

Prosecutors' "Tough on Crime" Appeals

What Influences County-Level Prosecutors to
Appeal to "Tough on Crime" Messaging

by

Hailey Trimpey

Ohio Northern University

Submitted in partial fulfillment of the requirements for the
Degree of Bachelor of Arts in Political Science

John Curiel (Paper Director)

Robert Alexander (Second Reader)

Date Filed: _____

Abstract

With the surge of violent crime in America, "tough on crime" laws have made a reappearance in modern-day policies. Political leaders are turning to an increased presence of law enforcement which contributes to the racial disparities that the Black Lives Matter Movement shed light on. "Tough on crime" messaging has become a widespread strategy used by those seeking to be elected into political offices. With the recent increase in use of these appeals, this paper aims to answer the question: How do prosecutors of different political parties appeal to a tough on crime message? Recently, Democratic political officials have been cross-pressured: reform policies more broadly to their base versus the tough on crime message preferred by the general electorate. Therefore, Democratic prosecutors can be expected to appeal to the "tough on crime" message less than Republicans or independents. I analyze how county level prosecutors appeal to the public today through competing rhetorical frames in relation to the necessity of the office via tough on crime messaging versus potentially competing demands from their primary base as it varies by political party affiliation. In doing so, I look at the election period public relations statements of eight candidates for county prosecutor in four different metropolitan counties. In conceptualizing eight types of appeals, I find that candidates do not vary on "tough on crime" appeals based on party affiliation, but rather on incumbency status. These results suggest that "tough on crime" messaging might be a generational artifact that may decay with time.

Introduction

Political campaigns surrounding "tough on crime" messaging took off in the 1960s and was most prevalent during the Civil Rights Movement. During this time, politicians appealed to

the fear of Black Americans by focusing campaign material on putting these individuals behind bars and developing policies to protect White Americans.¹ The "tough on crime" movement put a new focus on the criminal justice program in future campaigning and policymaking on the national level. This can still be seen today as a tactic used to gain support from voters from local level prosecutors to statewide office and even the office of president. Harsh policy regarding the criminal justice system has become a focus that aligns more with Republican candidates. However, county level prosecutors, a position that is usually nonpartisan in relation to ballot style, especially partake in the "tough on crime" given their role as the elected office holders with the primary responsibility to enforce the law and prosecute wrongdoers. However, even though prosecutorial races are technically often non-partisan, local and state parties still signal their preferences to voters, leading to a partisan element to these races. Of the major parties within the U.S., the Democratic Party in particular disproportionately represents voters of racial minority status – those most likely unduly victimized by "tough on crime" prosecutors.

This brings about the question, "How do prosecutors of different political parties appeal to a 'tough on crime' message?" I posit that Republican candidates for county prosecutor will be more likely to use this appeal in order to get elected into office relative to Democrats, given that they face fewer cross-pressures. Since this method has been widely adopted by the Republican Party on all levels of government, it can be expected that the prosecutor's office will not stray from this pattern – after all, they face no penalty from the primary or general electorate to do so.

I tested my expectations by examining prosecutors of four predominantly urban counties – the areas most prone to fears of rampant crime. Public relations (PR) statements were collected

¹Walker Newell. "The Legacy of Nixon, Reagan, and Horton: How the Tough on Crime Movement Enabled a New Regime of Race-influenced Employment Discrimination." *The Berkeley Journal of African-American Law and Policy* 15:3-36 (2013): 13.

for eight candidates as a means to measure the position taking of candidates. These candidates consisted of the top two in the election for prosecutor for each county. These PR statements were then analyzed for "tough on crime" appeals based on eight criteria which are further explained in the Rhetoric Dictionary (see Appendix). After collecting this data, it was found that prosecutors of all parties did appeal to "tough on crime" messaging in a manner that is statistically indistinguishable. However, the usage did vary in regards to incumbency. These findings suggest that further research should be conducted on elections where no incumbents are running for office. This would likely give a better picture as to how the appeal varies amongst party affiliation.

Why County Prosecutors Appeal to "Tough on Crime" Messaging

With "tough on crime" messaging emerging during a time of racial strife in the United States, it is no surprise that racial priming has developed as a result. The racial animus priming theory "predicts that cues in the information environment activate or deactivate citizens' racial predispositions, with consequences for citizens' preferences about policy and vote choice."² These expectations arise from general latent racism as taught via societal norms.³ Discrimination based on race is very prevalent in "tough on crime" messaging and can often influence citizens' viewpoints without them being aware of it. These implicit cues make it easier for White voters to apply their racial views to their political decisions.⁴ This discrimination can occur in the formation of comparing races, or in the case of the prosecutors being studied, placing blame on predominantly black men.

² Tali Mendelberg, "Racial Priming Revived," *Perspectives on Politics* 6 (1) (2008): 109. https://scholar.princeton.edu/sites/default/files/talim/files/racial_priming_revived_0_0.pdf.

³ Vincent L. Hutchings and Ashley E. Jardina, "Experiments on Racial Priming in Political Campaigns," *Annual Review of Political Science* 12 (2009).

⁴ *Ibid*, 398.

The increase in the number of prosecutors using "tough on crime" messaging in order to be elected has led to a number of studies regarding the effects of having a prosecutor that believes in being tough on criminals. There is also a discrepancy regarding whether being "tough on crime" relates to party polarization or if it is a part of the prosecutor's job description. The school of thought claiming it is the necessity of the office explains that the role of the prosecutor is to rid their jurisdiction of all crime that they can. In order to do this, it is required that they be "tough on crime" – failure to do so leads to outrage among voters, who then vote the offending prosecutor out of office in a typical principal-agent manner. This school argues that this factor should not vary by the party affiliation of the individual in office. However, the party base school of thought explains that the usage of "tough on crime" appeal varies based on party identification. They do not deny that a prosecutor is intended to reduce crime, but they instead aver the viewpoint that there are different approaches to accomplish this that lead to less harm for their fellow party members, as polarized by race. The approach that is taken depends on the party that the prosecutor most closely aligns with.

