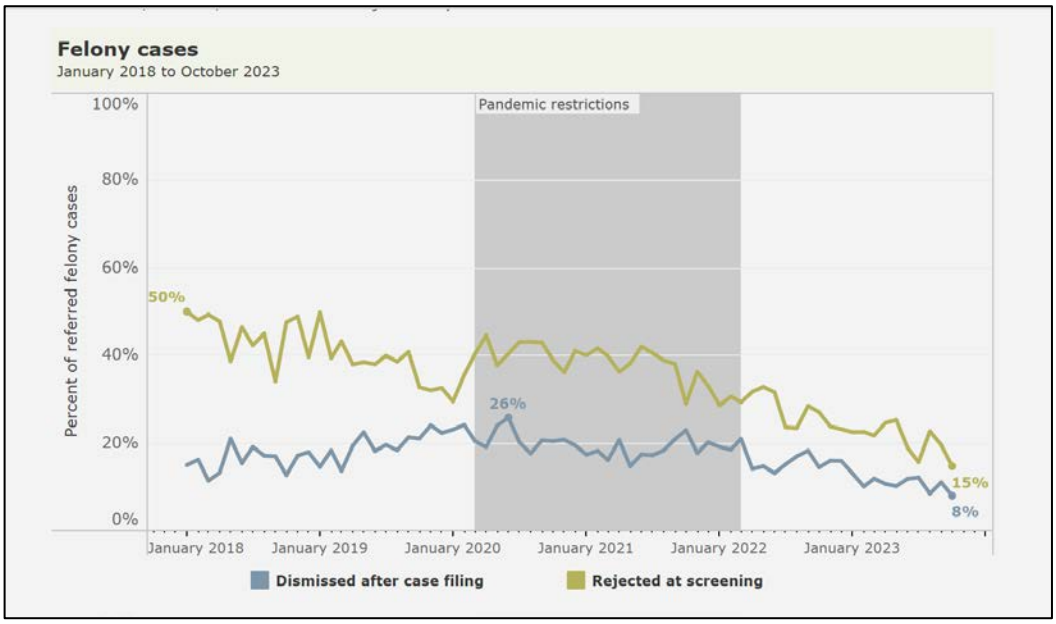
[30] A study of homicides in Portland between 2019 and 2021 by the California Partnership for Safe Communities mentioned "declining resources and staffing" in the Portland Bureau of Police but not the lower incidence of arrest. Jonathan Levinson, writing for Oregon Public Radio, observed that the rise in crime coincided with the disbanding of a gun violence reduction team in the Portland Police Bureau, but he did not mention trends in clearance rates for violent crime in the city. See "Portland Records its 93rd homicide in 2022, a new all-time high," *Oregon Public Radio*, November 30, 2022.

[31] Only in coverage of the election campaign in 2024 did a local journalist mention the declining clearance rate as a possible contributing cause of crime. See Lucas Manfield, "In Two Lengthy

Throughout this period, the District Attorney's office increased the rates at which it prosecuted cases referred by the police. As Figure 18 below shows, the rate of rejection for felony referrals fell from 43 percent in June 2020 to 15 precent by the end of 2023; the rate at which cases were dismissed after an initial filing also fell from 26 percent in the middle of 2020 to just 8 percent at the end of 2023. Rates of declination for misdemeanors fell even more, from 72 percent in August 2020 to 25 percent December 2023.[32] These measures suggest that as the incidence of arrest fell in Portland, there was an increase in the likelihood of accountability instituted by prosecutors for offenders apprehended by the police.

Figure 18: Rates of rejection and dismissal for felony cases referred to the prosecutor, Multnomah County, Oregon



c. New York City

New York is a strategic jurisdiction in which to study the relationship between prosecution and crime since a single police department refers cases to five district attorneys, each of whom has independent policies and practices. That arrangement permits us to appraise whether differences in rates of declinations as well as dismissals and convictions are correlated with changes in recorded crime and arrest

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Documents Leading Portland Officials Point Fingers Over Who or What Caused A Crime Spike," *Willamette Week*, January 3, 2024.

[32] Only recently has Mike Schmidt referred to the increase in the "issuance rate" to rebut claims that his office is soft on crime. See the interview with Lucas Manfield in "Mike Schmidt, Portland's Embattled Prosecutor, Rises to His Own Defense," *Willamette Week*, October 18, 2023.

in each borough. It also complicates the analysis since the district attorneys in New York were elected at different times and have made different kinds of pledges about their approach to criminal justice.[33] A comprehensive analysis of relationships between prosecutorial practice, crime, and arrest in these boroughs would have to control for variation in the degree or valence of their respective progressivism, for which there is currently no reliable measure.

For the analysis here we rely on data on the disposition of adult arrests that is collected by the NY State Division of Criminal Justice Services because only one of the five DAs in NY publishes statistics about their decisions.[34] As Figure 19 below shows, there is substantial variation in the rates at which they decline to prosecute cases of suspects arrested by the police and initially charged with a felony. Between 2018 and 2022, these rates in the Bronx were twice as high as in Brooklyn, three times greater than in Queens and Manhattan. In 2020, the first year of the pandemic, the declination rate increased in all three offices by a large margin. These rates then returned to prior levels in Queens and Brooklyn, with a partial reversion in Manhattan, but not the Bronx, which in 2022 declined to prosecute 25 percent of the felonies referred by the NYPD, or five times as often as the district attorneys in Manhattan. Note, though, that the difference in declination rates between the Bronx and Brooklyn is nearly made up for by the much higher rate of dismissals and diversions in Brooklyn. The conviction rate in those boroughs is therefore nearly identical, although it is substantially lower than the rates in Queens and Manhattan.

[33] Eric Gonzalez was elected DA for Brooklyn in 2017 but assumed leadership of the office in October 2016 when his predecessor died. Darcell Clark became DA for the Bronx in January 2016 and was reelected in 2020. Melinda Katz became the DA for Queens in January 2020 and was reelected in 2023. Alvin Bragg was inaugurated as DA for Manhattan in January 2022.

[34] In 2023, the data dashboard of the Manhattan DA displayed the rates at which prosecutors "screened out" arrests, but that component of the dashboard recently disappeared.

Figure 19: Disposition of Adult Felony Arrests in NYC, four boroughs, 2018-2022

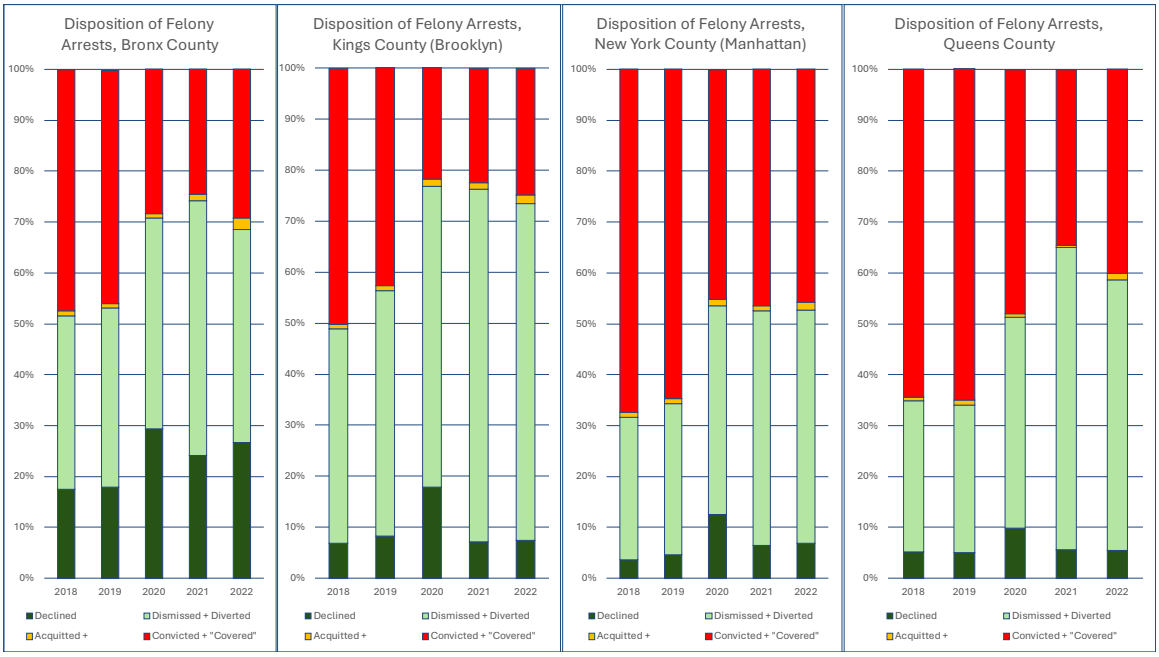
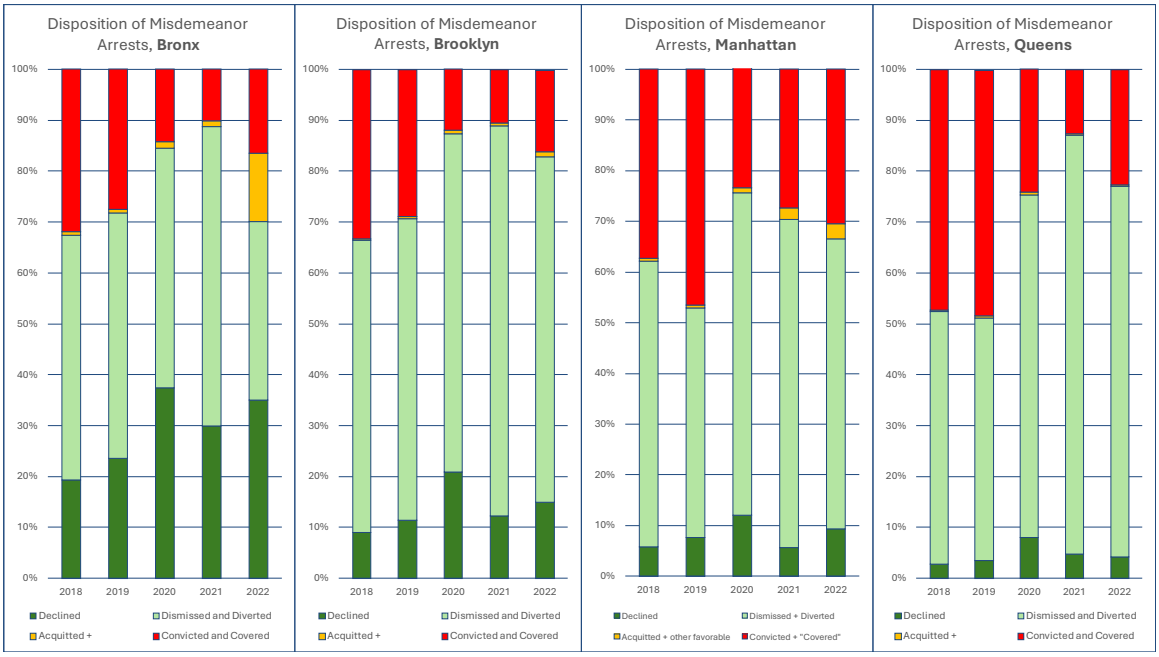


Figure 20 below shows that declination rates for misdemeanors are also markedly higher in the Bronx than in the other boroughs. In 2022, district attorneys in the Bronx declined to prosecute 35 percent of the misdemeanors referred to them by the police, which is more than twice the rate in Brooklyn and four times greater than in Manhattan and the Queens. The rate of dismissals, however, was far higher in the other boroughs. In Brooklyn, DAs dismissed nearly two thirds of the misdemeanor cases, enough to make the conviction rates equivalent to that in the Bronx (16 percent). In Queens, the conviction rate for misdemeanors was 23 percent, and in Manhattan -- 31 percent. Notice that in the Bronx declinations remain high in 2021 and 2022 whereas they returned to pre-pandemic levels in Queens and Manhattan. In Brooklyn, they did not revert to the mean.

Figure 20: Disposition of Adult Misdemeanor Arrests in NYC, four boroughs, 2018-2022



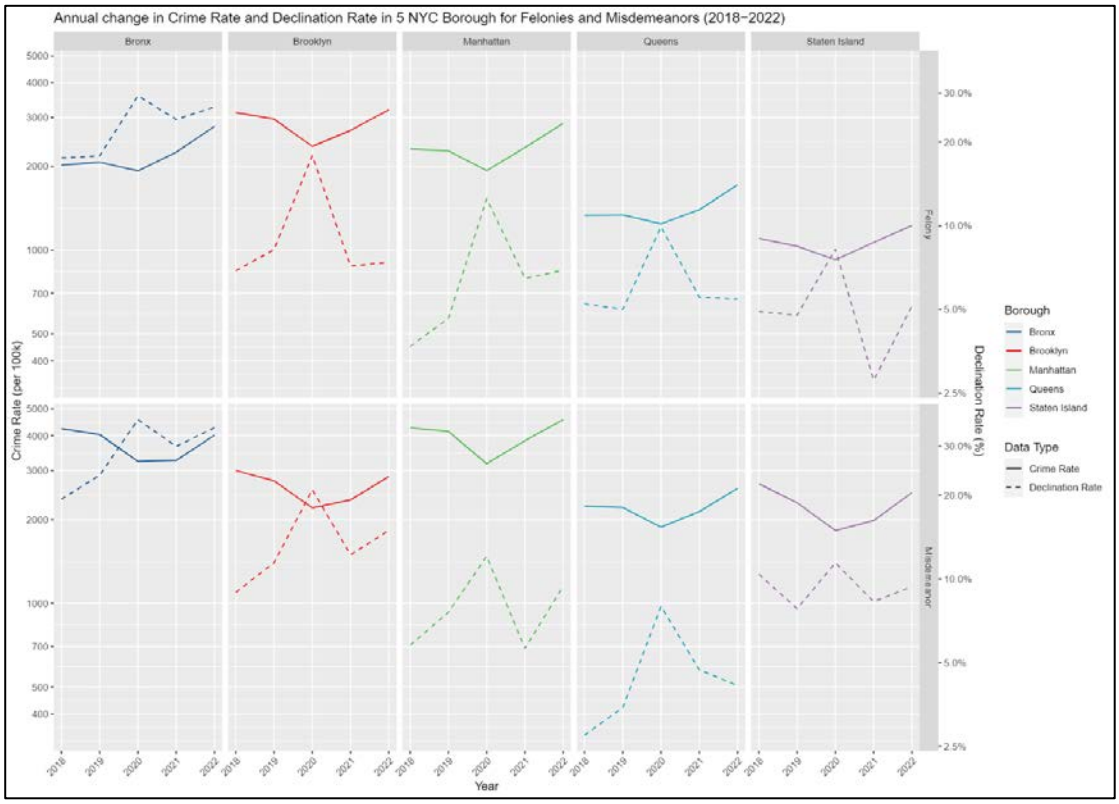
This variation in declination, dismissal, and conviction rates across New York City over time complicates our analysis of the relationship between prosecution and crime. One option is to focus on declinations and treat them as the principal means by which a prosecutor might affect crime. Another is to focus instead on the variation between rates of prosecution, or conviction and custodial sentences and crime. These analytical choices speak to underlying presumptions about the causes of crime. For instance, a focus on declination rates implies a belief that prosecution provides an anti-criminogenic punch through an exposure to justice or dose of accountability that may dissuade future criminal activity by specific individuals. Similarly, it presumes that the experience of prosecution is the deterrent, rather than arrest or conviction, and rather than incapacitation, fines, or other collateral consequences of conviction.

