THE PARADOX OF FEDERAL OVERSIGHT IN POLICE MISCONDUCT INVESTIGATIONS

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ABSTRACT

This Article examines the relationship between state prosecutors, federal prosecutors, and the Civil Rights Division inside the United States Department of Justice in conducting police misconduct investigations and prosecutions. While previous literature documents prosecutors' enormous concentration of power, they remain an understudied population in the criminal legal system, particularly in how they investigate and prosecute police officers accused of crimes. To remedy this gap, I conducted over fifty interviews with prosecutors, civilian investigators, and other legal professionals working in the domain of police misconduct investigations and prosecutions in multiple field sites around the United States. This Article is one of the first to offer insights from some of the most select employees around the United States because these specific occupations are just that—uncommon, atypical, and exceptional in context of the potential universe of "line" or assistant prosecutors around the country.

The interview data demonstrates that police misconduct prosecutors possess idiosyncratic and specialized skill sets. However, I find that mounting public pressure for police accountability coincides with limited-prosecutorial expertise and proficiency in successfully prosecuting police misconduct around the United States. Police suspect prosecutors are not present in every jurisdiction or legal community. This sociolegal environment may encourage prosecutors with unique insights to share ideas, resources, and successful evidentiary strategies for securing indictments.

Yet, I expose a novel paradox: experienced prosecutors may reject exogenous support because they understand it as disruptive and oppres-

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sive surveillance by outsiders. Results demonstrate that growing demands for police accountability confront established occupational scaffolds, and federal collaboration threatens longstanding notions of occupational autonomy and prosecutorial esteem, and risks oversight by outsiders. The Article concludes with important theoretical and practical implications for the prospect of future accountability as well as structural recommendations for facilitating criminal legal accountability for police misconduct in the future.

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INTRODUCTION

Following the murder of George Floyd, the United States Department of Justice (USDOJ) Civil Rights Division opened a pattern or practice investigation into the Minneapolis Police Department. The investigation, targeted at assessing the types of force used by Minneapolis Police Department officers, documented numerous violations of the First, Fourth, and Fourteenth Amendments to the United States Constitution. This prompted the City of Minneapolis to enter into a federal judicial

consent decree—the federal judicial mechanism designed to oversee the reform process.[1] Moreover, Derek Chauvin, the officer filmed kneeling on Mr. Floyd's neck, was convicted of both state and federal charges related to the death of George Floyd.[2]

While the public release of bystander Darnella Frazier's ten-minute-long video was originally suppressed and conflicted with initial accounts offered by Minneapolis Police, once released, it sparked global protest and collective mobilization of the highest ranks of the federal government.[3] Taking a cursory view, these many outcomes following George Floyd's death—particularly federal involvement in local police accountability efforts—suggest that once activated, the legal system is well-equipped to administer justice in high-profile cases of police violence. However, a more comprehensive view reveals that what happened in Minneapolis was an outlier regarding the broader prospect of police officer accountability.

Indeed, a closer look reveals that the global outrage, notable federal response, and even Chauvin's eventual convictions were all statistical rarities in context of police misconduct around the United States. On one hand, the overwhelming majority of criminal cases involving civilian defendants result in indictments by grand juries.[4] Criminal charges against police, however, are rare and stand in stark contrast to the statistical probability of civilian indictment.[5] To this end, data collected by the Bureau of Justice Statistics indicates that in 2002 "[l]arge State and local law enforcement agencies—those with 100 or more sworn officers—received more than 26,000 [civilian] complaints" about police use of force.[6] About 7%–10% of these excessive-force complaints were sustained by internal investigators. However, "nonfederal law enforcement

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1. Press Release, Office of Public Affairs, Justice Department Reaches Agreement with the City of Minneapolis and Minneapolis Police Department to Reform City's and Police Department's Unconstitutional and Unlawful Practices (Jan. 6, 2025), https://www.justice.gov/archives/opa/pr/justice-department-reaches-agreement-city-minneapolis-and-minneapolis-police-department.

2. Press Release, Office of Public Affairs, Former Minneapolis Police Officer Derek Chauvin Sentenced to More Than 20 Years in Prison for Depriving George Floyd and a Minor Victim of their Constitutional Rights (July 7, 2022), https://www.justice.gov/archives/opa/pr/former-minneapolis-police-officer-derek-chauvin-sentenced-more-20-years-prison-depriving; Steve Karnowski, *Chauvin Murder Conviction Upheld in George Floyd Killing*, AP NEWS (Apr. 17, 2023, at 2:26 PM MDT), https://apnews.com/article/chauvin-murder-appeals-court-6941a6074dcc310c85e4f3eab2be97eb.

3. Nicholas Bogel-Burroughs & Tim Arango, *Darnella Frazier, the Teenager Who Filmed George Floyd's Arrest, Testifies at the Trial*, N.Y TIMES (Mar. 30, 2021), https://www.nytimes.com/2021/03/30/us/darnella-frazier-video-george-floyd.html.

4. *See* Roger A. Fairfax, Jr., *The Grand Jury's Role in the Prosecution of Unjustified Police Killings — Challenges and Solutions*, 52 HARV. C.R.-C.L. L. REV. 397, 399 (2017); *see also* Ric Simmons, *The Role of the Prosecutor and the Grand Jury in Police Use of Deadly Force Cases: Restoring the Grand Jury to Its Original Purpose*, 65 CLEV. STATE L. REV. 519, 520–22 (2017).

5. Caleb J. Robertson, *Restoring Public Confidence in the Criminal Justice System: Policing Prosecutions When Prosecutors Prosecute Police*, 67 EMORY L.J. 853, 875 (2018).

6. MATTHEW J. HICKMAN, BUREAU OF JUST. STAT., NJC 210296, CITIZENS COMPLAINTS ABOUT POLICE USE OF FORCE 1 (2006).

officers were arrested nationwide during 2005–2011 at a rate of 0.72 officers arrested per 1,000 officers, and at a rate of 1.7 officers arrested per 100,000 population nationwide."[7] Compare this to the violent-crime arrest rate of the civilian population which hovered between 172–207 per 100,000 inhabitants during the same period.[8] Indeed, despite American police officers killing around 1,000 people every year, from 2005–2015 prosecutors filed only 302 murder or manslaughter charges.[9] So, while it is important to avoid the suggestion that all police fatalities are indictable offenses, data and scholarship alike demonstrate that police misconduct is under-investigated, and, even when evidence theoretically supports prosecution, officers rarely face trial.[10] Accordingly, given the statistical rarity of officers facing indictment or conviction, and even though Mr. Floyd's death was documented in gruesome fashion, preliminary legal analyses considered whether Officer Chauvin would be held criminally liable for Mr. Floyd's death, let alone indicted for any crime related to his conduct on May 25th. Ultimately, even after the murder of George Floyd, federal investigations and judicial oversight—particularly of whole departments—are uncommon, and despite evidence of criminality, officers are rarely indicted and much less convicted of on duty conduct.

In the wake of this newest iteration of uprisings, and in response to the numerous police fatalities occurring annually in the United States, I set out to gather the perspectives of the legal officials ultimately responsible for investigating and prosecuting police misconduct. The operational definition of "police misconduct" I use in this Article refers to police officers under investigation for criminal conduct.[11] Borrowing from Hill,

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7. Philip Matthew Stinson, John Liederbach, Steven P. Lab, & Steven L. Brewer, Jr., Police Integrity Lost: A Study of Law Enforcement Officers Arrested 2 (Apr. 2016) (unpublished manuscript) (on file with the Office of Justice Programs and USDOJ).

8. Press Release, Fed. Bureau of Investigation, FBI Releases Its 2006 Crime Statistics (Sept. 24, 2007); Press Release, Fed. Bureau of Investigation, FBI Releases 2007 Crime Statistics (Sept. 15, 2008); Press Release, Fed. Bureau of Investigation, FBI Releases 2008 Crime Statistics (Sept. 14, 2009); Press Release, Fed. Bureau of Investigation, FBI Releases 2009 Crime Statistics (Sept. 13, 2010); Press Release, Fed. Bureau of Investigation, FBI Releases 2010 Crime Statistics (Sept. 19, 2011); Press Release, Fed. Bureau of Investigation, FBI Releases 2011 Crime Statistics (Oct. 29, 2012).

9. Philip M. Stinson, Sr. & Chloe A. Wentzlof, *On Duty Shootings: Police Officers Charged with Murder or Manslaughter, 2005-2019*, POLICE INTEGRITY RSCH. GRP., BOWLING GREEN STATE UNIV., https://policecrime.bgsu.edu [https://perma.cc/J8Q9-EVQB (last visited Dec. 28, 2023); Amelia Thomson-DeVeaux, Nathaniel Rakich, & Likhitha Butchireddygari, *Why It's So Rare for Police Officers to Face Legal Consequences*, FIVETHIRTYEIGHT (Sept. 23, 2020, at 4:53 PM), https://fivethirtyeight.com/features/why-its-still-so-rare-for-police-officers-to-face-legal-consequences-for-misconduct/; *see* FRANKLIN E. ZIMRING, WHEN POLICE KILL 24, 31, 34–35, 39 (2017).

10. *See* Douglas L. Colbert, *Prosecuting Baltimore Police Officers*, 16 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 185, 185–88 (2016); John V. Jacobi, *Prosecuting Police Misconduct*, 2000 WIS. L. REV. 789, 803–05 (2000); CHARLES J. OGLETREE, JR., MARY PROSSER, ABBE SMITH, & WILLIAM TALLEY, JR., BEYOND THE RODNEY KING STORY: AN INVESTIGATION OF POLICE CONDUCT IN MINORITY COMMUNITIES 45–47, 52, 54 (1995); Robertson, *supra* note 5, at 874–75.

11. *See* Kate Levine, *Police Suspects*, 116 COLUM. L. REV. 1197, 1198–99 (2016).

Stinson, and Levine,[12] I focus my inquiry in this Article on the criminal law as it regards prosecutorial decision-making surrounding police-involved fatalities and other severe uses of force, a particular facet of "[v]iolence-related . . . crime."[13] My examination includes excessive-force allegations surrounding officer-involved homicides, the use of less-lethal force like neck restraints and ballistic projectiles on civilian protestors, and may include other kinds of physical force, like beatings and fights with civilians.[14]

I wondered: Who is called to the scene of an officer-involved shooting? Who are the civilian investigators gathering evidence? What do the prosecutors in some of the most high-profile cases of police criminality experience on the ground? What pressures and challenges do they face when attempting to hold powerful police officers accountable? When—and why— does the Civil Rights Division at the USDOJ get involved? Ultimately, I wanted to understand the experiences of legal officials empowered to address criminal allegations against sworn members of law enforcement.

Questions such as these are situated within a criminal legal system defined by, on one hand, the tremendous concentration of prosecutorial power while confronting, on the other, a highly insulated legal community: police officers. Yet, even though prosecutors are the most powerful practitioners in the American criminal legal system, we know relatively little about the contexts in which prosecutors make decisions and how they interact with their closest colleagues in law enforcement.[15] This is precisely because prosecutors are notoriously difficult to contact, and as a result, "[empirical analyses] of prosecutorial practices remain sparse,

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12. *See* Aaron Hill, *Putting Police in the Paddywagon: An Analysis of the Difficulties of Prosecuting Police and Proposed Solutions*, 53 U. TOL. L. REV. 497, 497, 501–04 (2022); STINSON, LIEDERBACH, LAB, & BREWER, JR., *supra* note 7, at 55–56; Levine, *supra* note 11, at 1197, 1206–07.

13. STINSON, LIEDERBACH, LAB, & BREWER, JR., *supra* note 7, at 24. As the authors note, violence-related police crime may also include domestic violence and gender-based violence. *Id.* I initially intended to preclude these specific crimes for my analysis, although some respondents did mention them in passing throughout the course of our conversations.

14. My examination excludes employment policy violation processes and civil legal disputes as captured within 42 U.S.C. § 1983 litigation, except as they may connect with evidence collection or other criminal legal investigative processes. Throughout fieldwork, I found that investigations into an officer's non-fatal and fatal use of force could expand as the result of officers lying on paperwork, falsifying arrest reports, and concealing or fabricating evidence. As a result, use of force investigations oftentimes grew to include additional charges including perjury and obstruction of justice. Accordingly, details surrounding non-homicide charges may be referenced and discussed in this Article.

15. *See* LAURA E. GÓMEZ, MISCONCEIVING MOTHERS: LEGISLATORS, PROSECUTORS, AND THE POLITICS OF PRENATAL DRUG EXPOSURE 63–64 (1997); *see* Marc L. Miller & Ronald F. Wright, *The Black Box* 3–4, 6–7 (Ariz. Legal Stud., Discussion Paper No. 08-20, 2008) (noting that the vast majority of prosecutors need not provide a reason for declining to file charges); JOHN F. PFAFF, LOCKED IN: THE TRUE CAUSES OF MASS INCARCERATION AND HOW TO ACHIEVE REAL REFORM 58–59 (2017); Robertson, *supra* note 5, at 866–67 (explaining the prosecutor's reliance on police as essential to a criminal case's success).

primarily as a result of data access challenges."[16] In other words, the contemporary demand for increased prosecutorial transparency, particularly in cases involving police officers accused of criminal misconduct, is primarily the result of prosecutors' "rules, norms, and preferences" that are typically hidden from public view.[17] Decisions regarding what behavior to hold accountable remain entirely within prosecutors' offices with limited oversight from outside sources.[18]

To explore the investigation and prosecution of police officers, I could not simply analyze legal doctrine or read trial proceedings. Instead, it required speaking directly with the individuals responsible for investigating and prosecuting police misconduct. As a result, I completed over fifty in-depth interviews with prosecutors and other legal professionals responsible for investigations and prosecutions of criminal police misconduct around the United States. Repeated, long-form interviews allowed for a deeper accounting of the procedure and logistics of police misconduct adjudications and the barriers faced by these highly specialized legal professionals.

In answering the many questions listed above, I explored the emergence of new and ostensibly enlightened investigative techniques designed to infuse police misconduct investigations and prosecutions with trust, transparency, expertise, and legitimacy.[19] By interviewing prosecutors, civilian investigators, and other legal professionals working in the world of police misconduct investigations and prosecutions, I was able to uniquely document how police departments and police unions exert an outsized influence on these investigations.[20] I also found that the demographic composition of grand juries around the United States—

16. Mona Lynch, Matt Barno, & Marisa Omori, *Prosecutors, Court Communities, and Policy Change: The Impact of Internal DOJ Reforms on Federal Prosecutorial Practices*, 59 CRIMINOLOGY 480, 483 (2021).