Necessity of the Office

A constraining force on prosecutors is their primary responsibility in executing the law. This individual is intended to represent the people of the county and ensure that all legal precautions are taken and laws are followed in order to protect the individuals in their jurisdiction. Therefore, the party affiliation of the prosecutor should not influence their approach to combating crime. They should use their professional discretion to properly charge an individual that committed a crime; to this school of thought, party ideology has no role. "Tough on crime" messaging is also used as a tool for reelection by many prosecutors. Citizens want someone in charge that is not afraid to put an end to crime; by using "tough on crime" appeals,

prosecutors show that they are that individual. Further, should a prosecutor fail to prosecute crime a la showing forgiveness to criminals, then they will be replaced in the next election that arises from outrage amongst the public.

"Tough on crime" messaging can be explained by the prosecutor's attempt to minimize crime as part of their reelection strategy. The prosecutor is the first to be blamed for a crime and therefore it is in their best interest to do all that they can to show the public they are seeking to eliminate crime. The appeals used within this strategy, such as racial discrimination, arise from their need to appeal to a racially primed society, and are thus indirect consequences of the prosecutors performing their roles. Charges often vary based on race and contribute to the disparities in the criminal justice system. However, for the prosecutor, they consider all factors of a case, where non-White status can lead to an extra penalty or decision of whether to prosecute at all in the first place. This is why two seemingly alike cases, one with a black defendant and one with a White defendant, can produce different results. The prosecutor may provide better treatment to the White defendant because they empathize with them, and potentially in part know that so will the public.⁵ Gaining the public's support is another way to ensure reelection. The prosecutor needs the approval of the majority of citizens to stay in office, which often means providing them with the message that they want to hear. The decision to charge the two defendants differently results in racial disparities, but the prosecutor is not being ill-intended in this inconsistency. Any outside influences are likely coming from unconscious racial biases, not party affiliations.

In addition to claiming that "tough on crime" messaging is a necessity of the office, this school of thought has reframed this appeal as being "smart on crime." One of these strategies

⁵ Angela J. Davis, "In Search of Racial Justice: The Role of the Prosecutor" *New York University Journal of Legislation and Public Policy* 16, no. 4 (2013): 833.

includes putting more thought into federal versus state imprisonment. Federal prisons are overpopulated with offenders that could be imprisoned on the state level, which would alleviate the issue that comes with mandatory minimums.⁶ This tough on crime strategy has led to an overpopulation of U.S. prisons and can be corrected by allowing individuals committing lower level crimes, drug offenses for example, to serve time in state prison. Prosecutors should also actively work with law enforcement to prevent crimes from occurring before they happen.⁷ By implementing more safety protocols, increasing police surveillance, or charging individuals with less serious crimes in hopes to deter them from committing worse offenses, which are tactics seen as "tough on crime," crimes may be less likely to occur.

These "smart on crime" tactics do not differ from "tough on crime" tactics very much, however they are seen to have a different aim. Prosecutors have begun to receive backlash for the increasing incarceration rates, taxpayers' dollars going toward funding the prison systems, and the minimal, if any, decrease in crime rates as a result. This being said, this approach still recognizes the duty of the prosecutor to enforce the law.⁸ The prosecutor will do so while considering how to make the criminal justice system as efficient as possible. This means ensuring public safety and reducing recidivism. This approach allows for prosecutors to continue to be "tough on crime" because it is a necessary condition of the office, however it reframes it in a less harsh light. In addition, in no way does the "smart on crime" approach mention the party affiliation of a prosecutor and how this plays a role in its use. Instead, it is intended to be a concept used by all prosecutors to make the criminal justice system more efficient. This efficiency then ties back to the end goal of the prosecutor: reelection. By meeting the needs of

⁶ Marc Levin, "Finding Smart Ways to Be Tough on Crime: A Perspective on Federal Criminal-Justice Reform," *Texas Review of Law and Politics*, 23, no. 2 (Winter 2018-19): 328.

⁷ *Ibid*, 330.

⁸ Roger A. Fairfax Jr, "The Smart on Crime Prosecutor," *Georgetown Journal of Legal Ethics*, 25 no. 4 (2012): 908.

constituents through smart tactics such as ensuring public safety and reducing the risk of further crimes, the prosecutor is seen as doing their job which is an essential element in getting reelected.

Most importantly, this school of thought looks into the overall electoral incentive behind appealing to a "tough on crime message." As previously mentioned, this can be used as a tool by prosecutors seeking to be reelected. For nearly all public officials, reelection is a goal; arguably, "it has to be the *proximate* goal of everyone, the goal that must be achieved over and over if other ends are to be entertained."⁹ Since this goal is paramount for public officials, it makes sense that they rely on tactics they can ensure will work toward getting them reelected. For prosecutors, this oftentimes means using "tough on crime" appeals to connect with the voters. Incumbents also already have a reputation and voters have set expectations for them in that role. Therefore, "an incumbent has to be concerned about actors who do form impressions about him, and especially about actors who can marshal resources other than their own votes."¹⁰ For prosecutors specifically, this means that they need to reassure voters that they will continue to be "tough on crime," or that they will begin to be if their track record proves otherwise. They are expected to eliminate crime to the best of their ability which creates the necessity to appear "tough on crime" in order to be elected into, or remain in, office.