Declination Rates and Crime Rates in NYC

To test this idea, we analyzed the declination rates across five boroughs in New York City. At first glance, the comparison appears to indicate a strong correlation between the declination rate and crime rate: that is, the higher the declination rate, the higher the crime rate in each borough. This correspondence would seem to confirm the hypothesis advanced by Hogan, with prosecution declination rates leading to higher rates of crime. Yet this correlation appears spurious when more carefully analyzing the data on crime within each borough.

Figure 21 below juxtaposes (a) rates of declination for felonies and misdemeanors with (b) per capita rates of police recorded felonies (both the "seven major" and "seven non-major" felonies counted by the NYPD) and misdemeanors across the five boroughs in New York City between 2018 and 2022. Against expectations, the *increase* in declination rates in 2019 and 2020 coincided with a *decrease* in crime *in every borough*. For instance, when declination rates for misdemeanors increased in in the Bronx, Brooklyn, Manhattan and Staten Island, police recorded *fewer* misdemeanors, although the slope of the decline in those crimes was shallow. Also, the sharp increases in declination rates in 2020, which were followed everywhere except the Bronx by a reversion to the mean, did not coincide with or precipitate sharp or commensurate increases in crime. In Queens, the surge in declinations in 2020 coincided with a slight reduction in both types of crime, and when declinations fell in 2021, police recorded crime increased.

Figure 21: Evolution of Declination Rates and Index Crime Rates in 5 boroughs, NYC, 2018-2022



These findings of a weak and possibly paradoxical relationship between declination and crime rates provoke two new questions. First, if declination rates cause shifts in the crime rate, then by how much, in what proportion, and in what time frame should we expect crime to covary with declination rates? Second, is the relationship between

declination rates and crime stronger for misdemeanors than for felonies? We examine the second question in our analysis of Los Angeles since that is the only jurisdiction for which we have disaggregated data on both misdemeanor crime recorded by the police and declinations of misdemeanor arrests by prosecutors.

A different test

Another approach to testing the effects of prosecution on the crime rate is to analyze rates of re-arrest after pretrial release. Prior research has shown that prosecutors' recommendations play a large role in decisions about pretrial release, despite the fact that bail decisions are made by judges within legislative constraints on discretionary decision-making.[35] With this caveat about attribution in mind, we analyze rates of rearrest in the four largest boroughs of the city, using variation in the combined rates of declination and dismissal as a proxy measure of the inclinations of prosecutors not to seek the detention or conviction of suspects and defendants. In short, the test we propose here asks whether rates of rearrest before trial correlate with variation in the screening and gate-keeping functions of prosecutors.

Since declination rates for felonies are three times higher in the Bronx than other boroughs, and declination rates for misdemeanors in the Bronx are twice as high, a theory based on prosecutorial decision-making would expect much higher rates of re-arrest in that borough. Yet as Figure 22 shows, rates of *dismissal* in Brooklyn are much higher than in the Bronx, which means these two boroughs have identical combined rates of non-prosecution for both felonies and misdemeanors. The difference between combined rates of declination and dismissal for misdemeanors is modest in Queens and Manhattan, while for felonies the differences remain large enough to justify asking whether rates of re-arrest correlate with these variations. Accordingly, if non-prosecution encourages criminal conduct, we should expect the lowest rates of re-arrest in Manhattan, which had the lowest combined rate of declination and dismissal for both felonies (45 percent) and misdemeanors (65 percent).

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[35] See, for example, Mary Phillips, "Prosecutors' Bail Requests and the CJA Release Recommendation: What do they Tell the Judge," New York Criminal Justice Agency, August 2005.

Figure 22: Combined Rate of Declination and Dismissal, 4 major boroughs of NYC, 2018-2022

	Felony Declinations plus Dismissals					
	2018	2019	2020	2021	2022	AVG
Bronx	52%	53%	71%	74%	68%	64%
Brooklyn	49%	56%	77%	76%	73%	66%
Manhattan	32%	34%	54%	52%	53%	45%
Queens	35%	34%	51%	65%	59%	49%
	Misdemeanor Declinations plus Dismissals					
	2018	2019	2020	2021	2022	AVG
Bronx	67%	72%	84%	89%	70%	77%
Brooklyn	66%	71%	87%	89%	83%	79%
Manhattan	62%	53%	75%	70%	67%	65%
Queens	52%	51%	75%	87%	77%	69%

Using the data from the New York Criminal Justice agency, we analyzed variation across boroughs in rates of "new prosecuted arrests" within six months of pre-trial release and before disposition to gauge what some researchers have called "pre-trial recidivism." Figure 23 below shows that Manhattan had the *highest average rate of rearrest* for a misdemeanor and felony within 6 months even though it had the highest rate of prosecution for felonies and misdemeanors of these four boroughs. By contrast, Brooklyn had nearly the same rearrest rates for violent and non-violent felonies as Manhattan, although it had much higher rates of combined declination and dismissal. But the pattern is not perfectly inverse: rates of rearrest for felonies as well as misdemeanors were lowest in Queens, which had the second lowest combined rate of declination and dismissal. Finally, we note that across boroughs, the greatest increase in rates of re-arrest in every borough occurred in 2020, which was the year in which there was the greatest increase in declination and dismissal rates.

*Figure 23: Rates of Prosecuted Re-Arrest in Four Major Boroughs of New York City, 2018-2023**

	New Prosecuted Arrest for Misdemeanor					
	2019	2020	2021	2022	2023*	AVG
ALL Boroughs	12.0	11.7	12.9	13.3	12.9	12.54
Bronx	13.9	12.2	12.6	14	13.2	13.18
Brooklyn	12.1	11.1	11.2	12.9	12.5	11.96
Manhattan	12.4	12.5	16.4	15.2	14.4	14.18
Queens	10.2	10.9	11	10.9	11.4	10.88
	New Prosecuted Arrest for Non Violent Felony					
	2019	2020	2021	2022	2023*	AVG
ALL Boroughs	3.7	5.3	4.3	4.8	5.1	4.63
Bronx	3.2	3.9	3.4	4	3.3	3.56
Brooklyn	4.4	5.4	4.9	5.2	6.1	5.2
Manhattan	3.6	6.4	4.8	5.5	5.4	5.14
Queens	2.7	5.2	3.8	4.3	4.8	4.16
	New Prosecuted Arrest for Violent Felony					
	2019	2020	2021	2022	2023*	AVG
ALL Boroughs	2.7	5.3	4.4	4.3	4.1	4.16
Bronx	2.3	4	3.7	4.2	3.8	3.6
Brooklyn	3.4	6.1	4.8	5.3	5.4	5
Manhattan	3.1	7.2	5.1	4.9	4.2	4.9
Queens	1.8	3.8	3.3	3	3.1	3

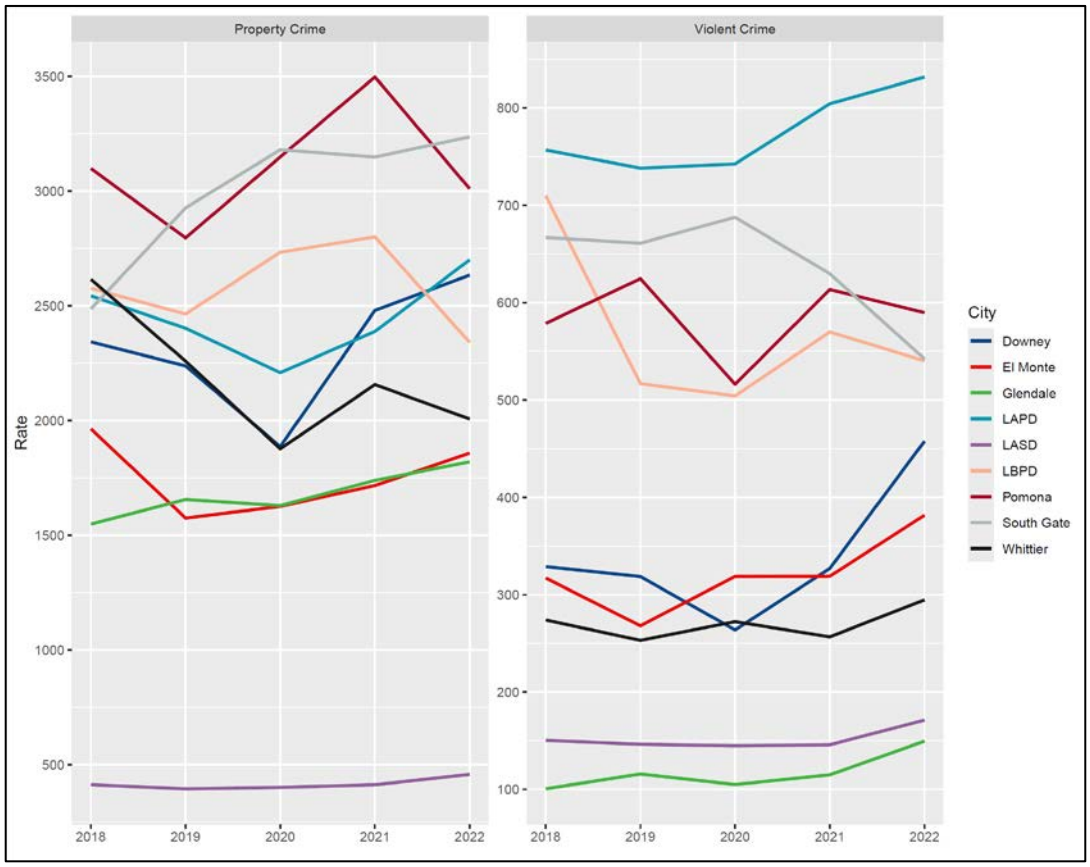
*First two quarters

These data also do not support the hypothesis about the adverse effects of declination and dismissal on crime. However, we must emphasize that rates of re-arrest are not a safe measure of rates of offending: whether a person released from custody before trial is later re-arrested and prosecuted depends on three things for which we lack direct evidence -- their conduct, its detection by the police, and another decision by a prosecutor. These data also gauge only the incidence of re-arrest among a specific cohort of individuals rather than rates of offending in the entire population. The prevalence of crime in society could increase while the rates of offending and re-arrest among a sub-set of persons in contact with the criminal justice system decline. To make sense of the net of all these possible effects, one must examine the entire ecology of crime and justice rather than the statistical relationship between police recorded crime and a single decision or moment in criminal justice.

d. Los Angeles

In 2021, the first year after the election of George Gascon as District Attorney for Los Angeles County, the incidence of violent crime recorded by the police increased by 7 percent. It grew by another 5 percent the following year. Across the county, however, there was no single pattern to the change in violent or property crime, as Figure 24 below shows. There was virtually no increase in violent crime in the areas policed by the Sheriff's department in these two years, whereas there was a 7 and 3 percent increase in the areas served by the LAPD. The city of Downey, which has its own police department, recorded the greatest increases in violent crime (24 percent in 2021 and 40 percent in 2022), while the city of South Gate, which likewise maintains an independent police department, recorded a decline of 8 and 14 percent in 2021 and 2022. The variation in property crime across these areas was even greater, which further suggests that neither the election of a new district attorney nor the introduction of new policies in public prosecution explain the divergent trends.