17. *See* Mona Lynch, *Prosecutorial Discretion, Drug Case Selection, and Inequality in Federal Court*, 35 JUST. Q. 1309, 1313 (2018); *see also* Megan S. Wright, Shima Baradaran Baughman, & Christopher Robertson, *Inside the Black Box of Prosecutor Discretion*, 55 U.C. DAVIS L. REV. 2133, 2143–46 (2022).

18. *See* Lynch, *supra* note 17, at 1313; Michael Edmund O'Neill, *When Prosecutors Don't: Trends in Federal Prosecutorial Declinations*, 79 NOTRE DAME L. REV. 221, 222–23, 249–50 (2003); Wright, Baradaran Baughman, & Robertson, *supra* note 17, at 2143–44, 2156–57.

19. *See* Kevin G. Karpiak, Sameena Mulla, & Ramona L. Pérez, *The Plurality of Police Oversight: A Method for Building upon Lessons Learned for Understanding an Evolving Strategy*, 45 POLICING: AN INT'L J. 648, 649–50 (2022); Jisang Kim, *The Effect of Civilian Oversight on Police Organizational Performance: A Quasi-Experimental Study*, 52 AM. REV. PUB. ADMIN. 382, 382, 387 (2022); BESIKI LUKA KUTATELADZE, REBECCA RICHARDSON DUNLEA, MELBA PEARSON, LIN LIU, RYAN MELDRUM, & DON STEMEN, FLA. INT'L UNIV., REJECT OR DISMISS? A PROSECUTOR'S DILEMMA 4, 10 (2022); SAMUEL E. WALKER & CAROL A. ARCHBOLD, THE NEW WORLD OF POLICE ACCOUNTABILITY (3d ed. 2018); Ilana M. Friedman, Institutionalized Challenges for Investigating Police Criminality 14–18 (Aug. 3, 2025) (unpublished manuscript).

20. *See* Tony Cheng, *The Cumulative Discretion of Police over Community Complaints*, 127 AM. J. SOCIO. 1782, 1784–86, 1788–90, 1800 (2022); TONY CHENG, THE POLICING MACHINE: ENFORCEMENT, ENDORSEMENTS, AND THE ILLUSION OF PUBLIC INPUT 21, 23, 67–68 (2024); Theresa Rocha Beardall, *Police Legitimacy Regimes and the Suppression of Citizen Oversight in Response to Police Violence*, 60 CRIMINOLOGY 740, 746, 755, 761 (2022).

particularly in the federal system—is incredibly consequential for explaining low levels of police officer indictment.[21]

This Article explains the third major finding from my research project: the complex and multifaceted role of federal prosecutors and federal resources provided by USDOJ Civil Rights Division within police misconduct investigations and prosecutions.[22] The Civil Rights Division is a sub-unit of federal prosecutors contained within the USDOJ that specializes in Hate Crimes and Civil Rights litigation.[23] Federal prosecutors in a city's local field office are technically overseen by USDOJ headquarters (Main Justice) and the Civil Rights Division;[24] although I found that individual federal prosecutors have varying degrees of contact with Main Justice. Gina, a federal prosecutor, described this arrangement and how local federal prosecutors, or Assistant United States Attorneys (AUSA), work with the Civil Rights Division,

> We have the local DOJ prosecutor who is like the AUSA in the district, like me. And then we often work with the DOJ Civil Rights Criminal Division, so they are also federal prosecutors, but they work out of Washington and they work only on police misconduct and hate crimes. They do them all over the country. So I had partners in both of these cases with the Division. They're experts on this on this, they only do these cases.[25]

While conventional wisdom, ostensibly confirmed by Gina, suggests federal oversight is a useful addition in police accountability processes, I find that federal expertise and resources from the Civil Rights Division may present unanticipated challenges to the prospect of police accountability. For example, take this reflection from Chandra, an experienced federal prosecutor whose jurisdiction covered two cities within my research sample. She explained,

> We don't have complete autonomy unlike when I did drug cases. I didn't answer to the Narcotics and Dangerous Drug section in D.C. They had no idea what I did. They are not involved on the frontline like Civil Rights Division tries to be. And so I call them 'officious intermeddlers.' They end up being in the way more than they are helpful.[26]

Here, Chandra was explicit in her disapproval of outside resources by way of federal prosecutors out of Main Justice coming to her local field

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21. Ilana M. Friedman, *How Grand Jury Secrecy and Bias Protects and Perpetuates Police-Suspect Impunity*, 103 OR. L. REV. 379, 383–85 (2025).

22. *See* Steven Puro, *Federal Responsibility for Police Accountability Through Criminal Prosecution*, 22 ST. LOUIS UNIV. PUB. L. REV. 95, 95 (2003); *see also* Daniel W. Xu, *Narrowing the Police Accountability Gap in Civil Rights Prosecutions*, 73 EMORY L.J. 961, 963–65 (2024).

23. *Our Work*, C.R. DIV. (Mar. 12, 2025), https://www.justice.gov/crt/our-work.

24. *Id.*

25. Interview with "Gina," Assistant U.S. Att'y, Chief C.R. Unit (Jan. 19, 2022).

26. Interview with "Chandra," Assistant U.S. Att'y, Lead C.R. Unit (Dec. 2, 2021).

office. We see how Chandra, an experienced police misconduct prosecutor, perceives the Civil Rights Division coming to her office as a direct risk to her professional autonomy. Rather than welcoming the Division, Chandra views her prosecutorial independence as vulnerable to the Division, so much so that she labels them as an overbearing presence that threatens the prospect of police misconduct investigations and prosecutions.

Chandra's perspective is prescient because she suggests—like many of my other respondents—that instead of heaving resources at local field offices, promising indictments and convictions to local constituents, and even conducting centralized investigations of whole police departments, many federal prosecutors contest the development of connected frameworks designed to facilitate collaboration and win cases.[27] Instead, the infusion of exogenous support exposes a crucial and previously hidden paradox within police misconduct investigations and prosecutions: Outside resources are oftentimes understood as oppressive occupational surveillance and unwelcome oversight, threatening traditional notions of prosecutorial autonomy and producing tensions between organizational ranks. Accordingly, while police misconduct prosecutor occupational expertise and experience could supplement a sociolegal environment defined by relative inexperience, in the pages that come, I document how police misconduct prosecutors' notion of prestige and threats to a prosecutor's autonomy *actually jeopardizes* the prosecution of police officers. Ultimately, I demonstrate that while related analogues have been useful in the past to increase accountability related to other kinds of criminality, like violence against women and other forms of gender-based violence, the resistance to forming formal partnerships designed to share knowledge across occupational boundaries may risk the prospect of police accountability around the United States.

This Article proceeds in four Parts. Part I describes my original methods of data collection and discusses the importance of participant confidentiality and anonymity in human-subjects research. Part II introduces the theoretical frameworks, occupational prestige, and workplace surveillance relevant for understanding the complex nature of the federal role within police misconduct investigations and prosecutions. Part III presents original evidence indicating that police misconduct prosecutors possess a unique and prestigious kind of prosecutorial substantive and relational expertise. I demonstrate that experienced police misconduct prosecutors tend to view exogenous federal support from Main Justice in Washington, D.C. as a risk to their occupational autonomy and prestige, presenting unanticipated consequences for the prospect of successful police misconduct adjudication. Finally, Part IV discusses my solution to the problems uncovered in the previous Parts of this Article, including

27. *Id.*

the development and implementation of particular kinds of federal resources to expand police misconduct prosecutorial expertise and experience.

I. HOW I EXAMINED POLICE MISCONDUCT PROSECUTORS

The purpose of this study was to discover how state, local, and federal prosecutors—in local field sites and the USDOJ's Civil Rights Division—interact within police misconduct investigations. To accomplish this aim, the study used in-depth interviews and the analysis of interview transcripts with prosecutors and other legal professionals across the United States. In Section A, I describe the geographic and demographic composition of the cities where I conducted research. Then, in Section B, I explain my unique methodological practices, chiefly the importance of maintaining participant confidentiality throughout my research agenda.

B. Descriptions of the Cities Where I Conducted Research

To examine the role of federal police misconduct prosecutors, I drew on evidence from fifty-three in-depth interviews with civilians and legal professionals working in the domain of police misconduct investigations and prosecutions. As part of a broader project on the investigation and prosecution of police misconduct, I strategically selected multiple cities in the United States that were facing external pressure for increased police accountability as the result of previous episodes involving notable or fatal police force. The cities where I conducted my fieldwork are hereafter referred to as City 1, City 2, City 3, City 4, City 5, and City 6. These cities range from small to major metro cities in the United States, as reflected in Table 1 below.

	City 1	**City 2**	**City 3**	**City 4**	**City 5**	**City 6**
Population of City	300,000	1,000,000	965,000	2,700,000	155,000	275,000
% Black	45	25	7	29	20	7
% Hispanic	4	3	33	28	48	8
% Asian	4	5	8	7	3	9
% Native-American	1	1	1	1	1	0
% White	6	67	66	45	53	76

Table 1: City Demographic Data[28]

28. *Quick Facts: United States*, U.S. CENSUS BUREAU, https://www.census.gov/quickfacts/fact/table/US/PST045222#PST045222 (last visited Nov. 18, 2023).

Aside from demographic composition and political orientations of each city, field sites also had varying experience with high-profile cases of fatal police conduct. For example, City 1 had the highest rate of police use of deadly force in the nation and City 4 had a decades-long legacy of publicized cases of police violence, torture, and corruption spanning all ranks of the police department. In City 4, between 2013 and 2021, there were 390 police shootings and 91 killings by police (1.5 out of every 10,000 arrests). Compare this to 10 shootings and 2 killings by police (0.6 per 10,000 arrests) in City 5 during the same period of time. However, despite the variation between cities on the rate of fatal police force, I observed very early that experience investigating and prosecuting police misconduct was uncommon among prosecutors in all locations. In other words, police misconduct cases seemed to be reserved for only the most experienced and senior prosecutors within a district attorney's office. I found that these prosecutors were not only the hardest to reach but also the rarest to come by regardless of location.

I began data collection by identifying persons knowledgeable about the investigation and prosecution process of police officers and requested to talk with them for an interview. Once they agreed to speak with me, interviews took place in person, via phone call, or remote video conferencing. Interviews combined a semi-structured format covering topics like their backgrounds, entrance into the profession, and the nature of each respondent's experience with police misconduct investigations and prosecutions. Follow up questions included how they were trained; how they gained experience investigating and prosecuting police misconduct; how they gleaned evidentiary strategies over the years to facilitate indictment and conviction; and how they work with other prosecutors in their offices, around the state, and around the United States.

Pseudonym	**Race**	**Sex**	**Federal or State**	**Unit or Specialization**	**City**	**# of Interviews**
Aaron	White	Male	State	Assistant District Attorney; Special Prosecution Unit	3	3
Alice	White	Female	State	Assistant County Counselor	2	4
Allen	White	Male	State	Assistant District Attorney	2	1
Brian	White	Male	N/A	Private counsel, civil rights attorney	1 & 2	1

Bryce	White	Male	State	Assistant State's Attorney; Civil Rights Unit, Office of the Attorney General	5	2
Chandra	White	Female	Federal	Assistant United States Attorney, Lead Civil Rights Unit	1 & 2	3
Clayton	White	Male	State	Homicide Investigator	1 & 2	2
Darian	Black	Male	State	Police Officer	4	3
Deborah	White	Female	Federal	Assistant United States Attorney	1 & 2	3
Frank	Asian	Male	State	Assistant District Attorney	6	3
Gina	Asian	Female	Federal	Assistant United States Attorney; Chief Civil Rights Unit	5	2
Jamie	Black	Female	State	Assistant District Attorney	4	2
Mark	White	Male	State	Public Defender	4	2
Matthew	White	Male	State	Assistant District Attorney; Special Prosecution Unit	2	5
Miranda	White	Female	State	Civilian Investigator; Academy Trainer & Major Case Specialist	4	1
Peter	White	Male	State	Assistant District Attorney; Chief of Sex Crimes Unit	6	3
Oliver	White	Male	State	Private counsel, civil rights attorney	3	1

Oscar	Black	Male	State	Assistant District Attorney; Chief Special Prosecution Unit	3	5
Richard	White	Male	Federal	Assistant United States Attorney – Senior Litigation Counsel	1 & 2	1
Scott	White	Male	State	Civilian Investigator; Chief of Staff	4	1
Shannon	White	Female	State	Civilian Investigator	4	2
Thomas	Black	Male	State	Assistant County Counselor	3	2
Veronica	Black	Female	State	Civilian Investigator; Deputy Chief and Lead of Special Victims' Team	4	1

Table 2: Demographic Information of Respondents

During all interviews, I followed the lead of the respondent, letting them elaborate as they felt necessary, probing details, and asking for clarification where relevant. Each interview lasted from one to two hours, and each respondent was interviewed at least twice, each taking place typically two to three weeks apart. This method of repeated interviews facilitated a high level of exposure with respondents and the capacity to develop rapport over time to unlock deeper levels of candidness during our time together.[29] Following all interviews, I transcribed the recording via Otter.ai, identified key themes using Delve Qualitative Software, and wrote follow up and clarification questions in anticipation of our next interview.[30] In addition to audio recording each interview,

29. *See* MATTHEW CLAIR, PRIVILEGE AND PUNISHMENT: HOW RACE AND CLASS MATTER IN CRIMINAL COURT 25–26 (Princeton Univ. Press 2020); JAY MACLEOD, AIN'T NO MAKIN' IT: ASPIRATIONS AND ATTAINMENT IN A LOW-INCOME NEIGHBORHOOD 4, 8, 17 (3d ed. 2009) (discussing the nature of social classes and their impact on sociological features, such as social circumstances, aspirations, and even language); Mario Luis Small, '*How Many Cases Do I Need?' On Science and the Logic of Case Selection in Field-Based Research*, 10 ETHNOGRAPHY 5, 28 (2009).

30. Otter.ai is a text transcription service that converts spoken words into text. Allen Lai, *What is Otter?*, OTTER.AI, https://help.otter.ai/hc/en-us/articles/360035266494-What-is-Otter (last visited Oct. 23, 2025). Delve Qualitative Software takes text transcriptions and allows researchers to code, organize, and categorize text to provide deductive insights for qualitative research. DELVE, https://delvetool.com/ (last visited Oct. 23, 2025). Once the interview was recorded, I input the file into Otter.ai to transcribe the interview into text, which was then input into Delve. Using Delve, I

jottings and fieldnotes were taken in real time supplement audio transcriptions.