This school of thought seeks to identify the roots of "tough on crime" messaging and explains that its main goal is to eliminate crime to the best of its ability, whether it be due to personal motivation or more likely, ensure reelection. "Tough on crime" messaging is therefore extremely helpful in getting prosecutors into office and it is unlikely prosecutors will stop relying on it unless all do. Overall, this school does not tie in political party affiliation to the role of the

⁹ David R. Mayhew, *Congress The Electoral Connection* (New Haven and London: Yale University Press, 1974), 16.

¹⁰ *Ibid*, 40.

prosecutor and their appeal to "tough on crime" messaging at all; the power and incentive to keep the office are simply too great. They instead argue that this comes with the territory of minimizing crime and is a necessity of the office as a whole.

Party Bases and Differing Appeals to Tough on Crime

This school of thought seeks to explain the idea that there is potential dissonance when appealing to a "tough on crime" in the office of the prosecutor. The party base of the candidate highly influences his or her usage of this appeal. Democrats' have a large voter base consisting of racial minorities, who have often been unjustly targeted. Pew Research Center examined the demographics of the vote share for both the Republican and Democratic Parties in 2016, 2018, and 2020. In each of these years, the Democratic Party led significantly in terms of minority voters. Of these three years, the 2020 election had the greatest minority vote share of the Republican Party at roughly 14 percent of voters being non-White. Meanwhile the Democrats had a 38 percent non-White vote share.¹¹ Therefore, racial minorities part of the Democratic base will have reservations to the advancement of policy that has ruined their communities. The modern day Republican Party, however, has a largely White voter base. Past Republican candidates such as Richard Nixon are known for appealing directly to those White voters with racial animus;¹² this animus refers to the prejudiced or spiteful will of White individuals toward Black individuals. The voters with racial animus are the ones most highly influenced by "tough on crime" appeals. Therefore, the variation in this appeal's use is based on political party. It has been shown that the appeal is not used evenly across the political realm, but instead that Republican candidates began to adopt the method as their own.

¹¹ Ruth Igielnik, Scott Keeter and Hannah Hartig, "Behind Biden's 2020 Victory," Pew Research Center (2021), 15.

¹² Newell, "The Legacy of Nixon, Reagan, and Horton." 15.

A variety of studies were conducted to further explain this variation in the use of "tough on crime" appeals. One particular study looks at how the incarceration rates on the county level vary based on a prosecutor's political affiliation.¹³ The research conducted in this study looks at 1400 District Attorney (DA) races with roughly 45 percent of them ending in a Republican occupying office. The pattern found amongst this data is not that the number of prison sentences varies by party, but instead the length of the sentence.¹⁴ Longer sentences closely align with "tough on crime" messaging and is one of the criteria that is further examined in this study. Arora concludes that Republican prosecutors sentence defendants longer than their democratic and independent counterparts; "maximum sentence length increases by around 3 years (35 months) for individuals entering prison."¹⁵ This inherently leads to an increase in incarceration rates under Republican DAs because it is taking longer for individuals to be released; they are being imprisoned at the same rate, but released at a slower rate. Despite being "tough on crime," Arora finds no evidence that these sentence enhancements by Republican DAs actually improve safety.¹⁶ This could lead to the overall question on whether or not "tough on crime" messaging and strategies are truly effective in the criminal justice system.

Additional research explains the evolution of "tough on crime" messaging, as well. Walker Newell's research ties the "tough on crime" movement back to two Republican figureheads: Richard Nixon and Ronald Reagan.¹⁷ The study discusses Nixon's campaign in 1968 and claims that his opposition Hubert Humphrey was unable to compete due to Nixon's hold on the "law and order" voters. While Humphrey appealed at times with similar messages, it

¹³ Ashna Arora, "Too Tough on Crime? The impact of Prosecutor Politics on Incarceration," *The Journal of Economic Literature*, (2019): 5.

¹⁴ *Ibid*, 8.

¹⁵ *Ibid*, 15.

¹⁶ *Ibid*, 11.

¹⁷ Newell, "The Legacy of Nixon, Reagan, and Horton."

was not with the same rigidity as Nixon.¹⁸ Nixon's appeal toward a "tough on crime" message was strategic after recently losing the Southern vote to the Democratic Party.¹⁹ The Southern White vote had become very influential in the GOP and Nixon knew his best chance at securing the Republican Party nomination was in appealing to this group. Nixon did just that when naming his running mate as Spiro Agnew.²⁰ This duo positioned themselves as the people that would bring order to the riots that occurred during the civil rights era. This election's focus on obtaining the "law and order" vote would pave the way for the Republican Party's hold over this kind of appeal and their future use of it as the center of their campaign platform. The use of this strategy can be seen in Ronald Reagan's campaign in 1980. Newell, amongst other scholars, argue that relying on this tough criminal justice reform strategy acted as a major contributor to Reagan holding onto the Southern state votes necessary to defeat his opponent, incumbent Jimmy Carter.²¹ These appeals were based on the fear of minority races and combating street crime, which are two key approaches in "tough on crime" messaging. The successful use of this appeal by Republican candidates was enough evidence for future political candidates to use it to set themselves apart in their campaigns.

This school of thought adequately shows the success of Republicans in appealing to a "tough on crime" message in order to be elected into office. However, Democrats do not see the same results. Hubert Humphrey in his campaign against Nixon is an example of this. His message to increase police training was not well-received and was seen instead as placing blame for riots on the police.²² In general, comparative research suggests parties receive no benefit in the short and medium term to changing ideological positions, and instead are seen as betraying

¹⁸ Newell, "The Legacy of Nixon, Reagan, and Horton," 16.