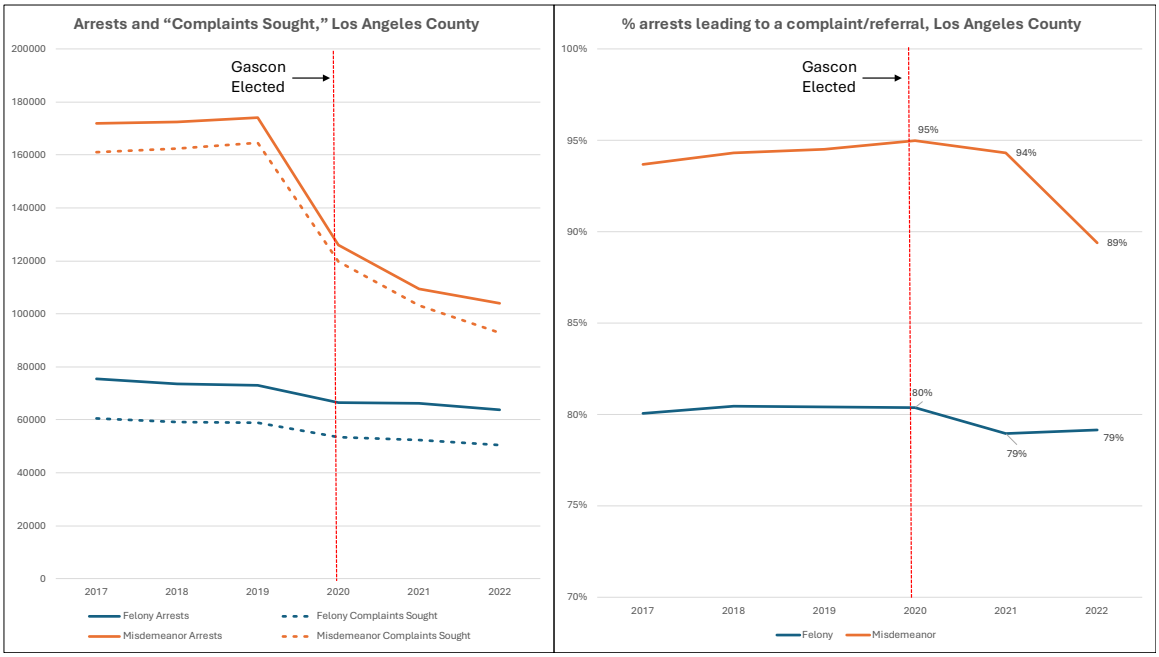
Figure 24: Per Capita rates of Property and Violent Crime, Los Angeles County, 2018-2022



Source: "Crime and Clearances," Open Justice, California Attorney General, available here

It also appears that there were no sharp or sudden changes in policing following the election of George Gascon. Figure 25 below shows that law enforcement agencies in the county referred for prosecution the same proportion of suspects arrested for misdemeanors and felonies immediately before and after Gascon's election. In the second full year of his tenure, the proportion of misdemeanor arrests referred for prosecution fell from 94 to 89 percent. This modest reduction of the referral rate for misdemeanors is somewhat surprising considering the sharp decline in the volume of misdemeanor arrests in the year preceding Gascon's election, which fell from just over 175,000 to 125,000 in 2020, and continued to decline, albeit at a slower rate, until 2022. If law enforcement agencies made misdemeanor arrests only in more serious cases in these years, one might have expected an *increase* in the proportion referred for possible prosecution. That was not the case in Los Angeles, however.

Figure 25: arrests and rates of referral from enforcement agencies in Los Angeles County, 2017-2022.



Source: "Arrest Dispositions," Open Justice, California Attorney General, available here.

We do not yet know whether practices of referral varied across the many law enforcement agencies operating within Los Angeles County. Nearly half of the cities in Los Angeles County have their own police department, and ten have city attorneys that prosecute misdemeanors independently. Unfortunately, none of these agencies publicly report their rates of referral, and few of these agencies independently report data on the incidence of arrest (only three report data on recorded crime). The state's data on the rate at which "complaints are sought" after an arrest cannot be

disaggregated by municipal police departments within a county, either, so we cannot detect or infer whether there is variation in this aspect of their relationships to the DA. This deficit of detailed and commensurable data makes it difficult to appraise the validity of a key presumption in the hypothesis that progressive prosecution causes crime – namely, that this effect is channeled at least in part through an inclination of police to refer fewer arrests for possible prosecution.

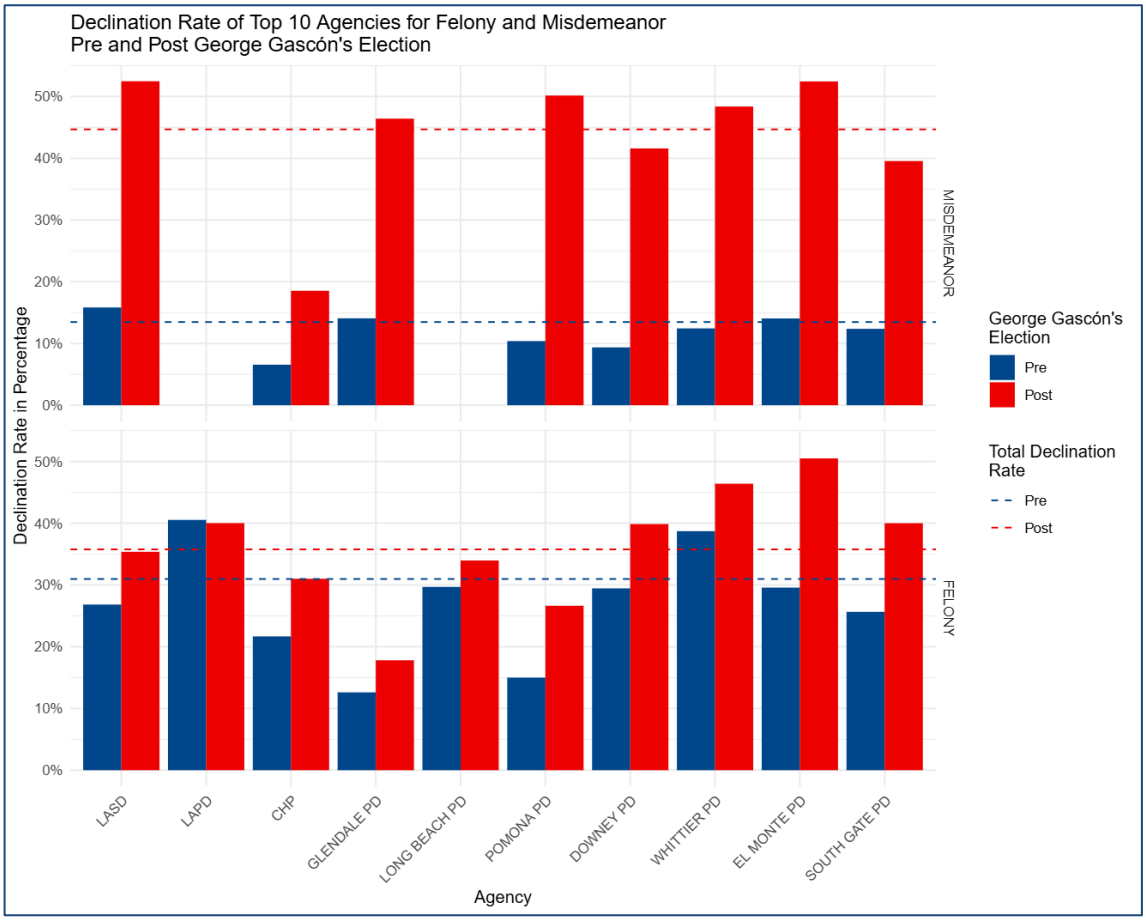
We focus here instead on rates of non-prosecution across the county, using data obtained data from the Los Angeles County District Attorney's office through a Public Records Act request. These data indicate substantial variation across agencies in the rate of non-prosecution for felonies in the years following Gascon's election, which could reflect differences in the practices of referral as well as the quality of evidence in support of such charges. They indicate much less variation across agencies in the non-prosecution for misdemeanors, although the rate at which prosecutors declined to prosecute such offenses nearly tripled between 2018-2020 and 2021-2023.

Figure 26 below compares declination rates for the ten law enforcement agencies in the county that referred the greatest number of cases for possible prosecution in the years preceding and following Gascon's election.[36] The declination rate for felony referrals increased by a large margin for three agencies (Pomona, El Monte, and South Gate), and by a small margin for all others except for the Los Angeles Police Department, which in fact declined, though slightly. After Gascon's election, the DA's office declined to prosecute over half of the misdemeanors and a third of the felonies referred by the LA Sheriff's Department.[37]

[36] The data we received from the LADA records these decisions by charge, not case or defendant. Accordingly, the "declination rate" here refers to the proportion of *charges* that were dismissed, not cases. It may therefore overstate the extent to which individuals suspected of having committed a crime are not held accountable by the justice system.

[37] These rates of declination appear to be higher than the average for the state. The Attorney General's annual report on crime in California indicates that in 2022, on average, prosecutors "rejected" 18 percent of the cases referred to them by law enforcement agencies after an arrest of an adult for a felony. Rates of rejection increased from 15 to 18 percent between 2017 and 2022; dismissals also increased from 12 to 19 percent in this same period. See *Crime in California*, 2022, pages 55-60.

*Figure 26: Declination Rates for Felonies and Misdemeanors, Los Angeles County, 2018-2023.**



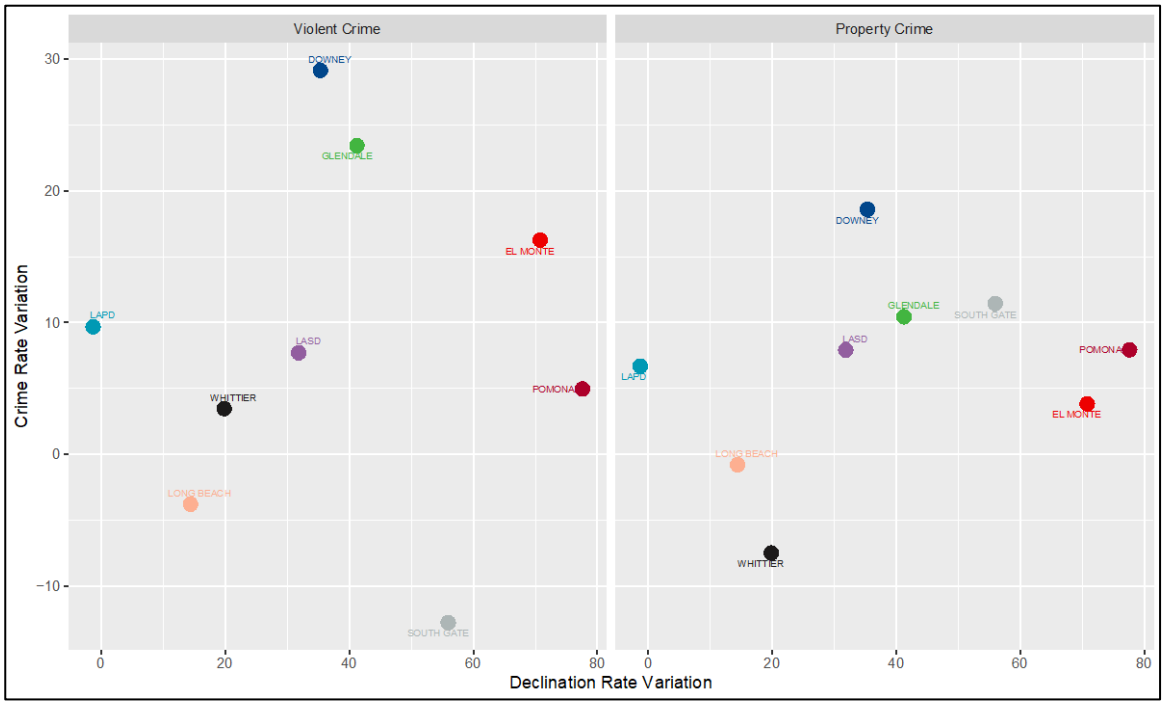
*The city attorneys in Long Beach and Los Angeles prosecute their own misdemeanors.

If declination rates affect crime, we should expect measurable changes in crime in the municipalities where the greatest increase in declinations occurred, such as Pomona, Glendale, and El Monte, and the areas policed by the LASD. Unfortunately, a detailed and systematic comparison of rates of all crime in these cities before and after Gascon's election is not possible since only Glendale's police department publishes disaggregated data on all recorded crime. The data for other municipalities made available by the California State Center for Justice Statistics only covers part 1 crime. Still, a rough comparison with these aggregate figures shows that the increase in declination rates did not result in an increase in crime recorded by the police.

Felony Declinations

Figure 27 below depicts the relationship between change in (x) declination rates for felonies and (y) recorded incidence of violent and property crime for 9 of the 10 agencies contributing the greatest number of referrals to the Los Angeles District Attorney's Office in these years (we omit data for the California Highway Patrol). The declination rate for felony charges submitted to the LADA by the Pomona and El Monte police departments increased by 70 percent between 2020 and 2022, and yet recorded property crime increased by less than 10 percent and violent crime slightly more. In Whittier, property crime fell and violent crime increased by less than a 5 percent despite a 20 percent increase in the declination rate. The different trajectories of crime recorded by the LAPD and LASD are also striking: these agencies recorded similar increases in property and violent crime despite vastly different changes in declination rates. In short, only in Downey does there appear to be a correlation between declination rates and crime rates, though the relationship is not directly proportional, with a 40 percent increase in declinations coinciding with a 30 percent increase in violent crime and a 20 percent increase in property crime.