Initial interviews with key respondents provided access to numerous other experienced prosecutors and other legal professionals who referred me to other local personnel who worked closely on police misconduct prosecutions. This method of snowball sampling not only ensured variability in location, perspective, and expertise throughout my sample of respondents but also exposed how experience, tenure, and rank are relevant to prosecutorial decision-making within police misconduct cases and whether and how they interact with knowledgeable and veteran prosecutors within their region and around the United States.[31] Respondents in my sample were assistant, junior, line, and federal prosecutors and not solely elected district attorneys. Respondents were randomly assigned a pseudonym to guarantee anonymity, as confidentiality was necessary for continued access to the field as described further in Section B.

As part of a broader project on police accountability, I employed a flexible coding scheme throughout my interviews. Within my interviews, I observed that police misconduct prosecutors indicated they possessed a unique skill set and knowledge for how to successfully prosecute police officers. Accordingly, I wondered whether police misconduct prosecution was a specific kind of professional expertise, and I recoded interviews with this theme in mind, paying close attention to how police misconduct prosecutors view outsiders and whether they perceive them as a threat to their occupational autonomy or helpful resources to supplement expertise within police misconduct cases. I heard mixed reactions from prosecutors. Some recounted how they did not appreciate federal oversight and resources, describing their objections to the presence of prosecutors out of Main Justice in Washington, D.C. in their local field sites.[32] Others welcomed federal intervention, viewing outsiders as helpful resources.[33] Such an environment allowed me to probe when experienced prosecutors collaborated to share meaning across occupational boundaries and how occupational prestige and prosecutorial autonomy influenced the prosecution of police officers.

Detailed accounts provided in multiple interviews produced data that allowed me to understand how police misconduct prosecutors view their work and assistance offered from those outside their jurisdiction. Over time and with greater rapport, I was able to account for the variation between prosecutors' ideologies regarding help from outsiders and

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then created and applied "codes," or common themes, to blocks of text. This allowed me to establish links between findings and broader themes uncovered in each interview, between interviews with the same respondent, and between interviews with other respondents.

31. GÓMEZ, *supra* note 15, at 126–27.

32. Interview with "Chandra," Assistant U.S. Att'y, Lead C.R. Unit (Dec. 2, 2021).

33. Interview with "Gina," Assistant U.S. Att'y, Chief C.R. Unit (Jan. 19, 2022).

the sharing of information.[34] To support the final writing process, I synthesized findings into shorter memos and eventually wrote longer sections to form a more cohesive whole.[35]

B. The Importance of Anonymity and Confidentiality in Conducting Research

In this Section, I detail my decision-making surrounding location concealment and participant anonymity. Throughout this research project, the anonymity of cities, concealment of personally identifiable details of respondents, and the use of pseudonyms was not only a conspicuous choice, but also a foundational decision involved with my broader research methodology. When beginning this research agenda, I noted the need to protect participants' confidentiality to conform with university research protocols. However, I also assumed potential respondents would be suspicious of and relatively unapproachable to a random graduate student asking them detailed questions about highly publicized episodes of police violence in their jurisdictions. Indeed, my suspicions were confirmed when respondents were initially distrustful in our first conversations, oftentimes withholding important details and cursory in their explanations. Accordingly, I took considerable time and effort to develop and explain my confidentiality and privacy procedures to respondents, and maintaining anonymity and confidentiality was a key strategic mechanism designed to enhance respondents' comfort in speaking with me.

My initial decision regarding anonymizing respondent information and field site locations regarded an inherent conflict between open science and maintaining participant protections within human-subjects research. The failure to anonymize cities and people clashes with confidentiality requirements imposed by institutional review boards (IRBs) when conducting human-subjects research, particularly when that research involves particular subjects.[36] For these reasons, within my approved research protocol, I explicitly detailed how I would maintain participant confidentiality, anonymity, and uphold informed consent procedures.

Accordingly, altering previous authorizations and proceeding differently—such as identifying specific jurisdictions—would be a massive deviation from typical standards required by IRBs around the country,

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34. *See* Katherine Jensen & Javier Auyero, *Teaching and Learning the Craft: The Construction of Ethnographic Objects*, 16 RSCH. URB. SOCIO. 69, 70 (2019).

35. *See* Nicole M. Deterding & Mary C. Waters, *Flexible Coding of In-Depth Interviews: A Twenty-First-Century Approach*, 50 SOCIO. METHODS & RSCH. 708, 732–33 (2021); ROBERT M. EMERSON, RACHEL I. FRETZ, & LINDA L. SHAW, WRITING ETHNOGRAPHIC FIELDNOTES 123 (2d ed. 2011); Victoria Reyes, *Ethnographic Toolkit: Strategic Positionality and Researchers' Visible and Invisible Tools in Field Research*, 21 ETHNOGRAPHY 220, 221 (2020) (discussing the notion of an "ethnographic toolkit," which researchers utilize when collecting and analyzing data).

36. Jack Katz, *Armor for Ethnographers*, 34 SOCIO. F. 264, 268 (2019); Shamus Khan, *The Subpoena of Ethnographic Data*, 34 SOCIO. F. 253, 259 (2019).

including my own approved research protocol. Esteemed ethnographer Forrest Stuart reflects upon his time in the field and states, "From early on, I assured my participants (as well as my university's institutional review board) that I would mask their identities."[37] Stuart's contention aligns with my institutional authorization; therefore, appeals to distribute my data are noteworthy considering that protection of my data is a necessary condition of my ability to do empirically rigorous research.

While I met the obligations of the institutional review board, a second concern emerged: continued skepticism and self-censoring on behalf of respondents. Even the slightest possibility that personally identifiable information could be made accessible to the public would necessarily threaten my respondents' willingness to engage with me and their candor in doing so. As a result, I took considerable time and paid close attention to developing rapport and trust with interviewees. Through unambiguous statements, I told respondents I will be deidentifying field sites and prohibiting the distribution of any work product (including field notes, jottings, and transcripts). I explained my protective procedures at the start of each interview and reiterated them throughout the research process, explicitly reminding respondents that, "I am the only person that knows we are talking. Personally identifiable details like your name, jurisdiction, city, or state will not be shared with anyone else, and all information and work product, including transcripts of our conversation, will be maintained in password protected files or under locked access that only I have access to." My unambiguous methodological protection was explained to respondents at the beginning stages of our correspondence, throughout the development of our research relationship, and continued to structure our engagement moving forward. Indeed, my comfortability with respondents was oftentimes explicitly predicated on this kind of protection, anonymity, and my personal and ethical prohibition in sharing any research materials with anyone.

My meticulousness was indispensable not only because my data contains information that I assured respondents would be strictly confidential, but also because respondents were deeply concerned about what would happen to them personally and professionally if they were to be identified through my data.[38] My respondents relay stories and personal details about their experiences with some of the most senior-ranking officials within American government. Therefore, my research project involves privileged data that could expose some of the most powerful legal actors within the United States government. I am in conversation with a small number of subjects. These subjects are placed within a web of relations between specific individuals embedded within specific geographic

37. FORREST STUART, BALLAD OF THE BULLET: GANGS, DRILL MUSIC, AND THE POWER OF ONLINE INFAMY 210 (Princeton Univ. Press 2020).

38. *See id.* at 209–10; *see also* Khan, *supra* note 36, at 255.

places following unique historical moments.[39] Connecting my work product with simple Google searches would likely reveal people and places. In other words, while I may not necessarily have an ethical obligation to protect a specific field site, given how my research subjects comprise these places and discuss unique fact patterns, disclosing additional detail through transcripts and revealing locations or people in such a public way presents massive risks to identification and gambles with respondents' professional tenure. Requests to publish detailed data even after the duration of my fieldwork also presents concern. I remain tied to my respondents long after I leave the field, oftentimes corresponding with them regarding relevant developments in cases and processes we previously discussed. Therefore, protecting my data and my participants is an ongoing priority and protections must be made with this durability in mind.[40]

To be clear, data access requests and my resultant concerns—many of which I articulate here—are not new among qualitative researchers. Previous scholarship notes that anonymity and protection of data is of paramount importance because it may quite literally become a matter of life and death.[41] While the latter concern is not necessarily my own in this project, protecting my qualitative data remains of paramount importance by virtue of my previous commitments to IRB protocols and informed consent disclosures, out of necessity to protect respondents' personal and professional lives, and considering these requirements are frequently in accordance with federal and state legal requirements that ultimately "set up an argument that the researcher has federal and state legal backing to resist legal pressures to break commitments of confidentiality."[42] Requesting personally identifiable information, changing my research protocol, and publishing non-anonymized data would be contrary to previous articulated protections, destroy respondent trust and be ruinous for rapport among respondents, taint the ability to conduct future research with my respondents, and ultimately frustrate the feasibility of this research agenda.

I recognize there are important situations under which publication is warranted and/or confidentiality can be broken. If a researcher thinks a respondent is likely to do harm to themselves or another, they would have an ethical obligation to intervene.[43] It may also be important to evaluate the basis on which my conclusions are made by looking at the data itself.[44] A major point of justification in publishing my data could be to preemptively address concerns about accuracy and transparency as

39. Katz, *supra* note 36, at 265.
40. *See id.* at 266.
41. STUART, *supra* note 37, at 210.
42. Katz, *supra* note 36, at 268.
43. Khan, *supra* note 36, at 260.
44. *Id.* at 259.

qualitative research may carry concerns about standardization and methods for replication.[45] De-identification muddies questions regarding accuracy, transparency, standardization, and replication, as masking identities and locations make factchecking and replication more difficult.[46] Therefore, oversight and verification has become a growing concern as "critics are now calling on ethnographers to take more steps to ensure accuracy."[47] However, for qualitative methodology, "replication is not usefully understood as rereading field notes."[48] In other words, merely reading my transcripts and jottings taken in real time will not effectively test my claims. Field notes and personal jottings alongside observing the physical ways that respondents moved and reacted through our conversations, watching how they stumbled and even stuttered through their word choices, and the interpersonal temperature within the room during our conversations also inform my findings and thus reduce the need to include my data in accessible repositories and identifiable formats.

Requests to publish data in open-access repositories frequently come with other unanticipated consequences wholly divorced from broader notions of public safety or the interests of open science. I am also unwilling to publish non-anonymized data due to the inherently political nature of my research. Increasingly so, requests for data access are to levy attacks at consequential findings and researchers themselves.[49] As Stuart notices, "The loudest calls for verification are almost always leveled at scholars who expose injustice and give voice to the powerless."[50] As I am sure many are aware, a large component of the research on police violence does just that: Exposing injustice in the courts and how the prosecution of police officers exposes a conspicuous abdication of prosecutorial power within the contemporary era, most notably at the expense of the vulnerable and marginalized. Examining the prosecution process of police suspects evolves into a project examining the structures of overwhelming power and privilege in the United States. For these reasons, I understand critics may require *extra* proof of abuse at the hands of police and other state institutions.[51] Therefore, while I expect that some may question the veracity of my data, previous scholarship enlightens that this brand of inquiry is not a justifiable reason to walk back previous protective commitments I have made to respondents and ethical obligations within my methodological protocol.

Finally, walking back previous commitments to participant anonymity, confidentiality, and deidentification risks a profound breach of

45. STUART, *supra* note 37, at 209–10.
46. *Id.* at 210.
47. *Id.* at 209.
48. Katz, *supra* note 36, at 272.
49. *See* STUART, *supra* note 37, at 213.
50. *Id.*
51. *Id.*

trust and opens myself up to attack, subpoena, and possible litigation.[52] I am aware that the subject matter of my project makes my work product potentially admissible in a criminal or civil case.[53] Publicly disclosing qualitative data also has implications beyond this project. As Shamus Kahn notes, "[C]omplying [with demands for access to qualitative work product] would help establish a standard of behavior for future scholars."[54] In other words, once the door is open to disclosing identifiable data in a publicly accessible way, it becomes a pattern and evidentiary fodder that such compliance is an acceptable norm within the qualitative community. To be clear, it is not.

In closing, it is necessary to not only describe the difficult decision-making I have undertaken, but to also detail the importance in upholding ethical obligations within qualitative research. For these many reasons, my research methodology must go beyond standard masking techniques to uphold ethical commitments to respondents. Ethical obligations charge me with a distinct responsibility to protect the respondents and field sites in which I conducted research by deidentifying and prohibiting the wider distribution of redacted work product. Producing transcripts, field notes, and jottings in a publicly accessible way with such identifiable detail would severely undermine my ability to uphold previous ethical obligations. In the collective interest of knowledge production and in accordance with best practices among the most well-regarded qualitative methodologists, and legal guidance, when it comes to upholding the assurances I have made and protecting my participants and the data I have collected, I am unwilling to compromise.[55]

II. HOW PROFESSIONAL PRESTIGE AND WORKPLACE SURVEILLANCE IMPACT POLICE MISCONDUCT PROSECUTORS

To understand how police misconduct prosecutors—both at the state and federal level—interact and process cases, I explored various avenues of scholarship. This Part focuses on the sociology of the workplace framework I used to evaluate mechanisms for police misconduct investigations and prosecution. I begin with a description of the concept of professionalism in Section A and then explain the concept of professional expertise in Section B. Section C introduces the concept of occupational prestige and finally, in Section D, I provide an overview of prosecutors as autonomous legal actors and how exogenous support may be viewed as unwelcome occupational surveillance.

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52. *See* Khan, *supra* note 36, at 253–55.
53. Katz, *supra* note 36, at 266.
54. Khan, *supra* note 36, at 255.
55. *Id.* at 253; STUART, *supra* note 37, at 211; *see* Cusumano v. Microsoft Corp., 162 F.3d 708, 710 (1st Cir. 1998).