¹⁹ Jeremy D. Mayer, "Nixon Rides the Backlash to Victory: Racial Politics in the 1968 Presidential Election," *The Historian*, 64 (2) (2002): 352. <https://www.jstor.org/stable/24450414>.

²⁰ *Ibid*, 357.

²¹ Newell, "The Legacy of Nixon, Reagan, and Horton," 17.

²² Mayer, "Nixon Rides the Backlash to Victory," 360.

their core base.²³ The overall appeal to law and order politics does not work for the Democratic Party due to their voter base. Since it is considerably made of minorities being targeted by unjust law and order, they were unlikely to be in support of such policies. In addition, liberal White voters tend to strongly dislike the concept of law and order as well.²⁴ For these reasons, Democrats cannot be as successful in appealing to a "tough on crime" message; if anything, they only turn voters away when using it. Since democrats do not reap many benefits from "tough on crime" appeals – at least at the national and state level – there is an overwhelming usage of it by the Republican Party. Democrats learned not to make "tough on crime" messaging the center of their campaigns like their counterparts did. Instead, Democrats tend to focus more on reforming particular issues. A study completed on the 2009-2010 healthcare debate considers "all Democrats to be supporters of reform and all Republicans to be opponents of reform."²⁵ The belief in advocating for reform does not align with "tough on crime" appeals as part of the general cluster of issues preferred by Republican voters. The author of this study also theorizes that supporters and opposers of reform should focus on different topics as this helps the topics better correlate.²⁶ Therefore, it is less likely that Democrats would put too much emphasis on "tough on crime" appeals because they do not correlate well with their advocacy toward reform in other policy areas. For this reason, the claim made by this school of thought that the usage of appeal varies by party is still very much valid. The appeal to "tough on crime" messaging still plays a very important role in today's criminal justice system and has spread beyond the average partisan lens. As Arora's study shows, political candidates are no longer the only individuals relying on "tough on crime" appeals to gain a position in elected office. County-level

²³ David Weisstanner and Carsten Jensen, "Political resources and socioeconomic inequality in policy congruence," Danish Political Science Association Conference, (2022).

²⁴ Mayer, "Nixon Rides the Backlash to Victory," 361.

²⁵ Andrew Tyner, "Complexity, Uncertainty, and the Status Quo," (2018): 12. <https://doi.org/10.17615/y466-0c07>

²⁶ Ibid, 13.

prosecutors, which hold a non-partisan role, have begun to use this method as well. While politics are set aside from the job, many candidates still align themselves with a party and are likely to campaign in line with their party identification. This school of thought supports this idea.

Theory & Expectations

The role of the county prosecutor is to ensure the safety of its citizens. This is accomplished by implementing policies that will minimize crime in their jurisdiction. Minimizing crime however, does not require that prosecutors be "tough on crime," or at least not always broadcasting the message all the time just to be reelected. The outside influence, outside of a lack of competitors that likely has the largest impact on an individual's frequency to appeal to a "tough on crime" message, is their party affiliation. Party bases vary tremendously and therefore prosecutors of different parties have to partake in different strategies to satisfy their voter bases. In history, the Republican Party has been known to adopt "tough on crime" messaging as their own, while Democrats focus more on reforming the criminal justice system; both of these strategies appeal to the voter bases of each respective party. This information leads to my second hypothesis.

Hypothesis 1: Democrats should be less engaged in "tough on crime" appeals relative to Independent and Republican candidates.

If support is seen for this evidence within campaign appeals, it would be fairly decisive evidence on par with smoking gun evidence.²⁷ If Democratic candidates are willing to be less in favor of telling voters that they will be tough on crime in strategic campaign messaging, then there is no incentive to actually be "tough on crime" a la longer sentences, which almost

²⁷ David Collier, "Understanding Process Tracing." *Political Science and Politics*, 44(4) (2011): 823-830.

certainly would go unnoticed by the voting public.²⁸ The Annenberg Public Policy Center conducted a survey to determine what the public knew about their government and the results show that it is very little. For example, the survey found that only 36 percent of Americans knew the three branches of government, and 35 percent could not name a single one at all.²⁹ The results of this survey exemplify the lack of knowledge citizens have about American politics. Therefore, finding support for this hypothesis would greatly inform the general understanding of campaigning and office cross-pressures for local elected offices.

Data and Methods

In order to test my hypotheses, PR statements are analyzed on eight key criteria within the "tough on crime" message. The first set of these criteria relate to the individual's tendency to insert themselves into society as a "savior." Such a frame falls into the trope "I alone can save it" seen in general appeals to law and order.³⁰ Following the general research on the topic, I break down these law and order criteria to "fear," "defenseless," "exaggeration," and "good guy vs. bad guy." These are important to analyze because they help determine if the candidate appeals to emotions in a manner that leverages an us versus them, in-group versus out-group mentality that can be taken advantage of during an electoral campaign. This may be used to instill the idea that the citizens are missing something with the current system in place and only that candidate can provide this.³¹ By appealing to one of these three criteria, a false narrative is often created in

²⁸ Annenberg Public Policy Center, "Americans know surprisingly little about their government, survey finds," Annenberg Public Policy Center: University of Pennsylvania, September 17, 2014, <https://www.annenbergpublicpolicycenter.org/americans-know-surprisingly-little-about-their-government-survey-finds/>

²⁹ Ibid.