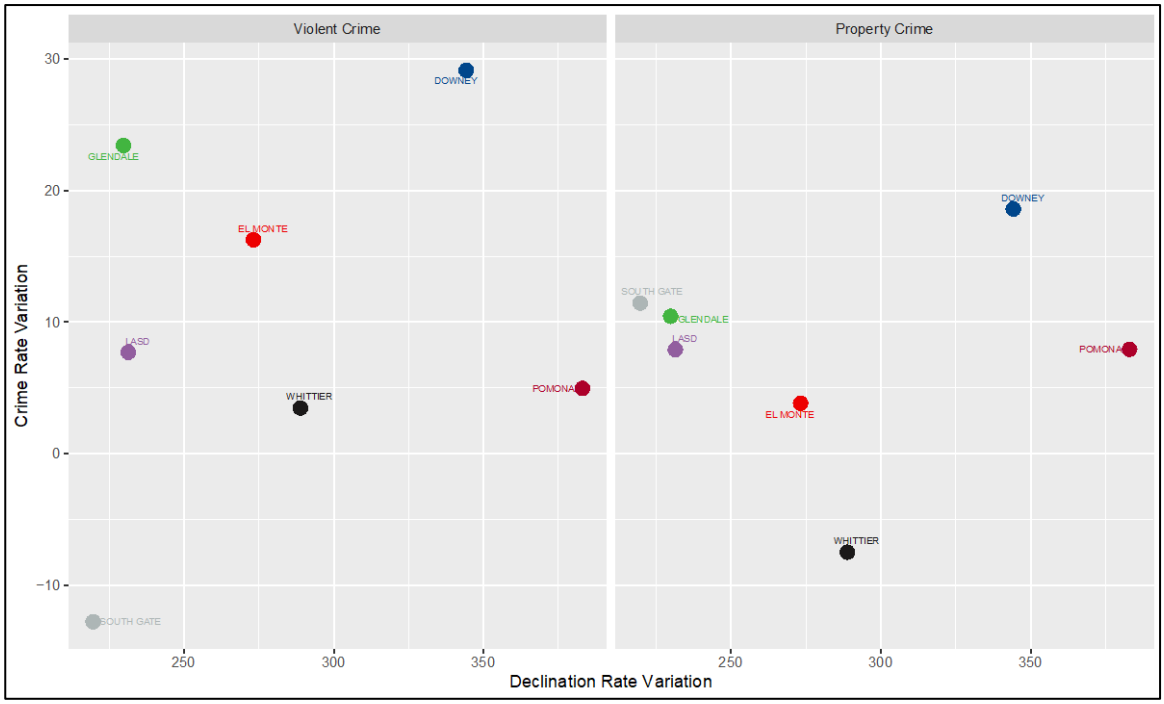
*Figure 27: Change in Index Violent and Property Crime and Average **Felony** Declination Rates in Select Cities, Los Angeles County, 2018-2020 vs 2021-2023*



Misdemeanor Declinations

The declination rate for misdemeanors increased several times more than for felonies in these same cities, and yet we also find no clear correlation between the non-prosecution of such offenses and change in the crime rate. For example, Figure 28 below shows that prosecutors declined more than 3 times as many misdemeanor referrals from Pomona and Downey in 2021-2023 than before Gascon's election, and yet only in Downey was there an appreciable increase in property crime (29 percent) in these years, alongside a 19 percent increase in violent crime. Violent crime in Pomona increased by 5 percent despite the declination rate for misdemeanor charges increasing by 350 percent. Property Crime in Whittier fell 8 percent despite a nearly three-fold increase in declinations of misdemeanor charges. In short, these data likewise indicate that declination rates are not causally associated with changes in recorded index crime.

*Figure 28: Change in Index Violent and Property Crime and Average **Misdemeanor** Declination Rates in Select Cities, Los Angeles County, 2018-2020 vs 2021-2023*



One limitation of this analysis is that it does not register whether there was an increase in the incidence of less serious offending such as petty theft, simple assault, vandalism. To gauge that relationship, we examine variation in Part II recorded crime for the cities within Los Angeles County that are policed by the Los Angeles Sheriff's Department (LASD), which is the only agency in the county that makes such data

available to the public. Not all Part II offenses are misdemeanors; nevertheless, we use the sum of all Part II offenses as a proxy for less serious offending.

Below, we focus on the 10 substations of the LASD that have the highest incidence of Part I and II recorded crime, such as Carson, Century, Compton and East Los Angeles. Some of these stations comprise more than one city, so the variation we detect here cannot be aligned with data about the different social ecology of municipalities. Nevertheless, Figure 29 shows a weak correlation between **felony** declination rates and the incidence of recorded Part 1 crime in these ten areas. For instance, in the Century and Industry substations there is more recorded Part 1 crime at higher levels of declination rates for felony referrals, whereas in Carson and Norwalk a decline in Part 1 crime is associated with higher levels of declination rates. For Part II crime, however, the relationship between declination rates is negative for all ten cities except Lancaster, where the higher the declination rate for felony referrals, the greater the number of Part II crimes.

Figure 29: Monthly Crime count by Felony Declination Rates in Select Cities, Los Angeles County, 2018-2023

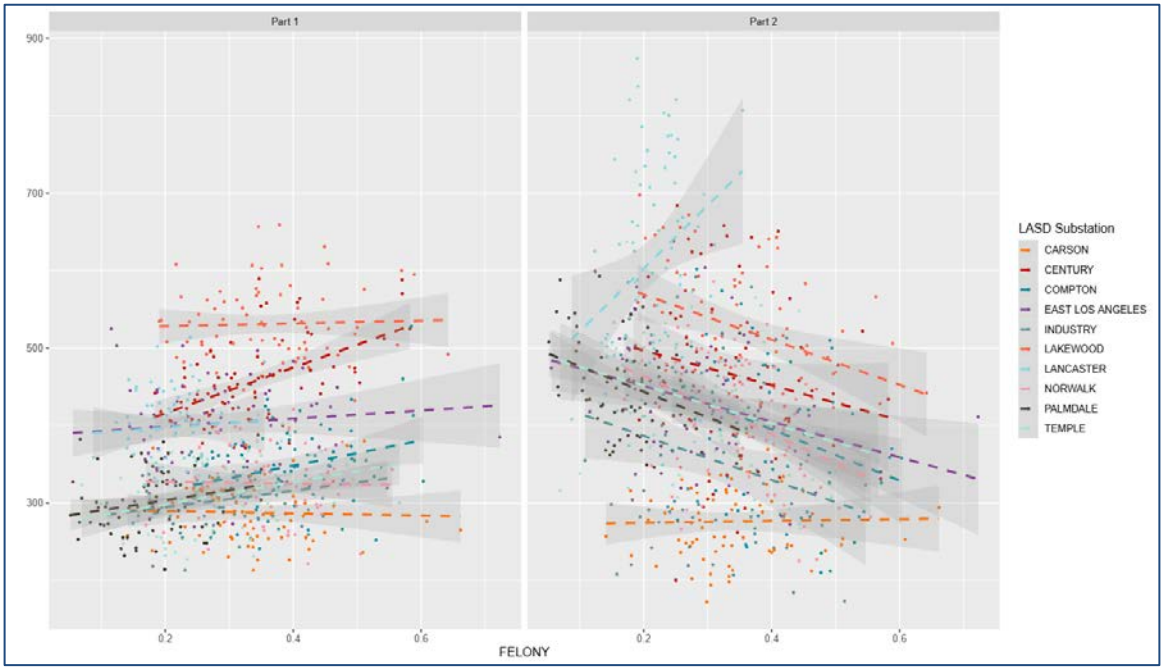
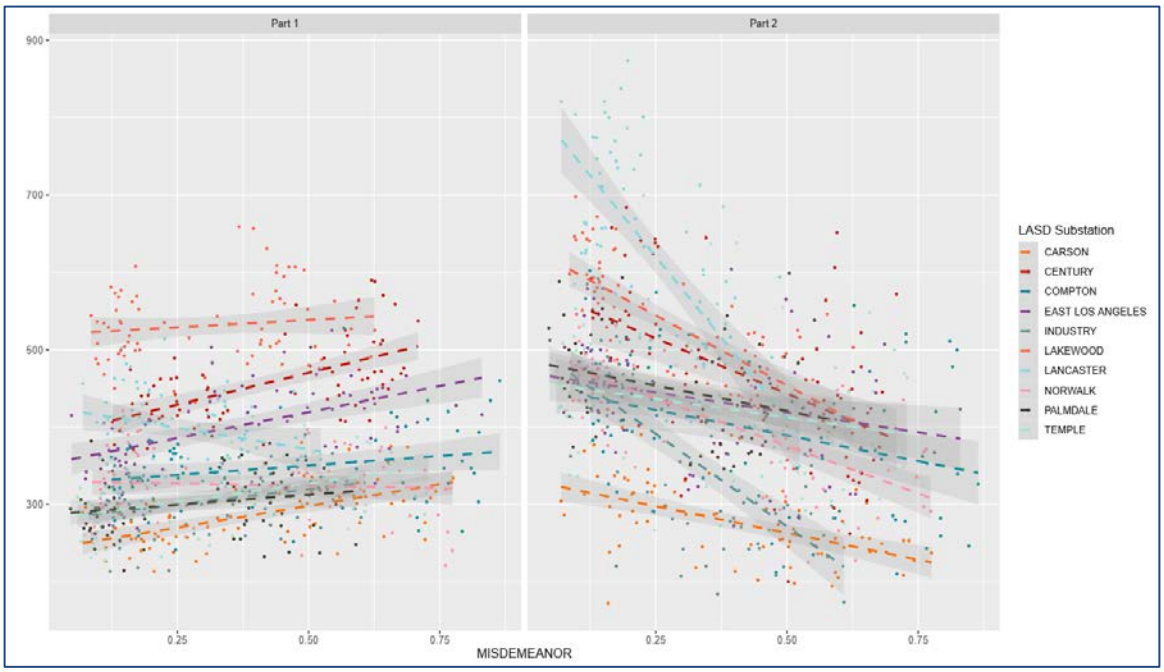


Figure 30 below shows similar effects for **misdemeanor** declinations. In East Los Angeles and Century, for example, there is marginally more recorded Part 1 crime when declination rates for misdemeanors exceed fifty percent. This relationship is much weaker in Carson and Temple and negative in Lancaster, with a decline in Part 1 crime associated with an increase in declination rates. For Part II crime, the

relationship between declination rates is negative for all ten cities; the higher the declination rate for misdemeanors, the lower the number of Part II crimes.

Figure 30: Monthly Crime count by Misdemeanor Declination Rates in Select Cities, Los Angeles County, 2018-2023



We have yet to systematically analyze variation in the profile of individuals whose charges were declined by substation; nor have we comprehensively analyzed the types of offenses for which declinations were more frequent after Gascon's election. Our initial analysis indicates that declination rates *fell* for cases involving a charge of homicide, rape, and sexual assault (but not robbery) after Gascon's election, which, if confirmed, means that, prosecutors in Los Angeles as well as in Multnomah County, Oregon, charged a greater portion of serious violent crimes referred by the police than before. Our initial analysis also indicates that a large portion of declinations involve drug charges, but we do not yet know how changes in legislation and policing may have shaped these patterns. Because of the shortage of data about the incidence of misdemeanor arrest and their disposition in court, we also cannot determine whether the trends in the disposition of misdemeanor charges in Los Angeles are different from other jurisdictions.[38]

[38] The Bureau of Justice Statistics is currently completing a study to determine whether a national effort to collect data on the disposition of misdemeanor charges is feasible. See the interim report in Tom Rich et. al., "Data on Adjudication of Misdemeanor Offenses: Results from a Feasibility Study," NCJ 305157, November 2022, available here.

B. Calibrating Progressive Prosecution

Although many progressive prosecutors have made bold statements about the need to "transform" criminal justice, and some have introduced changes in policies that garner wide public attention, we do not find evidence of drastic changes in the practice of non-prosecution, which many observers believe is the core decision and key source of their power. In San Francisco, Portland, and New Orleans, progressive prosecutors prosecuted a larger portion of referrals than their predecessors. [39] In the first year of Alvin Bragg's tenure in Manhattan, the declination rate for felonies increased marginally, from 6.5 to 6.9 percent, while for misdemeanors it increased from 5.7 to 9.4 percent. Only in Los Angeles did we find a sharp increase in the declination rate, and the greatest change there was in the treatment of misdemeanors.

If changes in public prosecution are less abrupt and dramatic than critics or proponents of major reforms believe, then we may need more sensitive ways to detect and measure changes in both crime and justice. We also may need to look past declination rates for evidence of prosecution practices. For instance, Mary Moriarty was elected chief prosecutor for Hennepin County in November 2022 after twenty years as a public defender and, according to the *New York Times*, making bold promises to "overhaul" criminal justice, but the rates of declination for adult defendants and juvenile defendants have not changed much since she assumed office. [40] As Figure 31 below shows, the county attorney who preceded Moriarty filed charges in 66 percent of the cases of adults referred for prosecution by law enforcement agencies between 2018 and 2022. In 2023, the first year of Moriarty's tenure, this rate fell to 62 percent. Figure 31 shows that the filing rate for juvenile cases also declined in the first year of Moriarty's tenure, from 50 to 44 percent.

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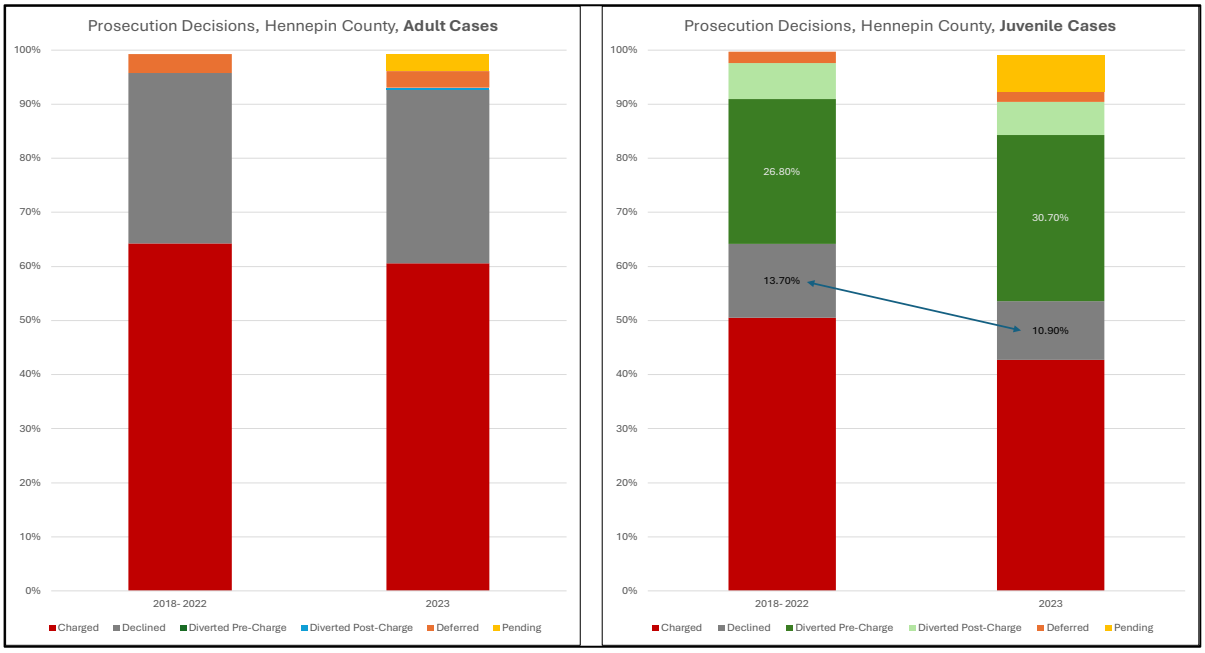
[39] Declination rates for felonies and misdemeanors in New Orleans Parish fell markedly after Jason Williams assumed office in January 2021. A recent compilation of rates of rejection and dismissal across 15 counties found greater change in dismissal rates than filing rates. See "Reject or Dismiss: a Prosecutor's Dilemma," Prosecutorial Performance Indicators, July 2022.