A. Police Misconduct Prosecutors and Legal Professionalism

The concept of *professionalism* instructs that "expert occupations" are those that are accorded a high level of legitimacy due to expert knowledge that is obtained from university-based formal education.[56] There are four central attributes of professionalism: expert knowledge; technical autonomy; normative orientation toward service work; and the resultant high status, income, and other rewards.[57]

Expert knowledge regards how industry-specific actors develop, communicate, and apply a body of knowledge that is comprised of formal, abstract principles grounded either in science or moral thought.[58] Consequently, different types of expert knowledge may create obstacles, differences, strategies, and occupational boundaries within and between status groups.[59] On one hand, occupational groups may leverage their idiosyncratic knowledge to build jurisdictional boundaries and exclude outsiders, like within members-only professional associations. On the other hand, idiosyncratic knowledge may also be useful for the creation of trade-specific knowledge, innovation within a field, and the sharing of knowledge because "[s]uch associations contribute to the diffusion of innovation across workplaces, both directly, by disseminating information to members through seminars, mailings, and websites, and indirectly, by facilitating networks of 'weak ties' that promote the exchange of new knowledge."[60] In other words, expert knowledge may be an exclusionary tactic to prohibit outsider influence within a given discipline and also a method to build employment-specific proficiencies.

Next, technical autonomy allows for professionals to control expert work and knowledge both on an individual level where specific actors control their own work product as well as larger professional affinity groups facilitating the ability to regulate members without outsider intervention.[61] Research establishes that some legal professionals, like police officers, react to threats to their occupational autonomy with resistance strategies, revealing important insights about particular legal actors' dedication to maintaining their technical autonomy.[62] Examinations also uncover related dispositional consequences—i.e. antagonistic and com-

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56. Elizabeth H. Gorman & Rebecca L. Sandefur, *"Golden Age," Quiescence, and Revival: How the Sociology of Professions Became the Study of Knowledge-Based Work*, 38 WORK & OCCUPATIONS 275, 276–78 (2011); Katherine C. Kellogg, *Brokerage Professions and Implementing Reform in an Age of Experts*, 79 AM. SOCIO. REV. 912, 915 (2014).

57. Gorman & Sandefur, *supra* note 56, at 278.

58. *Id.*

59. *See id.*

60. *Id.* at 283; Jacky A. Swan & Sue Newell, *The Role of Professional Associations in Technology Diffusion*, 16 ORG. STUD. 847, 850 (1995).

61. Gorman & Sandefur, *supra* note 56, at 278–79.

62. Sarah Brayne & Angèle Christin, *Technologies of Crime Prediction: The Reception of Algorithms in Policing and Criminal Courts*, 68 SOC. PROBS. 608, 618 (2021); Gorman & Sandefur, *supra* note 56, at 285–86; *see* Karen E. C. Levy, *Digital Surveillance in the Hypermasculine Workplace*, 16 FEMINIST MEDIA STUD. 361, 363 (2016).

bative postures—when autonomous agencies are threatened by outsider interference.[63] For example, Brayne and Christin documented police officers, fueled by fears of increased occupational surveillance, muddying the ability for in-car automatic vehicle location devices to collect data on officer whereabouts and activity. These findings show how certain legal actors empowered by a high degree of autonomy resist new technologies designed to gather more information about their occupational work product.

The final two components of professionalism, while important, are not as relevant to the present analysis. A normative orientation towards service work regards the prevalence of ideologies within a given occupational community about serving the public good.[64] Finally, as the result of professionalism, high status, income, and other rewards may flow.[65] The result of professionalism means one may be paid higher, institute licensing restrictions, respectability, and social closure.[66] Importantly, expert professions manufacture legal and social barriers which not only risk an economic monopoly in a given market, they also produce an aura of respectability and deference because expert types of knowledge are viewed as more "professionally pure."[67]

B. Professional Expertise

Building on the previous Section, researchers contemplate how to classify professional expertise by specifically considering how to define an expert. Authors argue that expertise is a specialist craft or body of knowledge opposite to that of what an amateur or layperson possesses.[68] Experts retain technical competence, knowledge, and skill that facilitates an ability to function and work in specialized environments.[69] Expertise is differentiated from lay or otherwise unskilled prowess which generates an "unequally distributed understanding," where a level of legitimacy is accorded to those with diplomas from university-based and post-secondary formal educative environments.[70]

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63. *See* BEATRICE JAUREGUI, PROVISIONAL AUTHORITY: POLICE, ORDER, AND SECURITY IN INDIA 26 (Univ. of Chi. Press 2016); *see also* Kevin G. Karpiak, *Of Heroes and Polemics: "The Policeman" in Urban Ethnography*, 33 POL. & LEGAL ANTHROPOLOGY REV. 7, 12–13 (2010); *see also* JEFFREY T. MARTIN, SENTIMENT, REASON, AND LAW: POLICING IN THE REPUBLIC OF CHINA ON TAIWAN 88–89 (Cornell Univ. Press 2019).

64. Gorman & Sandefur, *supra* note 56, at 279.

65. *Id.*

66. *Id.*

67. Kellogg, *supra* note 56, at 915.

68. Reiner Grundmann, *The Problem of Expertise in Knowledge Societies*, 55 MINERVA 25, 26 (2017).

69. *Id.*; Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact*, 80 AM. SOCIO. REV. 909, 911 (2015).

70. Sandefur, *supra* note 69, at 911; *see* Gorman & Sandefur, *supra* note 56, at 277; Grundmann, *supra* note 68, at 26.

Professional expertise can be further subdivided in two ways: substantive expertise and relational expertise.[71] Substantive expertise in the law may be abstract but it is also "principled," where lawyers retain knowledge of past statutes, doctrines, codes, relevant cases, and court procedures.[72] In other words, they know what general bodies of law to draw on, what statutes or laws to consult, and the legal precedent and case posture that informs how courts have previously decided cases and how it may influence current litigation. Relational expertise is how lawyers navigate relationships and understand the social distribution of knowledge to get work done.[73] Relational expertise is "'situated' and 'contextual,'" where lawyers navigate interpersonal interactions and occupational affiliations and connections in handling and settling legal disputes.[74]

C. Police Misconduct Prosecutors and Occupational Prestige

In possessing a certain kind of expertise, lawyers and other white-collar professionals develop and maintain distinct ideas about occupational prestige. Professionals derive "strong meanings" from their professional identities directly attributable to their professional work alongside the ostensibly unique knowledge and idiosyncratic skills they possess.[75] Lawyers' individual notions of occupational prestige are central to their self-esteem, meaning they develop feelings of importance and personal fulfillment from the respect and admiration accorded to them as the result of their professional achievements and occupational status.[76] Lawyerly prestige is also important to consider in context of legal reform. Research suggests that implementing change can be difficult when it also threatens individuality, distinctive notions of occupational expertise, or even one's self-interest.[77]

D. Prosecutorial Autonomy and Workplace Surveillance

Workplace surveillance, also known today as *employee monitoring*, while not a new phenomenon, is a direct threat to prosecutorial expertise and prestige.[78] Taylorism, an original form of workplace surveillance,

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71. Sandefur, *supra* note 69, at 911.

72. *Id.*

73. *Id.*

74. *Id.* at 911–12; *see also* Stephen R. Barley, *Technicians in the Workplace: Ethnographic Evidence for Bringing Work into Organization Studies*, 41 ADMIN. SCI. Q. 404, 425, 429 (1996).

75. Kellogg, *supra* note 56, at 915; Rebecca L. Sandefur, *Work and Honor in the Law: Prestige and the Division of Lawyers' Labor*, 66 AM. SOCIO. REV. 382, 383–84 (2001).

76. Sandefur, *supra* note 75, at 383–84.

77. *See id.* at 382–84, 400.

78. *See* Kirstie Ball, *Workplace Surveillance: An Overview*, 51 LAB. HIST. 87, 87–88 (2010); KIRSTIE BALL, EUR. COMM'N, JRC125716, ELECTRONIC MONITORING AND SURVEILLANCE IN THE WORKPLACE 66–67 (2021) [hereinafter ELECTRONIC MONITORING AND SURVEILLANCE IN THE WORKPLACE]. Adapted from Ball's characterization, I define workplace surveillance as, "management's ability to monitor, record and track employee performance, behaviours and personal characteristics in real time . . . or as part of broader organizational processes." Ball, *supra* note 78, at 87.

developed in the late 1800s with the goal of promoting efficiency in the workplace.[79] It later became known as *scientific management*, where the development and institution of managerial oversight and other programs detailed how employee tasks were completed, particularized the time to completion, and ultimately fragmented workflows and separated projects into discrete functions.[80] Thus, scientific management, positing that the unobserved worker is an inefficient one, was the original form of employee performance monitoring designed around increased efficiency and productivity, risk reduction, and a Marxian emphasis on profit and output maximization.[81]

Scientific management, or *employee monitoring*, also underscores the role of the overseer, where a supervisor's observation threatens subordinate workers' autonomy, discretion, and prestige in the workplace.[82] This perspective presents a dystopian, oppressive, and domineering connotation to *workplace surveillance* regimes. Numerous examples exist across historical, psychological, and sociolegal literatures. For example, Pinkerton Agents were designed to infiltrate and bust unions, focusing on rooting out employees who were viewed as a threat to the company's interests.[83] Likewise, Henry Ford's emphasis on worker productivity was an extreme, totalizing form of Big Brother workplace surveillance.[84] Jeremy Bentham's panopticon also helps to explain the ability to surveil individuals in the workplace.[85] While originally designed around the efficiency and maximization of security of guards observing incarcerated persons, the panopticon demonstrates the mutability, multi-functionality, and function creep capable within workplace surveillance programming.[86]

Employees experiencing occupational observation report various reactions and seek to regain control and autonomy in many ways. Reactions among workers to Taylor's scientific model reported feelings of dehumanization, loss of control, and resistance strategies including muddying the sharing of information in workplace environments.[87] More recently, scholars observe that workplace surveillance programs produce observable workplace consequences including increases in employee distrust of workplace peers and supervisors and decreases in innova-

79. BALL, ELECTRONIC MONITORING AND SURVEILLANCE IN THE WORKPLACE, *supra* note 78, at 25–26.

80. Ifeoma Ajunwa, Kate Crawford, & Jason Shultz, *Limitless Worker Surveillance*, 105 CALIF. L. REV. 735, 771 (2017); Alex Rosenblat, Tamara Kneese, & Danah Boyd, Workplace Surveillance (Oct. 8, 2014) (working paper) (on file with the Data & Society Research Institute).

81. Rosenblat, Kneese, & Boyd, *supra* note 80.

82. *See id.*

83. Ajunwa, Crawford, & Shultz, *supra* note 80, at 738.

84. *Id.* at 741.

85. BALL, ELECTRONIC MONITORING AND SURVEILLANCE IN THE WORKPLACE, *supra* note 78, at 41 n.135.

86. *See* Rosenblat, Kneese, & Boyd, *supra* note 80.

87. *See id.*

tion.[88] Rosenblat and colleagues notice that even passive monitoring, as opposed to active tracking, can result in particularly toxic and demoralizing work environments.[89] These more nebulous and indirect employee monitoring programs engender increased tension and fear of retaliation as the result of employees reacting to the potential of surveillance's "function creep" capabilities.[90]

In sum, open questions remain regarding the relevance of workplace surveillance in the contemporary moment vis-a-vis prosecutors who are traditionally understood as powerful, autonomous entities. While typically possessing an unchecked amount of criminal legal power, it is unclear whether and how seasoned prosecutors develop and exercise legal expertise useful for investigating and prosecuting police officers. In the next Part, I explore how prosecutors build and maintain unique kinds of legal expertise, and how they react to investigative involvement from outsiders in cases involving police criminality.

III. POLICE MISCONDUCT PROSECUTORS' EXPERTISE AND VIEWS OF OUTSIDERS

Drawing on interview data and literature on professionalism, expertise, prestige, and occupational surveillance, I present interview data that suggests police misconduct prosecutors possess a specific kind of prosecutorial expertise in adjudicating police misconduct cases, which in turn increases the likelihood of conviction. I then present data suggesting that supervision by the Civil Rights Division is viewed not as a supplement for experienced and motivated federal prosecutors, but as a threatening and disruptive form of occupational surveillance, ultimately threatening the prospect of police accountability nationwide.

B. Police Misconduct Prosecutorial Expertise

My interviews with prosecutors confirmed that a prosecutor's professional acumen is established over years and even decades. Peter, an Assistant District Attorney, described how prosecutors develop unique kinds of substantive legal expertise over time:

> At that time I started, it was nearly impossible to get a job in our D.A.'s office. People had been there forever, like twenty-five, thirty-year veteran prosecutors and so there was all this institutional knowledge. And as a result, it was just understood that that was the way things were gonna go, like you were going to be a misdemeanor prosecutor for your first several years there, because you already had these established felony attorneys who had carved out areas of exper-

88. BALL, ELECTRONIC MONITORING AND SURVEILLANCE IN THE WORKPLACE, *supra* note 78, at 47.

89. Rosenblat, Kneese, & Boyd, *supra* note 80.

90. Brayne & Christin, *supra* note 62, at 616; *see* Rosenblat, Kneese, & Boyd, *supra* note 80.

> tise. So like, old Bob was our stalking guy. He had all the most serious stalking cases. And then, Jay, he was like the DUI guru.[91]

Peter's reflection builds upon previous literature documenting particular kinds of legal knowledge and prosecutorial expertise delineated by case type that develop over a prosecutor's career.[92] In particular, Peter's reference to "institutional knowledge" is striking. I asked him to clarify what he meant, and he explained, "I consider institutional knowledge to be the experience of more seasoned prosecutors[,] . . . victim witnesses, paralegals, legal assistants, anyone and everyone in our office that I can talk to about my case."[93] Peter shared, "[T]heir input is helpful to me in that it often will make me think about an issue or an angle or a point of view that I hadn't considered before."[94] In other words, "institutional knowledge" is combined substantive legal comprehension combined with relational expertise between many different legal actors in their workplace.[95] Peter's labeling of Bob as the "stalking guy" is intended to reflect the fact that Bob possesses an idiosyncratic level of substantive and relational expertise in prosecuting stalking allegations. Similarly, identifying Jay as the "DUI guru" suggests that Jay has acquired a supreme level of substantive and relational expertise related to successful prosecution of DUIs.

This description indicates that substantive and relational prosecutorial expertise is a temporal pursuit developed over time through one's experience on the job and the training provided to them throughout their career. Prosecutors learn the tricks of the trade related to what kinds of evidence to use, the ways in which charging decisions are made, what is an appropriate charging decision, and how to navigate complex, sociopolitical bureaucracies in their local communities over a period of years and decades. These learnings, taken collectively, are helpful for becoming a successful prosecutor.