³⁰ Devin J. Christensen, John Lovett, and John A. Curiel, "Mainstream Media Recirculation of Trust-Reducing Social Media Messages." *American Politics Research*, 40(2) (2022): 213–226.

³¹ C. J. Butler, "Authoritarianism and fear responses to pictures: The role of social differences," *International Journal of Psychology*, 48(1) (2013): 18–24.

order to gain the trust of constituents which will help solidify their vote. The next set of criteria creates an "other" in society. The two criteria that fall into this subset include "the enemy" and "discrimination." These kinds of appeals create a divide in society and present the candidate as the leader of the side in the right. This once again creates a conception of a need for the candidate using these appeals. It can also take away some blame from a prosecutor currently in office if they are running for reelection. This is because they can pinpoint a group of individuals for an issue that they may have failed to resolve. The final category of criteria focuses on the system in place. These criteria include "increased police presence" and "maximum sentence or death penalty." These tend to idealize the criminal justice system by relying heavily upon current methods, even though it is clear that they are failing because crime is still occurring. These criteria portray the issue as not enough "tough on crime" policies and therefore the solution is to introduce more. Combined, these eight criteria analyze the critical aspects to a "tough on crime" message and will help to test the previously stated hypotheses.

The data collected to quantify the candidates' appeal to a "Tough on Crime" message can be found in Table 1. The information from Table 1 comes from an assortment of press release (PR) statements collected through LexisNexis. All relevant documents were pulled for all eight candidates and they were then sorted based on their discussion of crime. This includes crimes that occurred during the time of the candidates' campaigns or the candidates' views on criminal justice policies. Additionally, the data does not represent discussion of all crime, but instead rhetoric that appeals to "Tough on Crime" messaging. The criteria specifically examined in these cases include: the exploitation of fear, the image of the enemy, discrimination, exaggeration of crime, increased police presence, asking for maximum sentences or the death penalty, portraying White Americans as defenseless, and the concept of the good guy versus the bad guy. Further

descriptions of the rhetoric being analyzed can be found in the Rhetoric Dictionary (see Appendix). The dictionary includes each term included in the table in order to get a better understanding of how these appeals are often used in the discussion of crime. Examples are also provided for each term.

No information was found on Marion County's candidate Benjamin Strahm. As well, no relevant information was found for the candidates in Wake County. All PR statements in this county revolved around the recent election and investigating fraud that could have occurred. Therefore, these candidates will not have any data collected or represented in Table 1.³² Regarding the data collected on the five other candidates, pr statements were more easily found on incumbents. This resulted in more data to be accumulated on Terry Curry (9), Mike Freeman (10), and Stephen Zappala (18). The other two candidates had six documents collected each. Once the relevant pr statements were sorted from LexisNexis, they were examined according to the criteria in Table 1 and the descriptions for them found in the Rhetoric Dictionary (see Appendix). The numbers in each box represent the total amount of times the candidate appealed to that particular messaging throughout the accumulated pr statements. This data is further examined to determine if the party that candidate identifies with is related to the appeals they use and the number of times they use them

³² While it is possible that LexisNexis failed to pick up data on PR statements, it is impossible to do better. It is standard within the field of political science to rely upon LexisNexis for such data, as seen in Christensen, Lovett and Curiel (2022), and a more in-depth effort would require a degree of resources beyond that of an R1 university.

Table 1 shows that there is a variety of appeals to a "tough on crime" message across the political spectrum. Stephen Zappala, a democratic candidate for the 2019 Allegheny County District Attorney election, appears to have used these appeals the most. Of the eighteen PR statements examined for Zappala, he used "tough on crime" appeals eight times. Terry Curry, a democrat candidate for the Marion County Prosecuting Attorney election used five appeals in the nine PR statements examined. Mike Freeman, running on a non-partisan platform for the Hennepin County Attorney election, appealed to "tough on crime" messaging four times in the ten statements examined. And Lastly, Lisa Middleman, ran as an independent against Zappala and used the appeal only one time in the six PR statements that were examined. Mark Haase, who ran against Freeman on a non-partisan platform, did not appeal to "tough on crime" messaging at all in the six statements examined on him. This data is able to quantify the usage of "tough on crime" appeals by county level prosecutors and coordinate it with the partisan platform they ran on. However, in examining only four counties, one of which did not have any data pertinent to this study, this data is limited. With more counties being included in the study there could have been more assurance in the results. It also would have been beneficial to include more PR statements, however they were not accessible or did not exist for these particular candidates regarding this topic.

Results

I present the overall results in Table 1. A consistent observation seen throughout are incumbent victories, who in turn tend to strongly rely on "tough on crime" appeals in a manner that outweighs that of their challenger counterparts. These can especially be seen in races for the county level prosecutor position in Hennepin County, Marion County and Allegheny County.

The Hennepin County race between Mike Freeman and Mark Haase resulted in the reelection of Freeman for Hennepin County Attorney. Freeman won 54 percent of the votes while Haase won 45.4 percent with the remaining vote share belonging to write-ins.³³ Both of these candidates ran on a nonpartisan platform, however their use of "tough on crime" appeals still varied. In the PR statements analyzed, Haase did not appeal to a "tough on crime" message at all. Meanwhile, Freeman relied on three different types of appeals, who also won the election. His PR statements leaned into tough on crime messaging four times relative to Haase's zero. Leading up to the election, Minneapolis experienced a controversial shooting of a black man. While body camera footage suggests that the police officers' decision to draw weapons immediately upon approaching the man, Freeman supported the officers explaining "The decision to use deadly force against Mr. Blevins under those circumstances was authorized."³⁴ Community members remained unhappy with the decision of the prosecutor not to charge the officers as they felt their motivations were influenced by racial discrimination. Freeman's justification for the officers' choices not only demonstrates potential racial biases, however it also supports the "tough on crime" appeal regarding the need for police presence. Even though community members felt race was a factor in the police's decision to shoot Blevins, Freeman maintained his stance that it was necessary for safety purposes and therefore adhered to "tough on crime" messaging. Despite the national controversy over the decision not to prosecute, the outrage proved insufficient to oust the incumbent Freeman.