[40] See Ernesto Londoño, "This prosecutor pledged to change George Floyd's city: her critics are circling," *New York Times*, April 14, 2024.

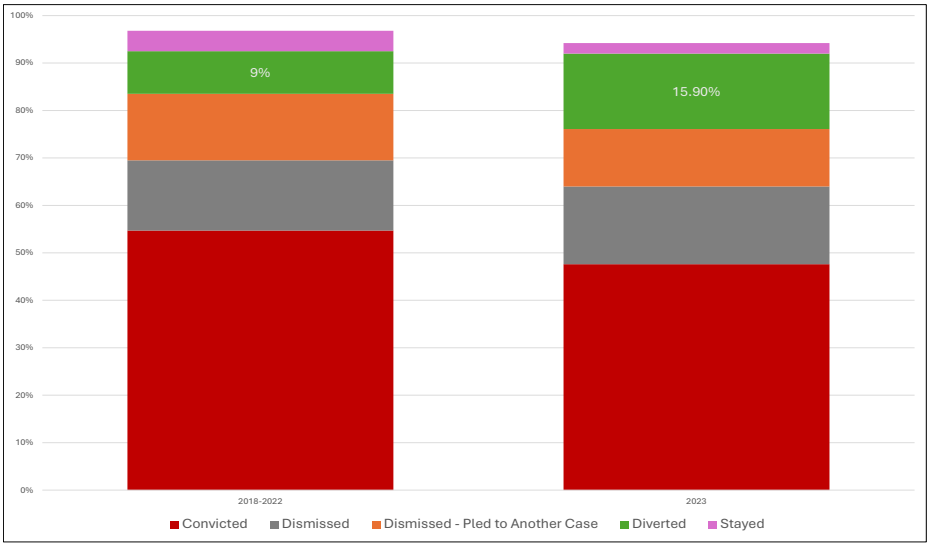
Figure 31: Initial Decisions of Prosecution, Hennepin County Attorney, 2018-2023. Adult and Juvenile Cases



One reason why there has been no sharp turn or reversal of trends in prosecution may be that declination rates *increased* under their predecessor, especially in cases forwarded by the Minneapolis Police Department. Declination rates for MPD referrals increased from 19 to 26 percent between 2018 and 2022 for cases involving youth and from 25 to 34 percent for cases involving adults. The greater degree of change in the treatment of cases coming from the city in these years suggests that prosecutors of all kinds may be especially responsive to changes in the social environment. It may also mean that prosecutors adjust practices before elections as much as after them.

Where should we expect the greatest change in public prosecution from progressives? At the front- or back-end of justice? The most marked change we can detect in the practices of the county attorney since Moriarty's election concerns the disposition of cases that were prosecuted. As Figure 32 below shows, the proportion of defendants who were convicted and sentenced declined from an average of 55 percent for the years between 2018 and 2022 to 48 percent in 2023. Most of this difference comes from an increase in the proportion of defendants who were diverted from proposition toward some social service, counseling program, or chemical dependency treatment center; there was only a slight increase in the proportion of defendants whose cases were dismissed by the court.

Figure 32: Disposition of Adult Cases Prosecuted in Hennepin County, 2018-2023



C. Victimization, Fear, and Safety

Our research finds no evidence that prosecution practices caused the increase in violent crime in many cities across the United States between 2020 and 2022. And yet the data on crime recorded by the police that we use to gauge this relationship are not ideal since they capture only a small fraction of all incidents of crime and violence. They also appear to be at odd with findings from the National Crime Victimization Survey that indicate that the violent crime rate, excluding homicide, increased 75 percent in 2021-2022 precisely at a time when the FBI's Uniform Crime Reporting system suggest a nation-wide decline of 2 percent. Unfortunately, we cannot reconcile this conflict. The NCVS data cannot be disaggregated by city and county.[41] Similarly, Gallup's "social series" poll, which asks a bundle of questions about victimization, also indicate modest increases in household and personal victimization between 2020 and 2022, yet these data are not disaggregated in public reports by type of victimization (eg identify theft vs physical assault), nor by city or county and thus cannot resolve the conflict.[42]

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[41] The Bureau of Justice Statistics begin to report this data by state last year. See Grace Kena et. al., "Criminal Victimization in the Largest 22 US States, 2017-2019," Bureau of Justice Statistics, March 2023.

[42] Gallup's data indicate a larger increase in victimization in big cities than rural areas. For a summary of the findings in 2021, see Jeffrey Jones, "US Criminal Victimization Up Slightly From 2020 Low," Gallup, November 9, 2021. Gallup's Worldpoll, which asks residents in multiple countries whether they have "been assaulted or mugged in the last 12 months," found a decrease in victimization in the US in 2022.

Since most crimes recorded by the police consist of misdemeanors (more than 80 percent, on average, according to some estimates), a study of the rates of these offenses might be more sensitive register of changes in people's experiences of victimization, and yet none of these data are included in the accounts of crime commonly reported by federal, state, and local law enforcement agencies. To capture changes in misdemeanor offending, our future research will draw on statistics from agencies such as the Los Angeles Sheriff's Department that publish these data disaggregated by cities and unincorporated areas within the county. Resolving these issues might help diffuse debate about the current levels of crime and violence.

We highlight these concerns because skepticism about the validity of data and reports indicating a recent reduction in recorded crime seem to influence some critics of progressive prosecution. "There is good reason to remain skeptical of those who'd have us believe that America's largest city is out of the proverbial woods," Rafael Mangual at the Manhattan Institute wrote earlier this year. And yet it may be feelings and beliefs about the past or hopes and expectations for the future that inform such skepticism more than observations and empirical analysis of current events. Mangual explained his own skepticism this way: "Yearly announcements of safer streets became something to which many of us New Yorkers grew accustomed; they also became something we'd take for granted. This exacerbated the shock of the city's massive spike in serious violent crime in 2020."[43]

If Mangual is correct about the role of expectations in shaping beliefs about public safety, then we may need to pay closer attention to people's beliefs about crime and fear of crime as much as their perceptions and experiences of victimization in future research. For instance, Figure 33 below shows the increase in the proportion of respondents believing there is "more crime in my area" exceeded the increase in the proportion afraid of walking alone at night near home. It also shows a greater proportional increase in beliefs that crime is "an extremely or very serious problem in my area" than personal experiences of victimization in the last year. Much prior research on public opinion has shown how beliefs suffuse perceptions as well as how experiences and indicators of the prevalence of crime diverge from subjective sense of safety, though it has not examined the role elected prosecutors play in this realm.[44]

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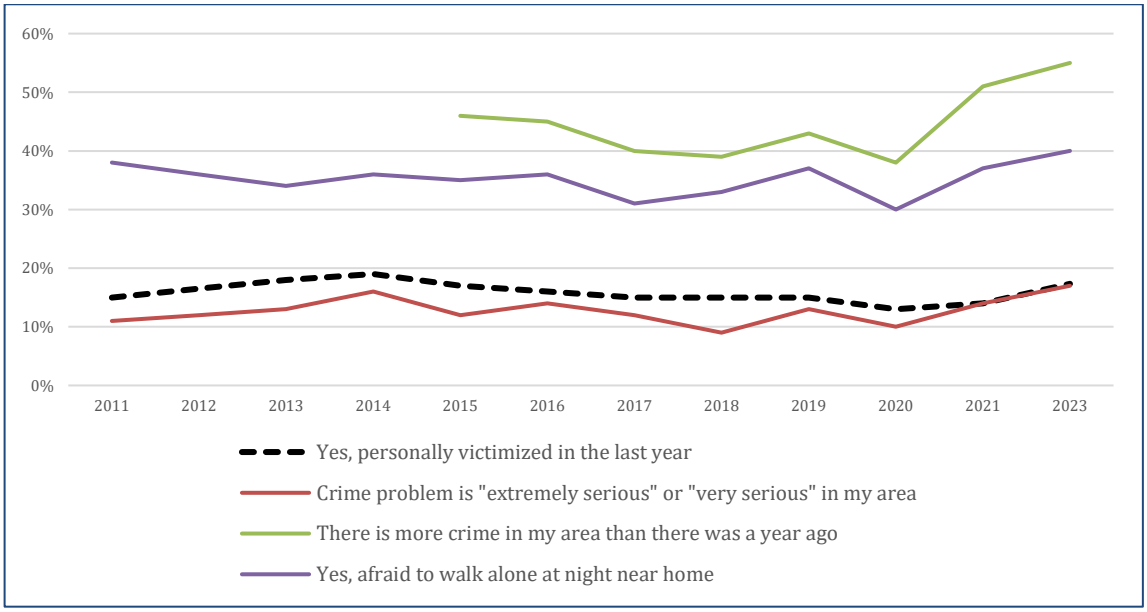
[43] See Mangual, "What Crime Stats Fail to Show," Manhattan Institute, February 28, 2024, here.

[44] For a recent discussion of the gap between police recorded data on crime and perceptions of the amount and direction of crime in society, see John Gramlich, "What the data says about crime in the US," Pew Research, April 20, 2024, available here. See also Roman, op. cit., footnote 10.

*Figure 33: Reported Victimization and Perceptions of Crime, Gallup Social Series Poll, 2011-2023**



How beliefs about crime affect perceptions of policing and criminal justice are also worth closer examination. Gallup's account of public perceptions indicates a substantial decline in confidence in justice institutions since 2017, approximating levels recorded in 1994. As Figure 34 shows, barely five percent of respondents in 2023 said they had a great deal of confidence in the criminal justice system.[45] The proportion of respondents who said they had a great deal of confidence in the police fell below 20 percent for just the second time in thirty years. Doubt and skepticism about criminal justice appear to be generalized, with nearly half of respondents indicating they have "very little" confidence in the justice system. Only local data on these views would elucidate whether this sentiment is connected with concerns over crime and beliefs about the role of elected prosecutors and the incidence of crime or the experience of victimization.

[45] Gallup's analyses suggest that two forces might be driving the deterioration: first, a sharp decline in the proportion of respondents who think the justice system is "fair" (from 66 percent in 2003 who believe it is "very" or "somewhat" fair, to 48 percent in 2023); second, an increase in the proportion who believe the justice system is "not tough enough" in response to crime. See Megan Brennan, "Americans More Critical of US Criminal Justice System," Gallup, November 16, 2023, available here.

Figure 34: Gallup Data on Public Confidence in Police and Criminal Justice, 1994-2023.