Peter confirms that prosecutorial expertise—generally construed—is a honed skill. Yet is police misconduct prosecution a kind of case specialization similar to those enjoyed by Peter's colleagues Bob or Jay? Consider Gina, a federal prosecutor whose jurisdiction surrounds City 5, and her description of police misconduct cases: "With more time and experience on the job, it is helpful with how to do these cases."[96] Here, Gina suggests that police misconduct cases are different from those involving lay defendants, and moreover, that they require previous experience to develop the skills necessary to successfully prosecute police mis-

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91. Interview with "Peter," Assistant Dist. Att'y, Chief of Sex Crimes Unit (July 29, 2021).
92. *Id.*
93. Interview with "Peter," Assistant Dist. Att'y, Chief of Sex Crimes Unit (Aug. 17, 2021).
94. *Id.*
95. *See* Gorman & Sandefur, *supra* note 56, at 289.
96. Interview with "Gina," Assistant U.S. Att'y, Chief C.R. Unit (Jan. 19, 2022).

conduct. Similarly, Oscar, an Assistant District Attorney and the Chief of the Special Prosecution Unit in City 3 confirmed,

> It is true that [police misconduct] cases are not like others for any number of reasons. That is true. The level of scrutiny, none of these guys are pleading guilty, they're going to trial, they got organized unions behind them, they have organized resources and funds, they got pensions, they got best lawyers in town representing them, there's politics involved and the way your community aligns. There's all of that going on, so they are very, very different cases.[97]

Many of the elements that Oscar describes—the lack of guilty pleas, organized and powerful employment unions, privately retained counsel, and conservative political dynamics are documented within previous literature.[98] However, Oscar's statement indicates *why* these many idiosyncrasies within police misconduct cases require a distinctive skill set for police misconduct prosecutors when compared with cases involving lay defendants: Their combination makes case adjudication much more difficult for police accountability prosecutors who must navigate complexities in evidence collection, are confronted with a high-powered legal defense, and are challenged by requiring to prove all criminal allegations beyond a reasonable doubt at trial (rather than relying on lower evidentiary thresholds during plea negotiations).

Police misconduct prosecutors suggested that one's occupational expertise as a veteran violent crime, homicide, or complex white-collar crime prosecutor was helpful within police misconduct cases. To this end, Deborah, a federal prosecutor, shared, "It's essentially a violent crime and white-collar crime wrapped up in one."[99] Deborah echoes how police accountability, prosecutorial knowledge, and adjudicatory strategies are informed by prosecutors' previous involvement with this crime type. She also shares that police misconduct cases are a hybrid of two unique crime types: violent crime and white-collar crime, each containing their own intricacies that prosecutors must master. Finally, within this unique legal hybrid, Deborah is required to collect specific kinds of evidence, like training documentation, from specific individuals.

Prosecutors across my sample also indicated that they must learn how to contest a unique legal defense afforded to police officers: public authority justifications. Public authority justifications are a specific type of affirmative defense within the criminal law, where the defendant—here a police officer—can admit they did the alleged crime, but they ask the court to be acquitted because they had a good reason for acting.[100]

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97. Interview with "Oscar," Assistant Dist. Att'y, Chief Special Prosecution Unit (Sept. 28, 2021).
98. *See* Friedman, *supra* note 21, at 383–84; Robertson, *supra* note 5, at 867, 875.
99. Interview with "Deborah," Assistant U.S. Att'y (Oct. 14, 2022).
100. *Id.*

Within the policing context, public authority justifications authorize police officers to engage in conduct, like using force and even deadly force, that would otherwise be considered a criminal offense in order to protect the public interest.[101] For example, Matthew, a prosecutor in the Special Prosecution Unit in City 2, shared, "In the officer involved shooting cases, in almost all of them, the cops are going to argue that they were justified in shooting the subject because of a self-defense argument."[102] In other words, police misconduct prosecutors must consider how to best confront the unique affirmative defenses available to police officers and must pay close attention to the reasonableness of justifications offered by the officer who used force. This attention forms another crucial and idiosyncratic calculus of police misconduct prosecutors and comprises a crucial piece of experiential knowledge within a prosecutors' repertoire.

Within this calculus, I find that police misconduct prosecutor substantive expertise necessarily includes the knowledge of what kind of evidence is persuasive. Matthew explained,

> If you look at the cases across the country of these officer involved shooting cases, the ones that do get charged, they always have some video . . . . And then think about the cases you get convictions on . . . . How does that happen? Because it's all on video! So, without that video evidence, it's almost impossible to be able to charge these and believe you're going to be successful.[103]

Police misconduct prosecutors, like Matthew, were explicit about the necessity of video evidence in police misconduct cases to increase the likelihood of conviction. Matthew continued, unambiguously stating, "[O]fficers are not getting charged unless there's video and they're sure as hell not getting convicted unless there's strong evidence. So, I mean, that's the number one thing. The videos are the number one. I can't stress that enough."[104]

Other police misconduct prosecutors echoed Matthew's sentiment that video evidence is necessary in police misconduct cases. For example, during an unrelated part of our conversation, Bryce volunteered,

> If I have a case where I have a private citizen, a civilian, who tells me the police officer stopped me for no reason and did all these inappropriate things to me and I can identify the police officer and I caught the whole thing on video? Like, that is a very strong case. I don't think there will be a lot of barriers—at least from my experience—to

101. *Id.*
102. Interview with "Matthew," Assistant Dist. Att'y, Special Prosecution Unit (June 24, 2021).
103. Interview with "Matthew," Assistant Dist. Att'y, Special Prosecution Unit (June 4, 2021).
104. *Id.*

> bring a case like that forward.[105]

Similarly, when answering a similar question about what kind of evidence is helpful in police misconduct cases, Gina exclaimed, "Videos! Videos! We need video!"[106] She continued, "Things like body worn cameras, like that's a really great tool and it's really good for our cases."[107] Gina explained why video evidence is so important to her cases, "We live in this society where everybody videotapes everything right? So when there isn't a video people are like, 'Well why don't you get your phone out and start taping?' So it's kind of like used against you if there's no video. Sort of like an expectation of video."[108]

Gina's articulation of an expectation of video was remarkable. I find that prerequisite for video evidence is so strong that in cases where there is not video evidence, police misconduct prosecutors were reluctant to move forward with case processing. Indeed, Gina confirmed, "I think we probably wouldn't charge a case if there wasn't a video. Unless there was really good corroborating witness statements that are consistent with each other. I think it's a rare case where you're gonna see a police misconduct federal charge where there isn't some video evidence."[109] Bryce also confirmed this requirement in stating that without video evidence, police misconduct prosecutors are "behind the ball."[110]

While the foundational requirement of video evidence was striking, police misconduct prosecutors described how video evidence was crucial within their evidentiary strategies. Gina elucidated, "Because then you can turn to the jury and be like, 'Look at it yourself! See what you think about it!' People want it. They wanna know that it was documented and the video is like a non-biased witness." In other words, police misconduct prosecutors like Gina use video evidence to refute affirmative defenses asserted by police suspects by suggesting that video evidence is the exclusive neutral and objective conduit of information in police accountability cases. Police misconduct prosecutors also draw on their relational expertise, navigating interpersonal interactions and emotional connections with juries by way of videos to win cases. While knowing that videos are persuasive pieces of evidence to refute the reasonableness of an officer's use of force, police misconduct prosecutors simultaneously draw on human emotions like empathy with victims and anger towards officers in a relational capacity when conveying inappropriate conduct

105. Interview with "Bryce," Assistant State's Att'y, C.R. Unit, Off. of the Att'y Gen. (Feb. 21, 2022).
106. Interview with "Gina," Assistant U.S. Att'y, Chief C.R. Unit (Jan. 19, 2022).
107. *Id.*
108. *Id.*
109. *Id.*
110. Interview with "Bryce," Assistant State's Att'y, C.R. Unit, Off. of the Att'y Gen. (Feb. 21, 2022).

documented within police misconduct videos. The use of video evidence allows police misconduct prosecutors to produce a unique hybrid of substantive and relational expertise.[111]

Taken collectively, police misconduct substantive expertise is defined by the knowledge that video evidence is required for successful prosecution. The above explanations indicate that successful police prosecution does not solely regard the individual prosecutor's embodiment of a persuasive disposition speaking in front of a jury. Rather, the knowledge retained by police misconduct prosecutors in how to leverage specific kinds of evidence at trial becomes crucially important. Police misconduct prosecutors expect—and in many cases require—the presentation of video evidence to juries to successfully prosecute police misconduct, so much so that police misconduct prosecutors are *disinclined* to charge police officers without video evidence because they realize they are without crucial and convincing evidence. Such knowledge forms a unique kind of prosecutorial expertise.

Police misconduct prosecutorial acumen extends beyond the importance of video evidence; it also requires a unique relational and interpersonal temperament. Illustratively, Matthew shared,

> Just in order to prosecute officer involved shooting cases, you needed to have thick skin. And that's why I'm saying that experience of trying violent crimes gave me a hard shell that I was, you know, I've been in the trenches with the most violent offenders, dealing with families grieving in the worst possible ways, the similarities of that with officer involved shooting cases.[112]

Matthew indicates that police misconduct prosecutorial expertise does not just involve knowing what kind of evidence is key or how to use it but also includes a particular kind of professional character and interpersonal disposition when navigating complex and emotional situations with victims of police violence, their families, and friends of victims.

A police misconduct prosecutor's professional temperament is also informed by one's awareness of the local political environment. For example, Gina shared, "Local prosecutors, they are elected so it's a tough job because you have to be making the decisions that are right for justice, but you also think you thinking about getting reelected and what the public wants. But what the public wants or agrees with is not . . . always justice."[113] Gina enlightened that police misconduct relational expertise is also informed by a sharpened understanding of what comprises acceptable and unacceptable police conduct within that community. Such

111. *See* Sandefur, *supra* note 69, at 911–12.
112. Interview with "Matthew," Assistant Dist. Att'y, Special Prosecution Unit (June 4, 2021).
113. Interview with "Gina," Assistant U.S. Att'y, Chief C.R. Unit (Jan. 19, 2022).

insight also indicates a unique type of police misconduct prosecutorial proficiency.

Police misconduct prosecutors articulating novel forms of prosecutorial expertise may be encouraging for the prospect of police accountability. However, although I spoke with many experienced police misconduct prosecutors, and while they were able to articulate the complexities within these cases, I find that this distinctive brand of prosecutorial expertise is rare around the United States. For example, Oscar shared,

> You are pursuing a path where there's no template in anybody's office anywhere. Anybody in the DA's Office, you can walk down the hall and here we got we got three floors and I can walk down the hall and in about time I get to the end of the hall, I can walk past 150 years of collective experience trying sexual assaults, drug cases, murders, robberies but I can walk all our four floors and I can't find anybody who's ever tried a police case or to tell me how to pick a jury or what mistakes not to make.[114]

Oscar references the time necessary for prosecutors to learn how to successfully prosecute police misconduct. Ascertaining and honing this unique kind of substantive and relational expertise is a time-based pursuit that develops over years and even decades. In addition, he paints a picture where he is alone on an island, having to understand and navigate the complexities of police misconduct prosecution by himself.

In sum, explanations provided in this Section suggest that to successfully prosecute police misconduct, prosecutors encounter a dynamic and multifaceted criminal case and must account for all the component parts involved with holding a police officer criminally accountable. Unique legal and practical challenges, including defenses, evidentiary strategies, and the politically-charged nature of these prosecutions, require substantive and relational expertise, and contribute to police misconduct prosecutors' prestige amongst colleagues. However, despite police misconduct prosecutors sharing what kinds of evidence are required for indictment and conviction and even the interpersonal disposition that is required of a police misconduct prosecutor, the presence of such substantive and relational expertise around the United States is rare. Such an environment suggests that the sharing of knowledge across occupational boundaries by prestigious and experienced police misconduct prosecutors would augment the limited familiarity present throughout the United States. However, as the next Section reveals, police misconduct prosecutors may reject external resources as threats to their occupational autonomy, presenting unintended consequences for the prospect of successful police misconduct adjudication.

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114. Interview with "Oscar," Assistant Dist. Att'y, Chief Special Prosecution Unit (Sept. 28, 2021).

B. Views of Oversight and Autonomy from Police Misconduct Prosecutors

Previous literature reveals that prosecutors possess a high degree of independence and autonomy, traditionally functioning as self-governing entities.[115] However, police killings around the United States have renewed debates about police accountability and specifically question how prosecutors function and make decisions within these cases.[116] Such discussions implicitly—if not explicitly—suggest the need for a greater degree of oversight of and transparency into police misconduct prosecutorial decision-making involved with these cases.

I spoke with Chandra, a federal prosecutor whose jurisdiction covers Cities 1 and 2. While, I focus on her reflections below—because she offered the most succinct yet illustrative thoughts amongst my respondents—her sentiments were offered by other respondents within my sample as well. Chandra told me, "Unfortunately, perhaps the most frustrating aspect of my job is the oversight to which I am subjected by the Civil Rights Division."[117] Here Chandra references—and critiques—the direct observation she experiences from the Civil Rights Division out of the USDOJ's headquarters in Washington, D.C.[118]

The most common reason that the Civil Rights Division gets involved in local AUSA's efforts is because police killings are now deemed a "subject of national interest."[119] Such a demarcation understandably warrants a higher degree of supervision by Main Justice attorneys when handling these cases. However, I find that such oversight is oftentimes met with resistance by federal prosecutors at local field offices. For example, Chandra remarked,

> Quite frankly, we try very hard not to characterize things as a matter of national interest because if we do then the Civil Rights Division gets all up in our business. And we would prefer that they not be all up in our business for the reasons that I've previously explained. I mean, we just we have enormous problems with their involvement in our cases, not that they're not terribly competent attorneys, because they are. They just don't have an appreciation for the, um . . . expediency with which we have to act.[120]

Chandra's description is emblematic of the various idiosyncratic complexities involved with police misconduct prosecution around the United

115. *See* GÓMEZ, *supra* note 15, at 63; Lynch, *supra* note 17, at 1313. *But see* Abbe Smith, *Can You Be a Good Person and a Good Prosecutor?*, 14 GEO. J. LEGAL ETHICS 355, 385 (2001).

116. *See* Kendall Godley, *Police Investigating Police: Systemic Injustice Shields Officers from Accountability*, 98 DENV. L. REV. F. 1, 2 (2021).

117. Interview with "Chandra," Assistant U.S. Att'y, Lead C.R. Unit (Dec. 2, 2021).

118. For more information, see *Civil Rights Division*, U.S. DEP'T OF JUST., https://www.justice.gov/crt (last visited Oct. 25, 2025).