The race for Marion County Prosecuting Attorney between Democrat Terry Curry and Republican Benjamin Strahm also resulted in a win for the incumbent candidate. Curry won 66.5

³³ Ballotpedia Staff, "Mike Freeman (Minnesota)," Ballotpedia.org, 2018, [https://ballotpedia.org/Mike_Freeman_\(Minnesota\)](https://ballotpedia.org/Mike_Freeman_(Minnesota)).

³⁴ The Salt Lake Tribune, "Prosecutor Minneapolis cops justified in shooting black man," (2018).

percent of the votes while Strahm won 33.5 percent.³⁵ I found no data on Strahm, however I found five "tough on crime" appeals within nine PR Statements for Curry. Curry relied heavily on making statements regarding maximum sentencing and the death penalty to demonstrate that he was "tough on crime." Curry found the death penalty was warranted in the case of a man being charged in a fatal shooting explaining, "We do think it is very important that we send a message that we won't tolerate, in any way, attacks upon our public safety officers."³⁶ Curry's decision to seek the death penalty came very early on in the investigation and many questions remained unanswered. However, he continued to make a public statement that the death of an officer is unacceptable and that this charge was his way of ensuring it would not happen again. Relying on this type of a message is a blatant way for an individual to illustrate that they are "tough on crime" and Curry did just that.

The Allegheny County District Attorney race between Democrat Stephen Zappala and Independent Lisa Middleman resulted in the incumbent winning the election as well. Zappala won the election with 57.1 percent of the votes while Middleman earned 42.8 percent. The remaining percentage of the vote share went to write-ins.³⁷ Both candidates relied on "tough on crime" appeals according to their PR Statements that were analyzed, however Zappala relied on them more heavily. Zappala appealed to "tough on crime" eight times from five different categories. In one particular statement Zappala made, he can be found using both the "fear" and "exaggeration" appeals. After a shooting between gang members in the Monroeville Mall, Zappala made a statement regarding the incident; he discusses individuals fleeing from the mall "as rapidly as possible and protecting their children"³⁸ and the police "prevented bloodshed."³⁹

³⁵ Ballotpedia Staff, "Terry Curry," Ballotpedia.org, 2018, https://ballotpedia.org/Terry_Curry.

³⁶ Associated Press International, "Death penalty sought in Indiana officer's shooting death," (2017).

³⁷ Ballotpedia Staff, "Stephen Zappala," Ballotpedia.org, 2019, https://ballotpedia.org/Stephen_Zappala.

³⁸ Pittsburgh Post-Gazette, "Clash of gangs led to shots at mall, DA says; six charged in April fight in Monroeville," (2019).

³⁹ Ibid.

By mentioning the safety of children being threatened, Zappala was able to play on the fears of all parents in the area. In addition, the term "bloodshed" was used to exaggerate the situation and to potentially make it appear to have been worse than it was. While the shooting could have ended in tragedy, no one was injured; this would not be assumed based on the use of such a phrase as "prevented bloodshed." Both of these types of "tough on crime" appeals successfully demonstrate that Zappala understands the severity of the crime happening in his jurisdiction and suggest that he will do his best to address the issue going forward.

The election in Wake County did not result in the collection of any data due to its inapplicability. However, the data collected for the other three counties was adequate to further answer my hypotheses. The frequency of "tough on crime" appeals by Stephen Zappala, Terry Curry, and Mike Freeman occurred between 40 and 55 percent of the time with Curry appearing to use the appeals the most. This therefore rejects the second hypothesis that Democratic candidates will use "tough on crime" appeals less frequently than Independents or Republicans. However, with a larger sample size these percentages may vary which could alter the results of this study. More available PR statements, or a greater number of candidates, may have shown that candidates of the Republican Party or Independents use these appeals more often than was found in this data set. A pattern that was found within this set is that the incumbents were the candidates that appealed to a "tough on crime" message the most. This data could potentially reject the first hypothesis that being "tough on crime" is not solely a necessity of the office and there are alternate influences on the decision to use it. Since incumbents understand the pressures that coincide with the role of prosecutor, it could be said that this is why they appeal to a "tough on crime" message more frequently. However, more research would need to be done considering the factor of incumbency in order to be certain.

Table 1: *Use of “Tough on Crime” rhetoric by sub-components for county prosecutors*

Candidate	Tough on Crime Appeal							
	Fear	The Enemy	Discrimination	Exaggeration	Increase of Police Presence	Maximum Sentence or Death Penalty	Defenseless	Good vs. Bad Guy
Mike Freeman (Non-partisan, Hennepin County)	0	0	2	0	0	1	1	0
Mark Haase (Non-partisan, Hennepin County)	0	0	0	0	0	0	0	0
Terry Curry (Democrat, Marion County)	0	0	0	0	0	5	0	0
Benjamin Strahm (Republican, Marion County)	X	X	X	X	X	X	X	X
Nancy Lorrin Freeman (Democrat, Wake County)	X	X	X	X	X	X	X	X
John Bryant (Republican, Wake County)	X	X	X	X	X	X	X	X
Stephen Zappala (Democrat, Allegheny County)	1	0	0	1	3	2	1	0
Lisa Middleman (Independent, Allegheny County)	0	0	1	0	0	0	0	0

Discussion

Despite the increased partisan polarization and nationalization of discourse on policing and severity of prosecutions, I find a lack of meaningful differences on use of "tough on crime" appeals present within these prosecutorial races of interest. The strongest variable associated with the use of these appeals amounts to incumbency status. Further, the incumbents within these cases secured victories within the range of 9 to 33 percentage points. While I cannot answer whether these differential appeals led to victory, they at the very least did not prove decisive in the incumbents losing these races.