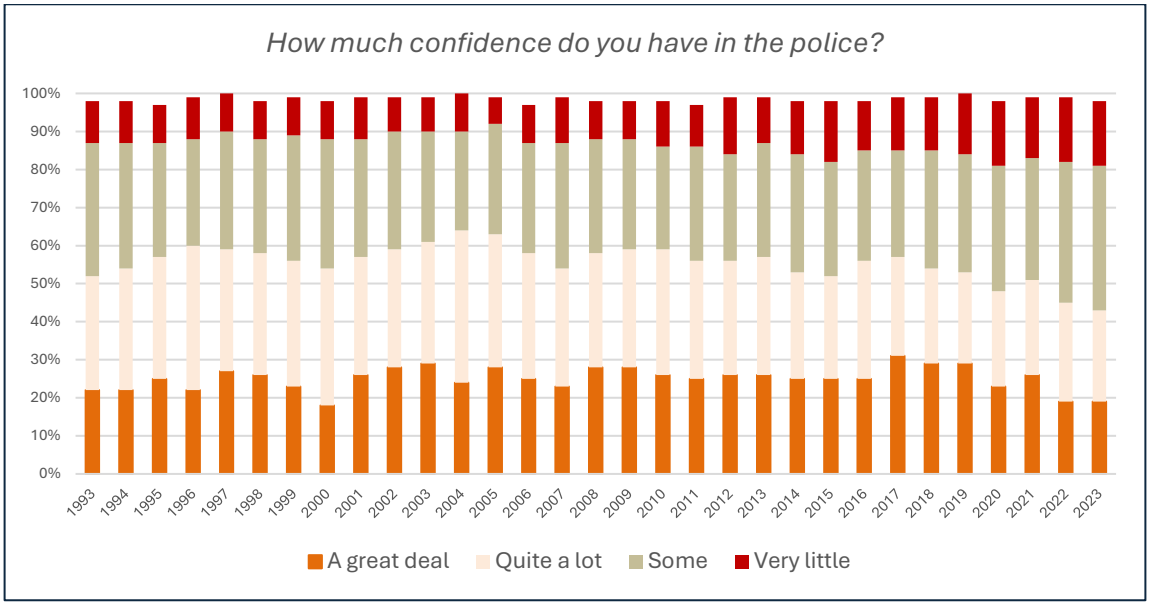
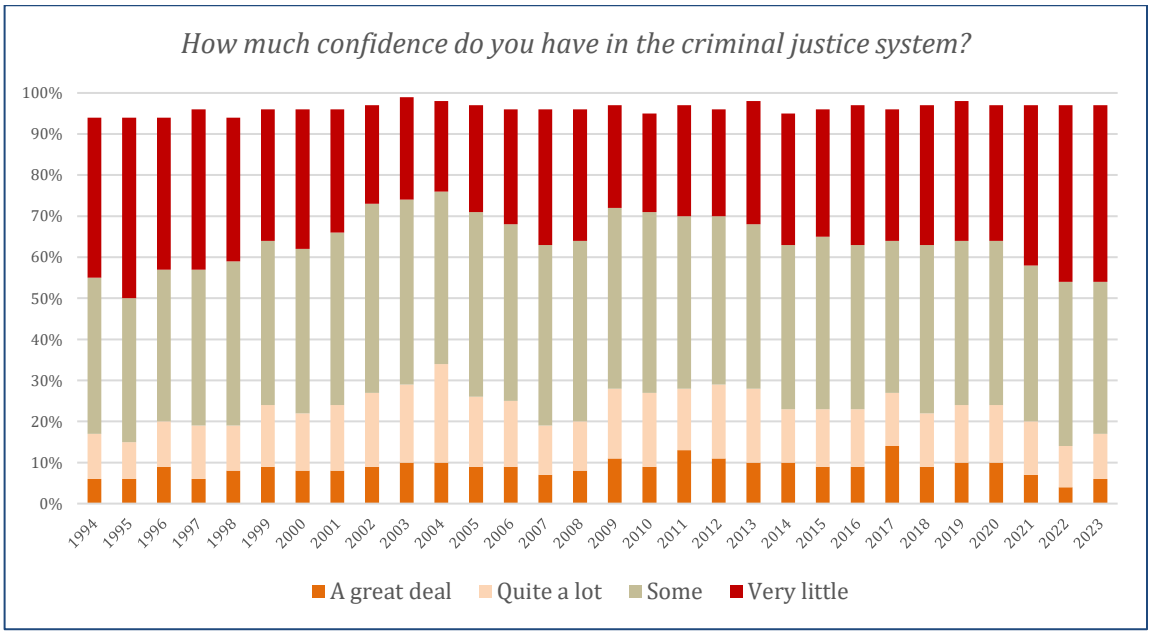


Figure 35: Gallup Data on Public Confidence in Police and Criminal Justice, 1994-2023



III. Changes in Policing and Crime and Violence

Our research finds no clear or statistically significant relationship between crime and the identity or practices of elected public prosecutors between 2014 and 2023. The data on crime recorded by the police and statistics on lethal injuries collected by the CDC vary in ways that do not correspond to the type of prosecutor elected in major cities and counties. The data on prosecution practices in the major cities and counties examined here also reveal no relationship between the two. But if the promises, policies, and practices of progressive prosecution did not cause the sharp increase in violent crime during the pandemic, nor the slow rise after 2014, then what did?

A long line of criminological research focuses attention on the work of law enforcement agencies when trying to account for changes in crime. Criminologists and police chiefs often insist that law enforcement strategies can reduce crime independently of changes in social and economic conditions. Some advocate greater investment in police personnel as a means of controlling crime. For instance, well before appeals to "defund" the police emerged, the RAND corporation's "cost of crime calculator" suggested that a sudden reduction in police personnel increases crime and that, in general, fewer officers per capita correlate with more crime. And yet recent research on this issue yields contradictory findings. A recent article by researchers at Penn claims that "each additional police officer abates approximately 0.1 homicides, with the decline roughly twice as large for Black victims," whereas a systematic review published six years ago found that "the overall effect size for police force size on crime is negative."[46]

A parallel line of research investigates how police *practices*, especially arrest, might affect the incidence and composition of crime in society. This subfield of inquiry is full of debate, too. Some scholars disagree about *whether* rates of arrest can affect the incidence and character of crime; others disagree on *how* rates of arrest might affect the amount and type of crime in society – via deterrence or incapacitation, for

[46] Compare Aaron Chalfin et. al., "Police Force Size and Civilian Race," *American Economic Review*, 4 (2022), and Yongjei Lee, et. al., "Conclusions from the History of research into the Effects of Police Force Size on Crime – 1968 through 2013: A historical systematic review," *Journal of Experimental Criminology*, 12 (2016).

instance, and whether these effects apply to all offenses or only certain types.[47] There also is considerable academic debate over what increases the rate at which crimes are detected and cleared by an arrest, with some believing the level of organizational commitment and training for officers boosts these rates and others emphasizing changes in relations between the police and witnesses, victims, and other residents in communities with high levels of violent crime.[48]

Clarity about Clearance Rates

Nearly all criminologists express concern about the recent decline in the police "clearance rate," which is a measure of the proportion of crimes recorded by the police in which a suspect has been arrested or a prosecutor has been persuaded of the identity of the likely perpetrator of that crime.[49] This rate has fallen across the United States over the last fifty years, and at a greater rate for violent crime than for property crime. The nearly 30 percent drop between 1963 and 1994 and the continuation of that trend over the last three decades means that, on average today, police departments solve just over a third of all violent crimes by an arrest and less than one in seven of the property crimes that are recorded by the police.

The decline in clearance rates has prompted speculation about the possible reasons for this shift, including deterioration in public confidence and respect for the police, the withdrawal of consistent cooperation from witnesses, change in the weapons used and the character of reciprocal relationships between people who inflict and suffer such violence, and increases in the overall volume of crime without a corresponding adjustment in police resources.[50] To our knowledge, no researcher

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[47] See, for example, Steven Levitt, "Why do Increased Arrest Rates Appear to Reduce Crime: Deterrence, Incapacitation, or Measurement Error?" NBER working paper No. w5628, June 2000, and Andrew Wheeler, "Breaking the Chain: How Arrests Reduce the Probability of Near Repeat Crimes," *Criminal Justice Review*, 46, 2 (2021), which utilizes data from the Dallas Police Department.

[48] See, for example, Anthony Braga, "Improving Police Clearance Rates of Shootings: A Review of the Evidence," *Manhattan Institute*, July 2021, and David Carter and Jeremy Carter, "Effective Police Homicide Investigations: Evidence from Seven Cities with High Clearance Rates," *Homicide Studies*, 2015.

[49] The FBI's Crime Data Explorer, available here, enables comparisons of the proportion of crimes culminating in an arrest for all states and most major cities by offense as well as certain traits of the victims. For an exposition of this tool and data, see Jeff Asher, "Police Departments Nationwide are Struggling to Solve Crimes," *New York Times*, December 5, 2023.

[50] See the summary of hypotheses and hunches in the most recent study of the long-term decline in clearance rates, in Philip Cook and Ashley Mancik, "The Sixty Year Trajectory of Homicide Clearance Rates : Toward A Better Understanding of the Decline," *Annual Review of Criminology*, 7 (2024).

has directly stated that prosecutors might be responsible for the decline in clearance rates, although Hogan claimed that the election of a progressive prosecutor in Philadelphia discouraged from proactive policing.[51] Moreover, the decline in clearance rates has been mooted as a possible cause of the increase in violent crime both before and during the pandemic. For example, alarm about the possible consequences of the decline in clearance rates prompted the Wall Street Journal in the November 2016 to suggest that there might be an inverse relationship between clearance rates and homicide in Chicago.[52] Last year, NPR insinuated that the decline in the homicide "closure rate" in Washington D.C., which fell from 95 percent in 2011 to 52 percent in 2023, might be one reason for the increase in homicide in that city.[53]

And yet, contrary to popular wisdom the long-term decline in clearance rates has in fact coincided with a reduction of violent crime in many cities. As a result, clearance rates in general are unlikely to be of much help in explaining trends in homicide. Clearance rates vary considerably by city and they also have not declined everywhere, which suggests that, like crime, the dynamics that drive clearance rates may be local. For instance, as Figure 36 below shows, between 2012 and 2022 clearance rates for violent crime *increased* in San Jose, California as well as in the areas of Los Angeles policed by the LAPD, whereas they declined in the areas surrounding the city of Los Angeles that are policed by the Sheriff's Department, as well as for all other major law enforcement agencies in the state. In Oakland, the clearance rate nearly doubled between 2012 and 2016 before falling precipitously in subsequent years. These data suggest that the evolution of clearance rates varies considerably by city and is influenced by local social and political dynamics.

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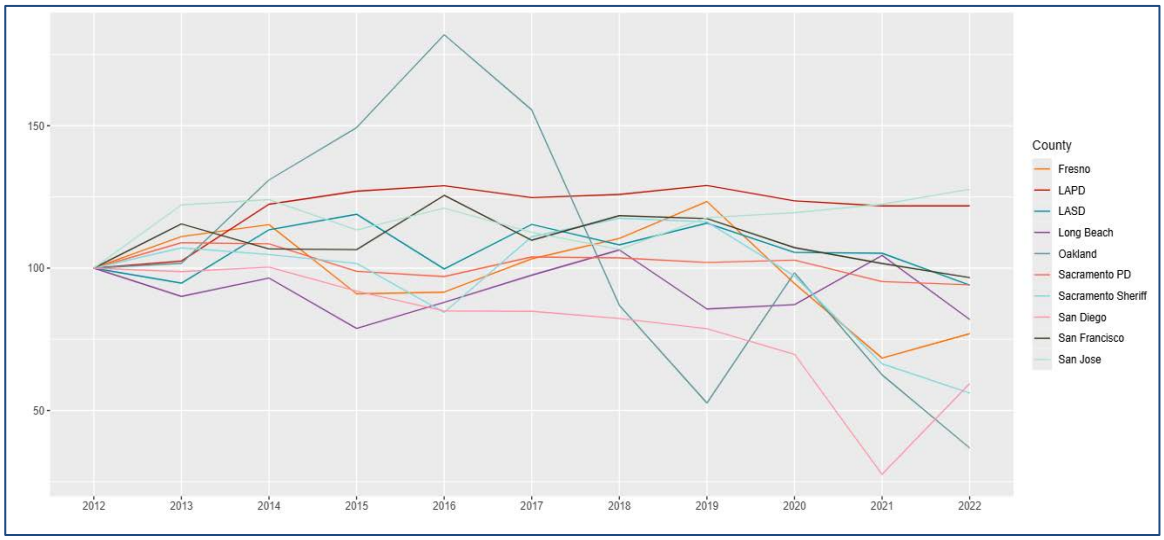
[51] Specifically, Hogan asserted that police officers in Philadelphia became "less aggressive in making discretionary arrests" after the onset of what he termed "systematic de-prosecution," although he did not adduce evidence of the decline in discretionary arrests. Our own analysis of data accessible through the state's Uniform Crime Reporting Program indicates that clearance rates for Part I crime in Philadelphia fell from 28 to 12 percent between 2014 and 2021, and that during this same period, the number of Part II arrests declined from 68000 to 17000.

[52] See Shibani Mahtani, "Chicago Hits Grim Milestone," *Wall Street Journal*, November 2, 2016.

[53] See Ashraf Khalil, "Police Solving Far Fewer Cases as Homicides Rise in D.C.," NPR, November 24, 2023.

Figure 36: Indexed Change in Clearance Rates for Violent Crime, Major Cities in California, 2012-2022.



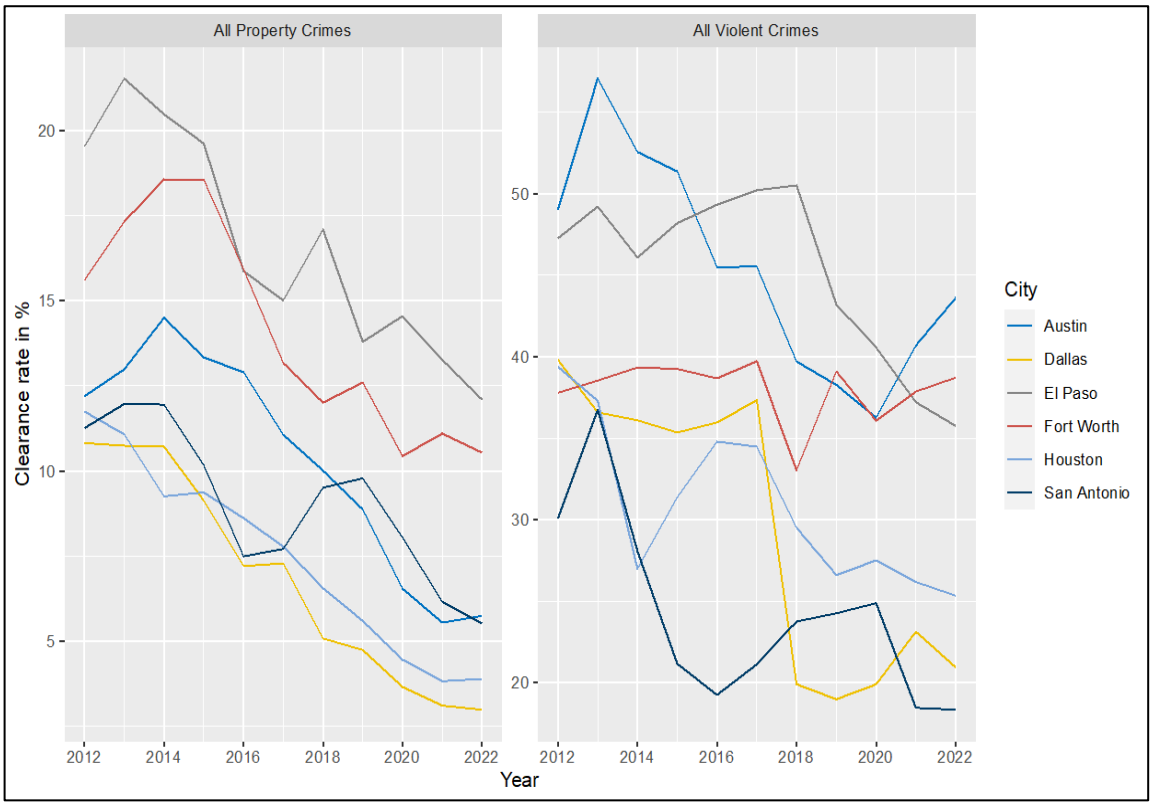
Source: FBI Crime Data Explorer, available here.