119. Interview with "Chandra," Assistant U.S. Att'y, Lead C.R. Unit (Dec. 2, 2021).

120. *Id.*

States that I uncovered throughout my research. Experienced police misconduct prosecutors like Chandra appreciate the intricacies of prosecuting these cases and strive to combat such issues, but external resources—while intended to supplement police misconduct prosecutions—are understood by local prosecutors as unnecessary complications and excessive oversight. In building on her statement above, Chandra explained, "The Civil Rights Division . . . is essentially like Big Brother and in this particular area, Civil Rights and Hate Crimes, they take this very paternalistic and almost . . . I can't even think of the appropriate word . . . . They hover. They want to be involved in everything that we do."[121]

Chandra's reference to Big Brother is an explicit Orwellian reference to unwelcome and dystopian surveillance by outside actors.[122] Chandra's label of "hovering" suggests a form of total observation and obstructive scrutiny that is expressly unwelcomed by experienced federal prosecutors. In other words, Chandra thinks of the Civil Rights Division not as a boon to police misconduct investigations and prosecutions, but as a prying and controlling authority figure.

Moreover, Chandra indicated that Main Justice's involvement presents additional issues and disruptions for federal prosecutors. In describing one emblematic case, she shared,

> The Civil Rights Division showed up here and they did their own investigation and they traipsed around the city, and they interviewed people, and they talked to a lot of folks and whatever, and then they left and no one heard from them for like a year. And then a year later, they dropped this sixty-five-page grenade on our doorstep and they just washed their hands of the whole thing.[123]

Chandra's characterization of outside attorneys from Civil Rights Division uses evocative imagery of external attorneys coming in and trampling on her work. Descriptions like "traipsing around," dropping "sixty-five-page grenades," "squawking," and ultimately leaving a vacuum in their absence suggests a disorderly, distracting, and even dangerous presence of Main Justice Attorneys obstructive for the prospect of police accountability in local jurisdictions. She continued,

> So that whole experience, I think, left a very bad taste in this district's mouth. And, you know, we took a lot of criticism, both local prosecutors and federal prosecutors took a lot of criticism from the public and from other people across the country about the fact that the officer wasn't charged and I think a lot of it was based on the col-

121. *Id.*

122. Kathleen Kuiper, *Big Brother*, BRITANNICA, https://www.britannica.com/topic/Big-Brother-fictional-character (last visited Aug. 25, 2025).

123. Interview with "Chandra," Assistant U.S. Att'y, Lead C.R. Unit (Dec. 2, 2021).

> lective ignorance of the people that were doing all squawking, but in any event whatever your thoughts might be on whether he should or shouldn't have been prosecuted, the fact of the matter is that DOJ made some very, very significant promises. If not promises, they certainly implied that there are certain things were going to happen and then when they didn't, we were the ones that were left locally to pick up the pieces, because like I said they dropped their sixty-five-pound grenade and then they left.[124]

Chandra's reflection is significant because it demonstrates that experienced federal prosecutors at local field sites feel as if Civil Rights Division prosecutors can be unhelpful additions to their cases. Federal prosecutors, like Chandra, viewed outside attorneys as strangers that make unreasonable assurances to local constituents, engender a distrustful working relationship between organizational ranks, and ultimately jeopardize the prospect of successful police misconduct adjudications.

Such a depiction is also significant because it paints a markedly different picture than that of powerful prosecutors able to restrict access to outsiders. Rather than viewing outside attorneys as resourceful, supplementing processes with experience and expertise, or as helpful forms of exogenous support, federal prosecutorial independence is characterized negatively. While federal prosecutors typically operate autonomously, Civil Rights Division attorneys maintain access and such contact is understood by local federal prosecutors as disruptive and unnecessary.

Chandra's description also reveals that the frustration she experienced is a product of the ways in which federal prosecutors out of Main Justice go about their work. She explained,

> I find the Department's mechanism for these kinds of cases to be extremely cumbersome and counterproductive quite frankly and so I have great frustrations with that. I tell people all the time, one of my mantras is I am fully prepared to be insubordinate and so I have been insubordinate and I have indicted cases out from under Civil Rights Division and essentially told them, "We don't need your permission to do this, so we're going to do it whether you like it or not."[125]

Here we see that when prosecutorial autonomy is threatened, local federal prosecutors reassert their power. While some may respectfully reject offers of support, other federal prosecutors, like Chandra, may respond with noncompliance and resistance, even affirmatively activating their legal authority by way of indictments.

Throughout our conversation, Chandra was explicit that the delays and ways in which Civil Rights Division attorneys worked were challenging for local federal prosecutors, so much so that it threatened views

124. *Id.*
125. *Id.*

of legitimacy of local field offices by local community members. For example, she told me,

> Here's my problem and I have been very candid with Civil Rights Division about this. First of all, it takes them indefensibly long periods of time to make decisions and so what I run up against is when they choose to get involved in our local cases, it results in delays that are really not necessary in my view and what I've expressed to Civil Rights Division is this: "You people don't have to live here, okay? I do." We all do. And as they know better than anyone that we are Ground Zero and that every police department in this district is under a microscope all the time.[126]

Chandra explained that Civil Rights Division's involvement in local cases results in meaningful delays in case adjudications, which threatens views of legitimacy by local constituents. Commenting on these delays, Chandara shared, "I have told them that you all don't have to . . . read the news and watch it on TV and take the punches that we have to absorb from the media and from some of these outside groups."[127] Unlike local field offices, Chandra noted that the Civil Rights Division does not have to endure "outright allegations that we condone this behavior, that we are turning a blind eye to this behavior, or even worse that we're somehow responsible for this behavior."[128]

Chandra's reflection reveals that connections between local federal prosecutors with Main Justice are not simply a story of motivated attorneys banding together to successfully prosecute notable episodes of police criminality. Instead, federal resources from the Civil Rights Division are understood among experienced federal prosecutors as disrupting longstanding notions of occupational autonomy and risking oversight by outsiders. Rather than enhancing the prospect of police accountability, federal oversight presents a unique paradox for local federal prosecutors: Motivated outsiders disrupt the likelihood that local federal prosecutors can win cases.

I also heard examples of connections between Main Justice and local field offices producing threats to local federal prosecutors' security and safety. Chandra remembered an illustrative example, "There were days that we were at work and couldn't get out of the building. And of course, Civil Rights Division was 1,200 miles away just kind of waving at us."[129] The strained occupational environment that Chandra describes not only damages working relationships and promotes a distrusting and hostile atmosphere among colleagues, but it also risks the feasibility of prosecuting police officers for their alleged criminality. Chandra contin-

126. *Id.*
127. *Id.*
128. *Id.*
129. *Id.*

ued, "[T]here was [a] significant case here with that issue because the Civil Rights Division sat on that case for so long that by the time the cop got acquitted in state court, the federal statute of limitations had run so we were utterly impotent."[130] "Our office, as a result of that, has not had a terrific relationship with the Civil Rights Division," Chandra commented.[131]

In sum, Chandra's experience suggests an important unanticipated consequence within police misconduct prosecutions: Labeling police misconduct as a subject of national interest authorizes a higher degree of oversight by the Civil Rights Division. However, instead of enhancing investigations and prosecutions with additional resources, prosecutorial experience, and legal expertise, federal resources are understood amongst experienced litigators as disruptive spectacles that produce cognizable delays in the adjudicative process, ultimately curtailing the ability of local federal prosecutors to appropriately adjudicate cases. In other words, classifying police misconduct a subject of national interest may actually threaten the prospect of police accountability.

While resources out of Main Justice may be viewed as disruptive thus producing an appreciable amount of frustration among some prosecutors, not all prosecutors in my sample felt this way. I find that police misconduct prosecutors' willingness to receive help from attorneys out of Main Justice depended upon their experience level with successfully prosecuting police misconduct. For example, Gina, a federal prosecutor whose jurisdiction covers City 5, had comparatively less experience prosecuting police misconduct cases than Chandra. As a result, Gina welcomed the experience offered by Civil Rights Division attorneys. In reflecting on whether and how she has worked with attorneys out of Main Justice, she told me, "They're great . . . . They are our partners . . . and they have expertise. They've litigated issues like what an expert can testify to and what we need to show for the excessive force, so they're just really subject matter experts and they also try the case with us . . . I think they're really excellent."[132]

Gina's reflection is important because she indicates that federal police misconduct prosecutors around the United States do not offer a monolithic experience in working with the Civil Rights Division. In comparison with Chandra, Gina welcomes the Civil Rights Division's experience and may use the expertise of Main Justice attorneys to augment her limited police misconduct proficiency to help win cases. Gina shares that specialized attorneys out of Main Justice may take an active role in her cases, helping to clarify nuanced evidentiary issues and serve as subject matter experts within complex litigation.

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130. *Id.*
131. *Id.*
132. Interview with "Gina," Assistant U.S. Att'y, Chief C.R. Unit (Jan. 19, 2022).

Even so, Gina recognized that federal observation and guidance by the Civil Rights Division is a convoluted balance around the United States.

> My colleagues in the Civil Rights Division will tell you it is different in different places. Like, there's certain cases, because they go and partner with US Attorney's offices on their cases wherever they occur and Civil Rights Division is all out of D.C. They don't have their own districts. So they go there and no one there wants to do these types of cases. Like my partner will just be lead counsel and do it himself. But there are other districts like ours where it's like "No, we want to be in charge here. It's our case. This is an important case and we're doing it." But certainly in the South, they've told me that—you know—there's places where they don't really want to prosecute there. They don't want to do the case. They don't want to touch it with a ten-foot pole, but I'll do it. This is my case. I'm lead counsel.[133]

Here, Gina confirmed that reactions to the Civil Rights Division may differ depending on the jurisdiction. In her field site, she described a collaborative relationship with Civil Rights Division. Gina's description also supplements previous literature demonstrating that compliance with federal hate crime law is less likely in places with larger Black populations and, therefore, the Civil Rights Division is a useful mechanism where prosecutorial motivation may wane.[134] In these jurisdictions, the Civil Rights Division can step in and offer guidance, support, and motivation to hold criminality to account.[135] Such a pragmatic approach is promising for the prospect of police accountability, where the Division functions as a stopgap when comparably less enthusiasm exists. However, on the ground, automatic supervision by the Civil Rights Division, like in Chandra's jurisdiction, is viewed not as a supplement, but as a threatening and disruptive form of occupational surveillance by experienced and motivated federal prosecutors.

IV. PREVIOUS LEGISLATION AS A MODEL FOR ADDRESSING POLICE ACCOUNTABILITY

This Article describes the relationship between state prosecutors, federal prosecutors, and the Civil Rights Division inside the USDOJ in conducting police misconduct investigations and prosecutions around the United States. Through in-depth interviews with state and federal police misconduct prosecutors, I demonstrate that police misconduct prosecutors possess idiosyncratic and specialized skill sets. This sociolegal environment may encourage the sharing of ideas, resources, and knowledge

133. *Id.*

134. *See* Ryan D. King, *The Context of Minority Group Threat: Race, Institutions, and Complying with Hate Crime Law*, 41 L. & SOC'Y. REV. 189, 189–90 (2007).

135. *See Our Work*, *supra* note 23.

between prosecutors who have unique insights on what constitutes persuasive evidentiary strategies helpful for securing indictments and convictions. However, paradoxically, I find that experienced prosecutors may reject exogenous support because they understand it as disruptive and oppressive surveillance by outsiders. These results demonstrate that growing demands for police accountability confront established occupational scaffolds, and federal collaboration threatens longstanding notions of occupational autonomy and prosecutorial esteem, and risks oversight by outsiders.

This is not the first time American prosecutors have experienced demands for increased accountability for specific crime types. In fact, in the early 1990s, legal limitations surrounding domestic violence and gender-based violence reached a fever pitch, prompting widespread legislation targeted at increased accountability for perpetrators. As a result, the following discussion of the Violence Against Women Act (VAWA) and its applicability within the police misconduct context is designed to explore, augment, and enhance the prospect of future police accountability. Indeed, the discussion in Sections A, B, and C are intended to uncover and solve the many contemporary challenges to police accountability uncovered in this Article and facilitate future collaboration within police misconduct investigations and prosecutions around the United States.

C. Model Legislation: The Violence Against Women Act

The VAWA was an innovative form of prosecutorial evolution and legal change. The VAWA was a section of the Violent Crime Control and Law Enforcement Act of 1994, the first piece of federal legislation recognizing sexual assault and domestic violence as crimes, providing supplemental federal resources to "encourage community-coordinated responses to combating violence against women."[136] The VAWA was explicitly intended to address the fact that 98% of rape survivors never saw criminal legal accountability for the perpetrators of such violence.[137] Adjudication of such crimes posed unique challenges for prosecutors, particularly due to insensitive criminal legal processes risking revictimization and a resultant decrease in victim cooperation, safety concerns for the reporters of violence, and a lack of law enforcement expertise in how to deliver accountability.[138]

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136. *Violence Against Women Act*, NAT'L NETWORK TO END DOMESTIC VIOLENCE, https://nnedv.org/content/violence-against-women-act/ (last visited Aug. 19, 2025); see also OFF. ON VIOLENCE AGAINST WOMEN, U.S. DEP'T OF JUST., ANSWERING THE CALL: THIRTY YEARS OF THE VIOLENCE AGAINST WOMEN ACT 1 (2024).

137. Lisa O. Monaco, *Leading Prosecutor Remembers How Violence Against Women Act Saved Lives – and Urges Congress' Support Now*, PEOPLE (Oct. 5, 2021, at 6:15 ET), https://people.com/politics/leading-prosecutor-remembers-how-violence-against-women-act-saved-lives/.

138. DAVID A. FORD & SUSAN BREALL, U.S. DEPT. OF JUST., NCJ 199660, VIOLENCE AGAINST WOMEN: SYNTHESIS OF RESEARCH FOR PROSECUTORS 1 (2000).