As previously stated, the small sample size limits the findings in this study. However, the information that has been collected suggests that "tough on crime" messaging as a political tactic used predominantly by the Republican Party is not seen within these races. The candidates running for these elections did so for strategic reasons, and therefore were not randomized. Despite that, I find variation in messaging, with the incumbents ultimately successful in a manner that arises from more nuance typical of a state or national level partisan race. These results are more consistent with the idea that incumbents stake out an issue position that appeals to the general electorate, thereby weakly-to-strongly dominating the challenger in the mind of credibility on these issues.⁴⁰ Therefore, the "tough on crime" appeals seems to still have a great presence within these races, and almost certainly the others as well. All but one of the candidates examined in this study used it in order to gain the trust of the public. Those that used it more heavily, were also those that won their elections. Therefore, "tough on crime" messaging holds some weight still today. However, there are still uncertainties as to whether or not incumbency advantage played a role in these elections as those that won their elections were also incumbents.

⁴⁰ Kevin K. Banda, Thomas M. Carsey, and John Curiel, "Incumbency status and candidate responsiveness to voters in two-stage elections beginning with a primary," *Journal of Elections, Public Opinion and Parties* 31, no. 2 (2021): 263-281. <https://doi.org/10.1080/17457289.2019.1614007>

Incumbency advantage seems present within these cases. Incumbents have more access to the relevant information on their constituents' needs and desires and therefore can tailor their campaigns better than their opposition. These advantages result in an overwhelming majority of incumbents winning reelection, and doing so comfortably. In terms of the office of county prosecutor, the incumbents almost certainly had the resources to find out what voters' concerns were.⁴¹ When Curry, Zappala, and Freeman gained knowledge on the concerns regarding the crimes occurring in their counties, they used "tough on crime" appeals to reassure voters that proper action would be taken. Their opponents likely did not have the same advantage and therefore could not respond in the same way. Some may argue that this occurred because these three individuals were the most knowledgeable about what is necessary to maintain the position of prosecutor, however more research would need to be conducted in order to determine this.

Replicating this study on a larger scale and without incumbent candidates may present a clearer picture as to the role "tough on crime" messaging plays in modern-day politics and the role of county prosecutors. However, it should be noted that some of the races chosen, such as Hennepin County, occurred within the recent context of a police shooting that caught national attention. These should be the types of races where a "tough on crime" appeal should see the type of backlash that would be characteristic of my hypotheses. The incumbent's decision and ultimate victory suggest that it is likely that other prosecutorial races without such scandals would very likely see little or no backlash for use of "tough on crime" appeals. Further similar research should be conducted through analyzing races that do not surround such scandals in order to determine this. In addition, more large-scale research, if similar data is collected, would further support the findings in this study by illustrating how the use of "tough on crime" messaging occurs nationwide, not only in four metropolitan areas.

⁴¹ Boatright, *Expressive Politics*, 2.

Appendix

Rhetoric Dictionary

1. Fear⁴²
 - a. Exploit and encourage anxiety in citizens with the intention of justifying their worries, often in the absence of any real danger
 - i. This makes the candidate look "needed" by the community
 - b. Emphasizes the worry surrounding an incident instead of providing a valid solution
 - c. Example: "Ultimately, this becomes a melee and people are trying to get out of the mall as rapidly as possible and protecting their children," Allegheny County DA, Stephen Zappala, when asked questions about recent violence in the local mall.⁴³
2. The Enemy⁴⁴
 - a. Criminals are portrayed as the opposition
 - b. "Us vs. Them" mentality
 - c. Zero-sum narrative
 - i. An approach often used to promote the idea that a criminal's "gain" is society's "loss"
 - ii. Both criminals and law-abiding citizens cannot benefit from the system
 - d. Example: Ronald Reagan during the White House Ceremony Observing Crime Victims Week, "For too many years, the scales of criminal justice were tilted

⁴² Stella M. Frank, "In Fear We Trust: Anxious Political Rhetoric & the Politics of Punishment, 1960s-80s," *Bard*, (2019): 1-81. https://digitalcommons.bard.edu/senproj_s2019/10.

⁴³ Pittsburgh Post-Gazette, "Clash of Gangs."

⁴⁴ Stella M. Frank, "In Fear We Trust," 1-81.

toward protecting rights of criminals. Those in charge forgot or just plain didn't care about protecting your rights—the rights of law-abiding citizens.”