Nevertheless, because progressive prosecution is mooted by some to adversely affect policing, below we examine the relationship between clearance rates, the type of prosecutor, and police recorded crime in Texas. We focus on Texas because in addition to the presence of progressive prosecutors in three of the five most populous counties, the state's department of public safety publishes data on arrests by city and county every year and manages a platform for users to interrogate these statistics, something we have not encountered in other states.

We find substantial variation in clearance rates over time across major cities in Texas. For instance, the average clearance rate for property crimes in El Paso between 2012 and 2022 was nearly twice the level in Houston and Dallas, and yet the clearance rates for violent crime in these two cities was either in the middle or lower end of the range for the six largest cities in the state, as Figure 37 below shows. All cities recorded sharp and mostly continuous declines in the clearance rate for property crimes after 2014, but there was no clear pattern to the change in clearance rates for violent crime. In Fort Worth, for example, the clearance rate for violent crimes was relatively steady in this period, whereas it fell in all other cities at different rates and times. It declined sharply in San Antonio between 2013 and 2016, but then increased in the following four consecutive years, stabilized in the first two years of Joe Gonzales's tenure, and then fell again during COVID. In Austin, the clearance rate for violent crimes fell between 2013 and 2020 and then increased after Jose Garza's election in 2020. The

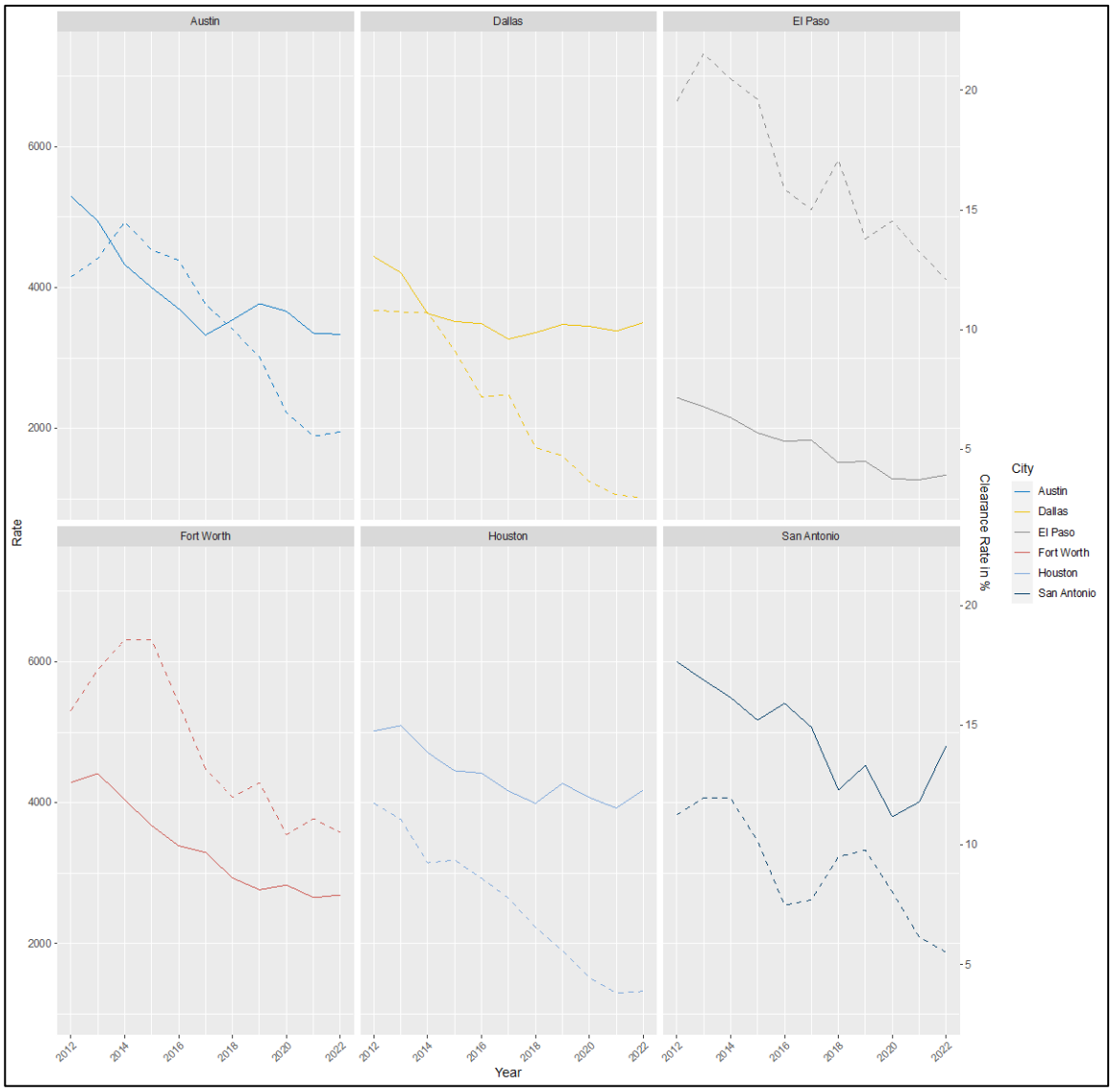
clearance rate for violent crime in Dallas plummeted the year immediately preceding Creuzot's election and then increased slightly.

Figure 37: Clearance Rates for Property and Violent crimes in Six Major Cities, Texas, 2012-2022.



Our analysis also finds no clear relationship beteen clearance rates and crime rates in these six cities. Figure 38 below shows that the two cities with the highest clearance rates for property crime (El Paso and Fort Worth, at 22 and 16 percent, respectively, in 2012) also have the lowest rates of property crime. And yet property crime rates in these cities declined at the same time that clearance rates fell, as they did for the other four cities. Note that Dallas recorded a modest decline in property crime at the same time as a precipitous fall in clearance rates. In no city can we detect an inverse relationship between clearance rates and property crime.

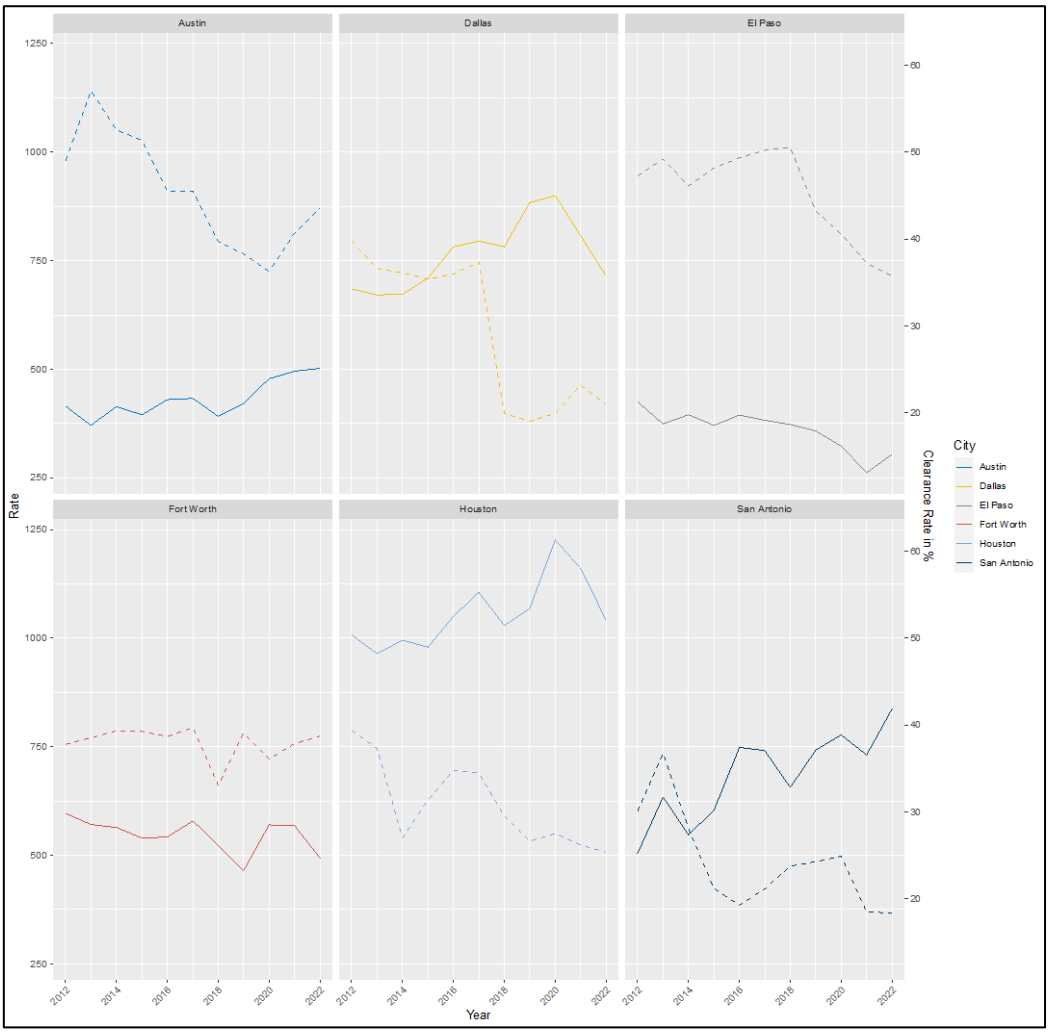
Figure 38: Evolution of Clearance Rates and Property Crime Rates in Six Cities in Texas, 2014-2022.



The relationship between clearance rates and violent crime in these six cities is varied and ambiguous. As Figure 39 below shows, there appears to be some relationship between the two rates in Houston, San Antonio, and Austin, though only a weak one in Dallas, where clearance rates plummeted without a corresponding increase in violent crime, as well as in El Paso, where violent crime rates fell at the same time as clearance rates after 2018. In Fort Worth, where clearance rates remained stable over the last decade, violent crime rates declined slightly. The starkest contrast is between Houston and San Antonio, where similar clearance rates in 2013 correspond to vastly different per capita rates of violent crime. These data indicate that there is

no generic relationship between clearance rates and crime; they also suggest that in each city the relationship between police practices and crime might be distinct.

Figure 39: Evolution of Violent Crime Rates and Clearances Rates in Six Cities in Texas, 2014-2022.



Our analysis here indicates that there is no simple or causal relationship between clearance rates and crime in Texas and that this relationship varies by city in other states as well. However, it is possible that progressive prosecution affects policing in ways that are not captured by data on rates of arrest and clearance. Just as declination rates capture only a fraction of what prosecutors do in criminal justice, clearance rates are a rough and partial measure of the contribution of policing to the control of crime. In the final section of this report, therefore, we outline ways in which future research might examine other dimensions of change in the relationship between policing and prosecution.

Future Research

From Crime to Violence, and From Prosecution to Justice

This report highlights two possible paths for future research on the relationship between crime and prosecution. One is to explore alternative explanations for recent shifts in urban violence by focusing on how changes in the social ecology of large cities might be related to divergent patterns in violent crime. What demographic and socio-economic traits distinguish cities that experienced high and low levels of increase in crime in this period or which have historically recorded much higher levels of violent victimization?[54] Another is to examine changes in systems of justice, focusing on shifts in the relationships between officials and agencies. For instance, we might study whether interactions between police and prosecution are being reshaped by progressive prosecution and, if so, whether these changes reverberate more in communities in which crime and criminal justice are most prevalent.

a. Social Ecology of Crime and Violence

Several researchers have corroborated our earlier findings that progressive prosecution does not cause crime.[55] The continued decline in violent crime in 2024 amidst stable practices in progressive prosecution offices means we need better explanations for the increase in violence during the pandemic as well as the apparently "unprecedented" decline over the last 18 months.[56] We also need fresh research on the changing character and distribution of this violence within large urban centers, especially if leaders of city and county governments wish to play a larger role in its management, as some officials insist.

There is abundant research on the interaction between social ecology and urban violence, including the influence of urban planning and opioid use on the incidence of

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[54] Chilton and Chambliss, op. cit. found the rate of homicide victimization among young black males in St. Louis and New Orleans in 2010 was twice as high than Cleveland and Memphis. In *A Peculiar Indifference,* 2020, Elliot Currie reported that across Illinois between 1981 and 2018 the homicide victimization rate was 37 times higher for young African American men than White men.

[55] For example, Peterson et. al. find that "violent crime rates generally were not higher after a progressive prosecutor assumed control" of a district attorney's office, although they add that the "inauguration" of a progressive prosecutor was positively associated with a 7 percent increase in property crime. See "Do Progressive Prosecutors Increase Crime? A Quasi-Experimental Analysis of Crime Rates in the 100 Most Populous Counties, 2000-2020," *Public Policy and Criminology*, 2024.

[56] For recent analyses of data on crime that find unprecedented declines in 2023 and the first half of 2024, see Jeff Asher, "Murder is Likely Falling at the Fastest Pace Ever Recorded in 2024," available here, and John Roman, "A Forecast for US Crime and Violence," August 3, 2024, here.

homicide.[57] Some of this research is epidemiological and focused on the role of environmental forces in shaping violence such as accessibility to firearms, which are involved in a growing proportion of murders.[58] Some of it is sociological, focused on sub-cultures and illicit markets and violence at the level of the block or group. Some of it is geographical, attending to the spatial, temporal, and social distance between victims and perpetrators of homicide that appears to be changing and may affect the "contagiousness" of such violence.[59] Some of it is economic, with one study finding that the "rent-burden" and incidence of eviction are strongly related to increases in lethal violence.[60] But how these shifts are linked to indicia of other forms of social deterioration and deprivation is not well established.