A central component of the VAWA was federal monetary allocations to community "STOP" grant projects, intended to address prosecutorial limitations and bolster technical assistance for prosecuting rape, sexual assault, domestic abuse, and other forms of gender-related violence.[139] Specifically, Title VI and Title V Subtitle B's improvement grants funded education and training for police departments, prosecutors, judges, and other court personnel in state and federal courts, augmenting law enforcement's ability to successfully prosecute those accused of gender-based offenses.[140] Subtitle D similarly established an Attorney General's Task Force designed to collect and recommend federal, state, and local strategies for prosecuting violent crime against women, including increased coordination among federal, state, local, and tribal agencies.[141] Taken collectively, these provisions funded innovative policies and procedures, including coordinated community responses to domestic violence, and encouraged "actors in the criminal justice system to work with survivors and their advocates to find solutions . . . . [T]he original VAWA provided critical federal funding to ensure that those who touch the lives of survivors . . . have access to programs that provide the right tools and training."[142]

STOP grant programming emphasized robust interagency collaboration in the form of in-service trainings, coordinated seminars, and national conferences to create institutionalized networks of support useful for sharing information around the country.[143] The VAWA also encouraged creation of an oversight committee to alleviate criminal justice problems related to gender-based violence, the development and implementation of special case management systems and state of the art forensic examination rooms, development of instructive "bench books" for judges and other court personnel, the development and implementation of model prosecution policies and inter-jurisdictional enforcement protocols, and wraparound programming dedicated to victim services and victim safety in local communities.[144] The Office of Justice Programs, a department inside the USDOJ that supports initiatives like the National Institute of Justice, Bureau of Justice Statistics, and the Office of Juvenile Justice

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139. Violence Against Women Act of 1994, Pub. L. No. 103–322, 108 Stat. 1902, 1910–11 (1994) (codified as 42 U.S.C. §§ 13925–14045d); MARTHA BURT, LISA NEWMARK, MARY NORRIS, DARYL DYER, & ADELE HARRELL, THE VIOLENCE AGAINST WOMEN ACT OF 1994: EVALUATION OF THE STOP BLOCK GRANTS TO COMBAT VIOLENCE AGAINST WOMEN 8 (The Urb. Inst. 1996); BRENDA K. UEKERT, NEAL MILLER, CHERON DUPREE, DEBORAH SPENCE, & CASSANDRA ARCHER, NAT'L INST. OF JUST., NCJ 189163, EVALUATION OF THE STOP VIOLENCE AGAINST WOMEN GRANT PROGRAM: LAW ENFORCEMENT AND PROSECUTION COMPONENTS 1 (2001).

140. Violence Against Women Act of 1994, Ch. 2, 108 Stat. at 1910–11 (1994); *Prosecutors' Programs Ease Victims' Anxieties*, NAT'L INST. OF JUST. (July 1, 2005), https://nij.ojp.gov/topics/articles/prosecutors-programs-ease-victims-anxieties#0-0.

141. Violence Against Women Act of 1993, S. 11, 103d Cong. §§ 141–42 (1993) (enacted).

142. Monaco, *supra* note 137.

143. BURT, NEWMARK, NORRIS, DYER, & HARRELL, *supra* note 139, at 36; Monaco, *supra* note 137; *Prosecutors' Programs Ease Victims' Anxieties*, *supra* note 140.

144. BURT, NEWMARK, NORRIS, DYER, & HARRELL, *supra* note 139, at vii; Monaco, *supra* note 137; *Prosecutors' Programs Ease Victims' Anxieties*, *supra* note 140.

and Delinquency Prevention, also included staff and personnel developed broader technical assistance initiatives helpful for disseminating successful prosecution strategies, community resources, and coordinated response programming throughout the United States.[145]

Empirical examinations of the efficacy of the VAWA show that it played a significant role not only in bolstering the technical expertise of prosecutors but also in diminishing instances of rape, sexual assault, domestic abuse, and other forms of gender-related violence.[146] Key insights include developing state-level training programs alongside specialized prosecutorial units dedicated to sexual assault and abuse of women.[147] The VAWA created a prosecution landscape comprising experienced attorneys with expertise in evidence collection techniques and those with prior experience prosecuting sexual assault and domestic violence allegations to these newly-developed specialty units, creating cross-agency teams who receive region-specific and crime-specific training and who are responsible for responding crime scenes, and equipping offices with dedicated space to investigate and prosecute these cases.[148] Taken collectively, because STOP grants funded the creation of specialty units and the widespread availability of prosecutorial seminars and in-service trainings, specific kinds of prosecutorial expertise developed and allowed for the dissemination of successful prosecutorial strategies regarding rape, sexual assault, and gender-based violence cases across the country, which had a substantial impact on the prospect of successful case adjudications.[149] Moreover, research establishes that passage of VAWA simultaneously stimulated social change useful for reducing broader instances of gender-related violence.[150] In sum, the VAWA—and STOP grants in particular—helped develop prosecutorial expertise for this particular crime time, while also disseminating successful prosecutorial strategies around the United States and augmented networks of seasoned attorneys targeted at increasing accountability for perpetrators of domestic violence and gender-based crime.

B. The VAWA & Police Accountability Nexus: A Promising Opportunity?

As documented in Part III, police misconduct investigators and prosecutors possess a unique type of substantive and relational expertise.

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145. BURT, NEWMARK, NORRIS, DYER, & HARRELL, *supra* note 139, at 1, 14–15; *About Us*, OFF. OF JUST. PROGRAMS, https://www.ojp.gov/ (last visited August 26, 2025).

146. *See* MARCIA R. CHAIKEN, BARBARA BOLAND, MICHAEL D. MALTZ, SUSAN MARTIN, & JOSEPH TARGONSKI, U.S. DEPT. OF JUST., NCJ 191186, STATE AND LOCAL CHANGE AND THE VIOLENCE AGAINST WOMEN ACT, FINAL REPORT (2001); *See* UEKERT, MILLER, DUPREE, SPENCE, & ARCHER, *supra* note 139, at xi–xiii.

147. UEKERT, MILLER, DUPREE, SPENCE, & ARCHER, *supra* note 139, at iii–v.

148. *Id.* at viii.

149. *Id.* at xi–xiii.

150. *See id.* at 17–18, 20.

Yet, evidence presented above demonstrates how efforts to share resources and case-specific proficiencies may threaten longstanding notions of prosecutorial autonomy. In considering whether and how police accountability may occur, a conspicuous question emerged throughout my research: How have other, specific types of prosecutorial expertise developed in the past? Are there analogues and lessons we can adapt from previous legal evolutions that may be helpful within the police accountability context? Oscar spoke to this question accordingly:

> I'm four years into [police misconduct prosecution], which is no time. It is nothing in terms of how long you've had the American prosecutor. When I first started practicing law as a prosecutor, I was a misdemeanor prosecutor and assaults . . . there was no such thing as "family violence assault." This was in 1993. There were assaults and it was typically boyfriend, husband or girlfriend, wife. They were classified as "family or domestic violence," but there was no crime called "domestic violence" that made it a different crime, you understand? There was no family violence prosecutor. There was no family violence court. There wasn't none of this stuff. This was in 1993. So they treated those cases like every other case.[151]

Here, Oscar began to answer my ruminations. Oscar compared the current state of police misconduct prosecutions to an earlier iteration of domestic violence and gender-based prosecutions that he experienced earlier in his career. He suggested that while domestic violence was a cognizable phenomenon in the early 1990s, there was limited prosecutorial proficiency alongside various legal limitations and inadequate wrap-around services for victims and families that impacted the feasibility of these specific prosecutions. He remembered,

> There happened to be a woman in my court who had been a domestic violence survivor, who was passionate about those cases, and she came to me, and said, "Hey man, if you have one of these cases it, let me sit with you on it or I'll be glad to take it over." So on her own, sort of informally, she became a domestic violence prosecutor. She specialized in those cases. She became aware of the specific sorts of issues in those cases. Within five years of that, the legislature and everybody else recognized that those cases were different and needed to be treated differently. Within ten years, you had family violence courts. You had enhancements for domestic violence. You had family violence counselors. You had the whole family violence sub-prosecution institution.[152]

Oscar suggested that at the beginning of his career, domestic violence cases were notoriously difficult to prosecute, and prosecutorial speciali-

151. Interview with "Oscar," Assistant Dist. Att'y, Chief Special Prosecution Unit (Sept. 28, 2021).

152. *Id.*

zation in domestic violence was crucial for the development of particular occupational insight and strategies to combat the complexities involved with domestic violence and gender-based violence. He remembered witnessing the larger organizational apparatus that developed around prosecutorial efforts and the substantive expertise that matured over time. Specific court dockets, crime enhancements, and specially trained therapists augmented prosecutors' abilities to successfully adjudicate such crimes, alongside the application of appropriate wrap-around services to victims and their families.

I asked Oscar to specifically consider the ways in which prosecutors' specific expertise advanced during this period, and whether there were particular facets of domestic violence prosecution that developed. He recalled,

> They lost a lot of cases when they started because they had to confront unique evidentiary problems, like in most of those cases, typically the woman wouldn't show up for trial. She was either scared to death, or she was afraid that if the person got convicted, he might have been the only source of income to take care of her and her children, and they lost those cases until after losing those cases they figured out strategies. They got laws passed. They amended rules of evidence, until the point where you could effectively prosecute those cases.[153]

Significantly, Oscar suggested that particular types of crimes, like domestic violence and gender-based violence, presented unique evidentiary and procedural challenges for prosecutors. Concerns for a victim-witness's safety meant they oftentimes would fail to appear and fail to testify, ultimately threatening the prospect of accountability for perpetrators of such violence when defendants were unable to confront the witnesses held against them. As a result of this knowledge, prosecutors—and the broader legal community—developed meaningful strategies principally designed to protect victims and witnesses of such violence while also guaranteeing accountability for such wrongdoing.

Second, Oscar indicated that this type of sociolegal environment required the advocacy of legal practitioners most intimately involved in such processes to promote substantive legal change. While abstractly gesturing at legal change and evidentiary amendments to aid prosecutors and protect victims in these cases, he referenced the VAWA and STOP grants, alongside other related amendments like Rape Victim Shield Laws and Rule 412 of the Federal Rules of Evidence.[154] These sorts of

153. *Id.*

154. FED. R. EVID. 412; BURT, NEWMARK, NORRIS, DYER, & HARRELL, *supra* note 139, at 7–8; *See* CAROLYN C. HARTLEY & ROXANN RYAN, NAT'L INST. JUST., NJC 194074, PROSECUTION STRATEGIES IN DOMESTIC VIOLENCE FELONIES: TELLING THE STORY OF DOMESTIC VIOLENCE, EXECUTIVE SUMMARY 1–2 (1998).

legal evolutions were explicitly designed to protect victims from the humiliation and prejudicial value of public disclosure of prior sexual activities while also providing resources and training to law enforcement while developing expertise among prosecutors adjudicating these complex cases.[155] He continued,

> I'm in much the same situation today that they were in. I'm four years in and we're trying to figure this out. I don't think we're encountering the same kind of rules that domestic violence victims encountered, you know, because they encountered stuff like you couldn't testify against your husband, that kind of stuff. They were dealing with thousands of years of misogyny and that kind of thing.[156]

In other words, while domestic violence and gender-based violence are not perfect analogues to police misconduct cases, Oscar compared his previous experience with a sociolegal environment defined by limited prosecutorial expertise at the same time that broader society was demanding increased accountability for a particular class of crimes. He identified the idiosyncrasies prosecuting domestic violence, like testifying against one's husband, meaningful power imbalances, general misogynistic ideologies amongst community members, and the tendency to victim-blame as cognizable issues that impacted the feasibility of successful prosecution. As a result, Oscar identified that prosecutors needed to develop skills and expertise regarding domestic violence and gender-based violence to win convictions

Oscar's reflection mirrored the contemporary atmosphere where the public demands police accountability is met with relatively limited prosecutorial experience litigating these complex and multifaceted cases in similar ways.[157] This sociolegal environment presents many difficulties for relatively inexperienced prosecutors, and it will take time to strategize and master such intricacies. Oscar's broader argument implies that, without a contemporary legal evolution within police misconduct prosecutions similar to what occurred with domestic violence, he and his colleagues will be forced to develop expertise on their own. This delay often comes to the detriment of immediate police accountability.

I also spoke with Peter, an Assistant District Attorney and the Chief of the Sex Crimes Unit, who serves as an appointed prosecutor who specializes in domestic violence and gender-based violence. His position is funded and supported by the VAWA. In explaining his role, he shared,

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155. *See* FED. R. EVID. 412.
156. Interview with "Oscar," Assistant Dist. Att'y, Chief Special Prosecution Unit (Sept. 28, 2021).
157. *Id.*

> I got asked if I wanted to be what we call the "Violence Against Women resource prosecutor." The Federal Violence Against Women Act is the grant that I'm on. They provide federal funding for this position and then what I have to do is that the compromise is I don't have to take 300 cases anymore . . . . But all of them are going to be only in four categories: I am allowed to prosecute cases under this grant for stalking, sexual assault, domestic violence and strangulation cases, and their victims have to be age eleven or older.[158]

Peter's position as a Violence Against Women resource prosecutor is the direct result of federal funding and support provided by the VAWA. Peter's role is a product of the STOP grant projects introduced above, which are intended to help address prosecutorial limitations and bolster technical assistance for prosecuting rape, sexual assault, domestic abuse, and other forms of gender-related violence. He continued,

> The other flip side of that coin is I have a region to which I'm assigned in the state. So if you draw a cross in the state, I'm in the southwest region, and I have to cover eighteen counties, including mine to be to serve as a resource. And what that means in practical terms is I have to put on trainings about domestic violence sexual trial skills, you know, I have to answer questions . . . . We put out a training about domestic violence to kind of give a broad overview of important concepts for newer attorneys, paralegals, clerical . . . . So that's kind of where I'm at and we do all these trainings, we do monthly domestic violence meetings with the attorneys and other staff too.[159]

Here, Peter explicitly described the robust framework and his responsibilities as the result of STOP grant programming. He takes part in in-service trainings and coordinated seminars, institutionalized networks of support helpful for sharing information across jurisdictional boundaries, the development and implementation of model prosecution policies and inter-jurisdictional strategies, and wrap-around programming dedicated to victim services and victim safety in local communities.[160] Through dedicated VAWA resources and training, Peter became an expert prosecuting domestic violence and gender-based violence allegations alongside his mentorship role with other prosecutors in his region. To this end he shared, "Because I'm on that grant position, part of my job is to try and be or is to be a resource for other prosecutors in my office and throughout my region. And in my office, it naturally then takes on the role of mentoring newer lawyers."[161]

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158. Interview with "Peter," Assistant Dist. Att'y, Chief of Sex Crimes Unit (July 29, 2021).
159. *Id.*
160. *Id.*; *see* BURT, NEWMARK, NORRIS, NYER, & HARRELL, *supra* note 139, at 7; Monaco, *supra* note 137; *Prosecutors' Programs Ease Victims' Anxieties*, *supra* note 140.
161. Interview with "Peter," Assistant Dist. Att'y, Chief of Sex Crimes Unit (July 29, 2021).