One way to try to understand these connections in ways that might help mayors, city managers, and councillors develop new approaches to justice and crime prevention is to study indicia that matter to them more directly than crime rates. We have only begun to examine the utility of the Area Deprivation Index for these purposes, but it may yield new ideas and appeal to researchers from other fields in social science, including public health, whose involvement in this kind of inquiry could move the discourse on crime further away from conventional criminology. We might start by analyzing cities with divergent practices in public prosecution and different patterns and degrees of concentration of lethal violence, such as Houston and Chicago, which might have neighborhoods that closely resemble one another on a host of demographic, socio-economic, and other variables deemed important in sociological and criminological research on crime and violence.

b. Shifting Systems of Justice

So far, most studies of progressive prosecution have focused on changes in their rhetoric, policies, and programs more than their interactions with other agencies.

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[57] See, for example, Patrick Sharkey, *Uneasy Peace: The Great Crime Decline, the Renewal of City Life, and the Next War on Violence*, 2018. More recently Rosenfeld et. al. found that "places with higher levels of opioid demand, indexed by opioid death rates, had higher rates of homicide," especially in Appalachian counties. "Homicide and the Opioid Epidemic: A Longitudinal Analysis," *Homicide Studies*, 27/3 (2023).

[58] See Janet Lauritsen, "National and Local Trends in Serious Violence, Firearm Victimization, and Homicide," *Homicide Studies*, 23/3 (2019).

[59] See Brantingham, op. cit.

[60] See Andrew Gray, et. al, "Housing Instability and Homicide: Exploring Variation in Housing Indicators on Homicide and Rates of Urban Crime," *Homicide Studies*, 2023, and Nick Graetz, et. al., "The Impacts of Rent Burden and Eviction on Mortality in the United States, 2000-2019," *Social Science and Medicine,* 340 (2024).

And yet the relationship between police and prosecutors may be the link in the justice system in which prosecutors have the greatest leverage over the practices of another organization. Critics of progressive prosecution emphasize this link. For instance, two years ago Hogan argued that progressive prosecution works on crime *through* changes in policing practice, although he did not have direct evidence of the mechanism by which this might take place.[61] Peter Moskos recently endorsed this view, though he emphasized uncertainty about the means and magnitude of that influence:

> *Nobody can say with confidence precisely how much successful prosecution impacts crime. But the answer certainly isn't "not at all." At the very least, a prosecutor affects policing, including who is arrested, and incarcerating repeat violent offenders prevents violence.*

If Moskos is right about the preventive power of incapacitation, then we might need more research on sentencing practices and the post-dispositional conduct of offenders in jurisdictions with progressive prosecutors. Several prosecutors in Colorado appear to have placed their bets here, for instance by seeking to reduce rates of recidivism through deferred prosecution and diverting suspected offenders into community programs. It also seems to underpin the wager on de-incarceration in Philadelphia and the interest in measuring rates of "subsequent contact" in San Francisco, which might be shared in cities such as New York and Los Angeles that seek to diminish the role of local jails in criminal justice. And yet prosecutors do not have absolute authority over the disposition of these cases, and even less influence on the future conduct of offenders so studies of these initiatives cannot attribute their consequences solely to prosecutors.

If Moskos is also correct about the effects of prosecution on policing and the need for more research on changes in the "front-end" of criminal justice, then future studies might analyze a range of behavior among patrol officers and detectives, including decisions not to refer arrests to prosecutors.[62] When police refer a smaller portion of all arrests to prosecutors and rely on other means of enforcement such as desk

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[61] Our initial report limned 4 possible ways in which prosecution might influence policing. See Foglesong and Levi, "Violent Crime and public prosecution: A review of recent data on homicide, robbery, and progressive prosecution in the United States," October 2022, available here.

[62] This may be why Pamela Metzger and colleagues at Southern Methodist University claim there's an "urgent need to investigate the relationship between prosecutorial reform and policing practices." See Pamela Metzger et. al, "The Difference a DA Makes," *Ohio State Journal of Criminal Law*, 2023 (forthcoming).

appearance tickets or warnings, it alters the volume, composition, and character of cases that come to prosecutors' attention, which, in turn, might affect the rate and trajectory of their movement through the justice system. Changes in policing along these lines might explain why progressive prosecutors in Portland, San Francisco, and New Orleans declined to prosecute a smaller proportion of all cases. Any shifts in that relationship might be especially important to understand if they are catalyzed by a different style of public prosecution.

Declinations are not the only pivotal decision taken by prosecutors and therefore might best be studied in relationship to what comes before and after that decision. For instance, declination rates might be affected by changes in the rate of stops and citations issued for misdemeanors and infractions or limits on local jail capacity and bail reform, all of which might change the composition of cases referred to prosecution. Declinations might be influenced by changes in the relationship between personnel in police and prosecution, especially as both agencies today appear to struggle to hire and retain enough staff. Future research thus might investigate how non-prosecution might affect the overall political economy of policing, such as whether it lowers the workload and helps prioritize resource allocation in police departments, perhaps by reducing officer appearances in court in minor cases as well as supplementary detective work.

A multi-city study of declinations might have special value, yet it would require access to comprehensive data about law enforcement in multiple jurisdictions, including variation in the type of people and cases that get referred to prosecutors, which might not exist or be comparable. For instance, identical declination rates in different jurisdictions might have divergent meanings and consequences where the ratio of misdemeanor to felony arrests and referrals in one district is 7 to 1 and 3 to 1 in another. And without contextual data about participants, we might not be able tell whether a higher rate of recidivism among defendants that received non-custodial sentences in a jurisdiction where a progressive prosecutor has been in office for seven years is attributable to something distinct in the work of public prosecution in that district or differences in the propensity scores for those who were arrested, convicted, and sentenced that way in other judicial districts that year. We also would not know whether subsequent offenses in the district with higher rates of recidivism were more severe or moderate than in other districts.

For this reason, it might be easier to work comparatively within a single jurisdiction that has multiple law enforcement agencies, such as Los Angeles, several of which serve municipalities that prosecute their own misdemeanors. For instance, we might

study police-prosecution relationships in neighboring cities within Los Angeles County, some that have a city attorney with power to independently prosecute misdemeanors and others in which this power is delegated to the Los Angeles District Attorney.

Synthetic Effects

In a recent study Nick Peterson and colleagues described two ways in which the policies of progressive prosecution are believed to affect crime -- "by either altering the behaviors of potential offenders or police officers' arresting practices."[63] Our report has only considered the latter possibility – that prosecution affects crime primarily through provoking changes in policing, and yet a comprehensive analysis of the relationship between violent crime and progressive prosecution would have to consider multiple lines of influence. For instance, the assumption assayed in this report is that of a causal cascade, with prosecutors affecting crime by rejecting law enforcement referrals, which in turn disactivates police and licenses further illegal activity. In short, prosecutors are hypothesized to cause crime by diminishing the likelihood of legal accountability for individual criminal suspects, which results from by affecting patrol operations in ways that lower the likelihood of an arrest and/or fostering beliefs among officers that their arrests might not be prosecuted and perhaps not worth referring.[64] Note that any generalized impact on crime rates in this schema requires a series of intermediate effects, all channeled through the police and difficult to detect with conventional measures of policing. New sources of data and different kinds of evidence would have to be cultivated to understand this chain reaction.

Another idea, though, is that prosecutors affect the incidence of crime in society not by declining to prosecute but rather by recommending the release of defendants they intend to prosecute, some of whom commit new offenses before or after the completion of their case. There is now a cottage industry of research on rates of re-arrest during and after the completion of criminal proceedings, some of which reads like a referendum on progressive prosecution even though prosecutors have no

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[63] See Peterson, op. cit, p. 462.

[64] Mike Schmidt, the DA in Multnomah County, Oregon, told us that marginal increases in declination rates cause the police to "believe ADAs won't prosecute," which turns out to be "a self-fulfilling prophesy" because the police are then less likely to do the work needed to persuade an attorney of the charge. Last year, the city's police chief admonished his staff for purveying such beliefs. See Shane Kavanaugh, "Portland Police Chief to City Cops: Stop Telling Residents DA Mike Schmidt Won't Prosecute Crimes," the Oregonian Live, August 8, 2023.

monopoly on that decision. Moreover, bail practices are being reshaped by new legislation, as in New York, and other externally imposed changes such as the consent decree in Harris County, Texas (Houston).[65] Many of the findings from this research find lower rates of recidivism among people released from custody without financial conditions after changes in law and policy. For example, a March 2023 study by researchers at John Jay College of Criminal Justice found an overall reduction in recidivism among defendants released from custody before and after disposition.[66]

Another possibility is that prosecutors affect the incidence of crime in society directly by changing the behavior of specific individuals *after trial*. For instance, prosecutors might facilitate crime by recommending shorter periods of incarceration or non-custodial sentences for convicted defendants, some of whom might offend while serving a sentence in the community or after their release. Statistical tests of this idea could be conducted in states such as New York that publish rates of prison admissions by county, though they are unlikely to be dispositive without quasi-experimental research and comprehensive data on the propensity scores of defendants, length of sentence, exposure to rehabilitation programming, and access to support during and after custody.

In our view, all three possibilities need to be considered together for any study to be satisfactory: prosecution might have compounding or contradictory effects in each domain, and some effects might multiply, offset, or cancel one another. To date, however, most empirical research on progressive prosecution has been segmented, with separate studies on bail, charging, and sentencing.[67] We know of no studies that synthesize findings from research on different actors and agencies, such as police *and* prosecution or probation *and* parole. Nor do we know of any studies of prosecution that integrate findings from research on activity beyond criminal justice or at the margins of government such as gang violence-interruption initiatives, batterer and anger-management programs, youth engagement enterprises, or sexual assault referral centers. This means that research on the repercussions of any single aspect

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[65] For an inventory of the research underway, see Stephen Koppel and Rene Ropac, "Examining the System-Wide Effect of Eliminating Bail in New York City," Data Collaborative for Justice, October 2023. For a scurrilous account of the findings, see Jim Quinn, "Bail Fail," *New York Post*, March 3, 2024.

[66] See Mike Rempel and Rene Ropac, "Does New York's Bail Reform Law Impact Recidivism?" Data Collaborative for Justice, March 2023.

[67] See, for example, Ojmarrh Mitchell et. al., "Are Progressive Chief Prosecutors Effective in Reducing Prison Use and Cumulative Racial/Ethnic Disadvantage? Evidence from Florida," *Criminology and Public Policy*, 21 (2022).

of public prosecution, such as declination rates for misdemeanors, risks ignoring the effects of other activity within the justice system or beyond it that could multiply or negate its consequences.

In sum, a thorough evaluation of the possible impacts of progressive prosecution would have to be synthetic, appraising the effects not only of decisions made at the front end of criminal justice such as a declination, dismissal, or diversion from prosecution, but also of decisions made in the course of prosecution (such as plea agreements to misdemeanors for offenses charged as felonies) and the back-end (such as lengths of sentences, duration of community supervision). It might also need to consider the repercussions of changes in other practices such as new arrangements for pre-trial discovery, different approaches to police misconduct, changes in the use of forensic science and artificial intelligence, and shifts in the way prosecutors work with victims and community service organizations.

Conclusion

We find no evidence that the election or practices of progressive prosecutors have causal effects on crime. This conclusion follows from our analysis of a wide array of data on violent crime and property crime across dozens of major cities and hundreds of counties in rural and urban areas over a nine year period, including: (a) measures of index violent and property crime aggregated by the federal government and professional police associations, (b) public health data on injury deaths, (c) separate data sets on shoplifting and Part II crime, and (d) local prosecutor's data on rates of declination and (e) justice agency data on rates of re-arrest for suspects not detained before trial. It also examines survey data on public perceptions of policing and criminal justice that shows most residents lack confidence in the justice system to resolve the problems with crime exposed by the increase in homicide since 2014, which may or may not respond in step to data on the substantial decline in violent crime between 2022 and the first half of 2024.

We also find considerable variation across cities and counties that does not correspond to the identity or practices of elected prosecutors, which suggests that social dynamics beyond the justice system are responsible for the pronounced increases and decreases in crime in the period we examined. Further research inspired by this variation might take advantage of the proliferation of indices of social exclusion, economic deprivation, rent burdens, and public ill-health, all of which create new opportunities for the alignment of data on crime and violence with these and other distal measures of social misery. Another way is to combine and synthesize

measures of practices in criminal justice that are usually analyzed in isolation from one another, such as rates of non-prosecution, pretrial release, failure to appear and re-arrest, probation violation, repeat victimization, and custodial sentences. Either of these approaches – or both together – would strengthen any multi-jurisdiction study of the effects of specific aspects of prosecutor decision-making, such as non-prosecution and bail, or the diversion of defendants charged with drug offenses, by identifying whether their singular or combined effects vary depending on local social ecologies and the other features of the criminal justice system.

Finally, we find variation in the practices of public prosecution that complicates the attribution of changes in crime and justice to a class or cohort of prosecutors branded "progressive," and which also reveals the need for a more supple system for their classification. Where we were able to obtain fine-grained data on actual practices (San Francisco, Portland, Los Angeles, and New York City), we found diversity among a cohort of prosecutors that belies their treatment with a simple or single moniker. Furthermore, some specific practices by prosecutors that are labeled "progressive" may have different effects in different cities, especially when used in combination with other practices that are believed to be less progressive, or when accompanied (or not) by bold public statements about crime and justice. A new taxonomy of prosecutors should respect this variation, tracking differences in a portfolio of their practices rather than just individual policies and the style and substance of their public messaging. It should also track changes in policy and practice over time since prosecutors adjust and recalibrate policies and practices in response to social change.