Peter also described how mentorship was crucial for the development of his substantive and relational expertise early on prosecuting domestic violence and gender-based crimes. He shared, "When I started here, that person in my branch was Martha. I really looked to her as kind of a role model."[162] Peter relayed that Martha helped him figure out "what an appropriate offer is in our county."[163] Local idiosyncrasies meant that resolutions that were effective in one county would not necessary work in another.[164] "She helped me if I ever had a question like, what type of an offer to make or what I'm allowed to offer."[165]

Here, Peter described that knowledge of the local legal environment is a crucial piece of a prosecutor's acumen. This includes understanding what an appropriate and acceptable offer is, comprising a necessary component of prosecutorial experience. He continued,"[T]hat was really helpful, because then I got to work a lot closer with her and do all the trial prep meetings with the witnesses and the victims, learning how to better kind of talk to victims . . . [T]hat's a tough thing to do, especially in the sensitive crimes cases . . . . [J]ust observing her I learned a lot."[166]

Peter described how the daily experience of working alongside experienced prosecutors and observing trial prep also built his own expertise for this specific crime type. Rather than learning things on his own, being able to observe seasoned prosecutors, monitor how they speak with victims and other witnesses, and pay attention to experienced prosecutors' work product was helpful for Peter's own professional development. He shared, "[I]n any given case, especially in trial, legal issues come up, you have hearsay exceptions, things that you can't anticipate. And so I learned from her things that she had already experienced. And then we learned together, you know, new issues that neither one of us had dealt with before."[167]

Peter described that mentorship provided to him through the broader network of STOP grant prosecutors helped him develop substantive and relational expertise to be a successful domestic violence and gender-based violence prosecutor. He learned the substantive law related to probation restrictions, how to overcome evidentiary restrictions at trial, the procedural particularities of what constitutes a reasonable or maximum plea offer in his jurisdiction, and other successful approaches within trial preparation. He also absorbed relational skills in how to better speak with victims and witnesses within these delicate cases. This sociolegal environment is promising for the prospect of increasing accountability for

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162. *Id.*
163. *Id.*
164. *Id.*
165. *Id.*
166. *Id.*
167. *Id.*

perpetrators of domestic violence and gender-based violence when the bonds between mentors and trainees are strong.

In essence, the VAWA has successfully increased the substantive and relational expertise prosecuting complex and multifaceted gender and sex-based crimes within the criminal legal system. This piece of legislation and related STOP grants contained therein have facilitated the development of broader technical assistance initiatives helpful for disseminating successful prosecution strategies, community resources, and coordinated response programming throughout the United States related to domestic violence and gender-based violence.[168]

I suggest that the VAWA and STOP grants are useful models for the development and implementation of police accountability prosecutorial expertise in the contemporary moment. Federal monetary allocations to local community grant projects would address prosecutorial limitations and bolster the technical assistance required for prosecuting police misconduct. Education, training grants, and additional court personnel would aid prosecutors' ability to successfully prosecute those accused of police misconduct. A USDOJ task force housed within the Office of Civil Rights should collect, coordinate, and recommend federal, state, and local strategies for prosecuting police misconduct. Moreover, this task force should emphasize robust interagency collaboration, biannual in-service trainings and other seminars, national conferences that facilitate an institutionalized network of support and expertise helpful for sharing information around the country, the development and implementation of model prosecution policies and evidentiary strategies, regional networks of mentorship for police-suspect prosecutors, interjurisdictional enforcement protocols, and wrap-around programming dedicated to victim services and victim safety in local communities.

However, as demonstrated in earlier sections of this Article, mentorship and the sharing of occupational knowledge weighs a complicated balance. Many prosecutors—particularly experienced and seasoned prosecutors—understand the infusion of resources and knowledge as a risk to traditional notions of prosecutorial autonomy and individual prestige. They may view outsiders as surveillance and oversight, trampling on their work product and disrupting case adjudications rather than offering guided experiential support. Accordingly, institutionalizing resources and mentorship opportunities through federal networks and grant opportunities will take work to achieve and is unlikely to be uniformly received in a positive way. One solution may be to offer seasoned prosecutors the managing role in potential mentorship opportunities. That way, experienced prosecutors can share their expertise and curated skill set with others on a voluntary basis, potentially embracing this networked ap-

168. BURT, NEWMARK, NORRIS, DYER, & HARRELL, *supra* note 139, at vi.

proach, rather than understanding it as another layer of oppressive occupational surveillance.

C. The Feasibility of Federal Networks in the Contemporary Moment

On April 28, 2025, President Donald Trump signed an executive order titled, "Strengthening and Unleashing America's Law Enforcement to Pursue Criminals and Protect Innocent Citizens."[169] Section 3 of the order curtails federal oversight of law enforcement and orders the Attorney General to "review all ongoing Federal consent decrees, out-of-court agreements, and post-judgment orders to which a State or local law enforcement agency is a party and modify, rescind, or move to conclude such measures that unduly impede the performance of law enforcement functions."[170] This order—and its ostensible skepticism regarding federal efforts designed to address police misconduct—aligns with previous federal directives offered during the first Trump Administration.[171] In particular, this order specifically targets the use of federal consent decrees, a useful mechanism for enhancing the expertise and experience to adjudicate police misconduct, and should be understood as a threat to the expansion of prosecutorial networks designed to enhance experience and expertise regarding the investigation and prosecution of police criminality.[172]

In the policing context,[173] a federal judicial consent decree is a legally binding settlement agreement between a city and its police department (or unit inside of a police agency) and the federal government to change unlawful practices.[174] Consent decrees typically follow a broader USDOJ pattern and practice investigation documenting systemic deficiencies and/or constitutional misconduct and abuse.[175] Federal courts oversee and enforce the agreement and an independent court-appointment monitor may assist the tracking, oversight, and reformation process, including the investigation and prosecution of individual officers accused of criminality.[176] Jurisdictions, agencies, or units that

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169. Exec. Order No. 14,288, 90 Fed. Reg. 18765 (Apr. 28, 2025).

170. *Id.*

171. Ed Pilkington, *Trump's Scrapping of Obama-era Reforms Hinders Police Reform*, THE GUARDIAN (June 7, 2020, at 4:00 EDT), https://www.theguardian.com/us-news/2020/jun/07/police-consent-decrees-trump-administration-oversight.

172. *Fact Sheet: President Donald J. Trump Strengthens America's Law Enforcement to Pursue Criminals and Protect Innocent Citizens*, THE WHITE HOUSE (Apr. 28, 2025), https://www.whitehouse.gov/fact-sheets/2025/04/fact-sheet-president-donald-j-trump-strengthens-americas-law-enforcement-to-pursue-criminals-and-protect-innocent-citizens/.

173. Consent decrees are also used in antitrust, securities, education, and environmental abuse contexts.

174. Tobias Barrington Wolff, *Consent Decrees and Federal Jurisdictions*, 84 U. PITT L. REV. 547, 550 (2022); U.S. Dep't of Just., Just. Manual § 1-20.000 (2023).

175. U.S. Dep't of Just., *supra* note 174, § 1-20.000.

176. *Id.*

fail to comply with federal requirements can be held in contempt of court.[177]

The use of federal judicial consent decrees has waxed and waned over the past fifty years and is, in part, a tool of the executive.[178] For example, under the Obama Administration, the Justice Department instituted fifteen consent decrees with law enforcement agencies across the United States.[179] Whereas during President Trump's first term, Attorney General Jeff Sessions repeatedly criticized the use of consent decrees for limiting aggressive policing and only in one case entered into a consent decree process.[180] Today, there are thirteen active consent decrees around the nation spanning from whole departments under reformation processes (like Chicago, Louisville, Minneapolis, Los Angeles, and New Orleans) to smaller-scale consent processes in New York City regarding Rikers Island Jail.[181]

This latest move exposes the willingness—or lack thereof—of the federal government to remedy historic deficiencies regarding notable cases of police violence. This executive order specifically curtailing the use of federal judicial consent decrees should be understood as a strategy to limit prosecutorial experience gained through the federal oversight reform process and is a risk to public safety. It encourages aggressive policing tactics previously documented to be unconstitutional and significantly limits federal prosecutors at the USDOJ to pursue pattern and practice investigations.[182]

Nevertheless, the expansion of prosecutorial networks and knowledge can persist regardless of executive fiat or congressional inaction. Informal connections between offices and individual prosecutors are possible. Organizations like the Association of Prosecuting Attorneys, the National District Attorneys Organization, and the International Association of Prosecutors should support these important law enforcement officials by providing comprehensive trainings, technical assistance, and other resources to federal, state, and local prosecuting attorneys. Robust connections facilitated through employment-specific asso-

177. Wolff, *supra* note 174, at 550; U.S. Dep't of Just., *supra* note 174, § 1-20.010.

178. *See* U.S. Dep't of Just., *supra* note 174, § 1-20.000.

179. Robert Faturechi, *The Obama Justice Department Had a Plan to Hold Police Accountable for Abuses. The Trump DOJ Has Undermined It.*, PROPUBLICA (Sept. 29, 2020, at 5:00 EDT), https://www.propublica.org/article/the-obama-justice-department-had-a-plan-to-hold-police-accountable-for-abuses-the-trump-doj-has-undermined-it.

180. Pilkington, *supra* note 171.

181. Michael Brady, *There's a New Sheriff in Town: How Federal Consent Decrees with Municipal Police Departments Should Be Structured to Better-Serve Police Departments and the Public*, 58 UIC L. REV. 137, 147–48, 155 (2024).

182. C.R. DIV., U.S. DEP'T OF JUST., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 5–6 (2015); John Pfaff, *Trump's New Executive Order Promises to 'Unleash' Law Enforcement. It Won't Make Us Safer.*, MSNBC (May 1, 2025, at 2:45 MDT), https://www.msnbc.com/opinion/msnbc-opinion/trump-police-safety-executive-order-crime-law-enforcement-rcna203881.

ciations are possible even in a contemporary moment defined by growing hostility to the prospect of police accountability on behalf of the current presidential administration.

CONCLUSION

Despite a growing chorus of demands to hold police criminally accountable, I find that limited expertise and experience exists around the United States regarding the prosecution of police misconduct. This sociolegal environment may encourage the sharing of ideas, resources, and knowledge between prosecutors who possess unique insights regarding what constitutes persuasive evidentiary strategies helpful for securing indictments and convictions. However, I find experienced police misconduct prosecutors perceive the automatic and oftentimes heavy-handed infusion of exogenous support as threats to their occupational autonomy and as disruptive forms of occupational surveillance.

Evidence presented in this Article establishes three important findings carrying implications for the prospect of future police accountability. First, acquiring knowledge helpful to successfully prosecute police officers comprises a particular kind of prosecutorial acumen uncommon within and differentiated among traditional line prosecutors. Useful kinds of substantive expertise involve the knowledge of how to prosecute a hybrid of violent crime and white-collar crime, the necessary combatting of affirmative public authority justifications offered by police officers, and the requirement of video evidence presented to juries within their case in chief. Additionally, prosecutors must develop relational expertise, which extends to navigating interpersonal interactions and emotional connections with juries, the ability to elicit powerful and evocative testimony from victims, witnesses, and families, and a unique professional temperament informed by one's awareness of the local political environment.

Second, accountability demands also confront established occupational scaffolds and collaboration threatens longstanding notions of occupational autonomy and prosecutorial esteem and risks further oversight by outsiders. I find that police misconduct prosecutors' willingness to receive outsiders is inversely related to their experience level with successful police misconduct prosecutions. Those with limited experience may use the expertise of more seasoned attorneys to augment limited police misconduct proficiency to win cases. However, experienced police misconduct prosecutors perceive outside attorneys and Main Justice involvement as a risk to traditional notions of autonomy. Rather than welcoming outsiders, experienced federal prosecutors in local field offices employ unique resistance strategies which engenders a distrustful and hostile occupational ecosystem and ultimately threatens the prospect of police misconduct investigations and prosecutions.

Third, successful analogues funded by the VAWA and STOP grants have increased accountability for domestic violence and gender-based violence. Legal change that organizes occupational expertise and experience could supplement a sociolegal environment defined by relative inexperience. But I find that many police misconduct prosecutors contest the sharing of knowledge and the development of connected frameworks designed to facilitate collaboration. This is because the infusion of expertise and experience is understood as oppressive occupational surveillance and unwelcome oversight threatens traditional notions of prosecutorial autonomy. Accordingly, while many police misconduct prosecutors hunger for additional resources to supplement their limited expertise, others may resist establishing formal partnerships across organizational ranks. I find that resistance to forming formal partnerships designed to share knowledge across occupational boundaries threatens the prospect of police accountability around the United States.

This Article provides new descriptions of the ways in which employees—and powerful legal actors in particular—complicate workplace surveillance regimes cast upon them.[183] The evidence presented above extends our understandings regarding the ways in which prosecutors think about occupational autonomy, exercise their discretionary power, and work through developing demands for increased transparency and collaboration in the workplace. I show how legal personnel respond to, contest, negotiate, and debate traditional notions of independence. Descriptions demonstrate how contemporary police misconduct prosecution is not a monolithic experience. While some welcome the infusion of resources and expertise to supplement police misconduct adjudications, others oppose oversight and challenge supervision by members of their extended occupational communities and actively promote resistance strategies.

Taken collectively, these findings suggest that while legal change is a necessary component in addressing the rarity of police prosecution, it will not be as easy as legislating and directly implementing exogenous support, because prosecutors—particularly experienced prosecutors—may frame an outside infusion of resources as an unnecessary risk to their autonomy and occupational prestige, and historic legislative analogues are unlikely to come to fruition. Indeed, although useful models exist that may theoretically provide promise for increasing expertise and experience prosecuting complex cases of police violence, seasoned prosecutors understand themselves as separate legal entities and traditionally exclude outsider oversight. Accordingly, longstanding jurisdictional boundaries and contemporary federal opposition within the executive

183. *See* BALL, ELECTRONIC MONITORING AND SURVEILLANCE IN THE WORKPLACE *supra* note 78, at 27; *see also* Brayne & Christin, *supra* note 62, at 609–10. *See generally* Levy, *supra* note 62, at 363–64. *See* Karen E. C. Levy, *The Context of Control: Information, Power, and Truck-Driving Work*, 31 THE INFO. SOC'Y 160, 169 (2015).

branch present unique complications for the infusion of resources and networks across spaces and places that ultimately may risk the prospect of police accountability in the future.