- i. By saying this, it appears that since criminal rights are being protected, a regular citizen's cannot be

3. Discrimination

- a. When specific groups of people are targeted for a crime, typically because an individual with similar qualities has committed the same crime in the past
- b. Place blame on non-White races, black men specifically
- c. Place blame on a certain ethnicity, culture, or gender
 - i. Discrimination based on ethnicity and culture often occurs when people are grouped with one individual of that ethnicity or culture that did commit a crime
 - ii. For example, the violence against Asian-Americans that occurred as a result of the covid-19 pandemic
- d. Place blame on a certain economic class, especially the poor

4. Exaggeration

- a. When discussing incidents, comparisons are often made to emphasize the seriousness of the situation
- b. Patterns of crime may be alluded to in order to lead citizens to believe the crime is occurring more frequently than it is
 - i. This is often done to hint at a growing threat

- c. Example: Donald Trump during his 2016 campaign stated, "You can go to war zones in countries that we are fighting and it is safer than living in some of our inner cities that are run by the Democrats...."⁴⁵
 - i. Trump is comparing daily life in urban American to the tragedies that are seen by those fighting in a war
5. Increased Police Presence
- a. Discuss increasing the number of police officers on patrol in order to ensure safety and to "catch" the criminals
 - b. Emphasis on need to increase surveillance
 - c. Claiming that police officers are the best form of crime control
 - i. Using this as justification for funding
 - d. Example: the Clinton administration discussed 100,000 more police in his election campaign and continued to emphasize this during his crime-related speeches⁴⁶
6. Maximum Sentence or Death Penalty
- a. Calls for the death penalty or another maximum sentence
 - i. Often times with no alternative
 - b. Racial prejudice influences the use of this
 - c. Example: Marion County prosecutor Terry Curry called for the death penalty or life in prison in a fatal shooting of a police officer. No other sentencing was discussed.⁴⁷

⁴⁵ The Editors, "Why we need to reject 'tough on crime' rhetoric," America Magazine, 2016, <https://www.americamagazine.org/issue/tough-crime-doesnt-pay>.

⁴⁶ Paul J. McNulty, "Rhetoric vs. Reality: A Closer Look At the Congressional Crime Bill," The Heritage Foundation, 1994, <https://www.heritage.org/report/rhetoric-vs-reality-closer-look-the-congressional-crime-bill>.

⁴⁷ Associated Press International, "Death penalty sought."

7. Defenseless

- a. Used to describe American citizens
 - i. Typically White Americans
- b. Idea that communities need constant protection
- c. Referring to citizens by this term creates room for the candidate to come into office and create strict policies to protect citizens.
- d. Example: Hennepin County attorney Mike Freeman when discussing an insurance agency's thievery describes the situation as "preying on vulnerable adults."⁴⁸

8. Good Guy vs. Bad Guy

- a. The good guys are the police, the masculine protector
- b. The bad guys are those committing the crimes
 - i. Differentiates between the concept of the "enemy" because this is meant to describe police versus criminals, not criminals versus society
- c. Example: masculinist protection
 - i. "Good" men put themselves in relation to "bad" men who are likely to attack those that the "good" men are intending to protect⁴⁹

⁴⁸ Targeted News Service, "St. Michael Insurance Agent Charged With Stealing From Elderly Clients," (2018).

⁴⁹ Stella M. Frank, "In Fear We Trust," 1-81.

Bibliography

- Annenberg Public Policy Center. "Americans know surprisingly little about their government, survey finds." Annenberg Public Policy Center: University of Pennsylvania. September 17, 2014.
<https://www.annenbergpublicpolicycenter.org/americans-know-surprisingly-little-about-their-government-survey-finds/>.
- Arora, Ashna. "Too Tough on Crime? The Impact of Prosecutor Politics on Incarceration." *The Journal of Economic Literature*, (2019): 1-31.
- Ballotpedia Staff. "Mike Freeman (Minnesota)." Ballotpedia.org. 2018.
[https://ballotpedia.org/Mike_Freeman_\(Minnesota\)](https://ballotpedia.org/Mike_Freeman_(Minnesota)).
- Ballotpedia Staff. "Terry Curry." Ballotpedia.org. 2018. https://ballotpedia.org/Terry_Curry.
- Ballotpedia Staff. "Stephen Zappala." Ballotpedia.org. 2019.
https://ballotpedia.org/Stephen_Zappala.
- Ballotpedia Staff. "Nancy Lorrin Freeman." Ballotpedia.org. 2022.
https://ballotpedia.org/Nancy_Lorrin_Freeman.
- Banda, Kevin K., Thomas M. Carsey, and John Curiel. "Incumbency status and candidate responsiveness to voters in two-stage elections beginning with a primary." *Journal of Elections, Public Opinion and Parties* 31, no. 2 (2021): 263-281.
- Boatright, Robert G. *Expressive Politics: Issue Strategies of Congressional Challengers*. Columbus, Ohio: the Ohio State University Press, 2004.
- Butler, C. J. "Authoritarianism and fear responses to pictures: The role of social differences." *International Journal of Psychology*, 48(1) (2013): 18-24.
- Christensen, Devin J., John Lovett, and John A. Curiel. "Mainstream Media Recirculation of Trust-Reducing Social Media Messages." *American Politics Research* 40(2) (2022): 213-226.
- Collier, David. "Understanding Process Tracing." *Political Science and Politics* 44(4) (2011): 823-830.
- Davis, Angela J. "In Search of Racial Justice: The Role of the Prosecutor." *New York University Journal of Legislation and Public Policy* 16, no. 4 (2013): 821-852.
- The Editors. "Why we need to reject 'tough on crime' rhetoric." *America Magazine*. 2016.
<https://www.americamagazine.org/issue/tough-crime-doesnt-pay>.
- Fairfax Jr., Roger A. "The Smart on Crime Prosecutor." *Georgetown Journal of Legal Ethics* 25, no. 4 (2012): 905-912.

- Frank, Stella M. "In Fear We Trust: Anxious Political Rhetoric & the Politics of Punishment, 1960s-80s." *Bard* (2019):1-81. https://digitalcommons.bard.edu/senproj_s2019/10.
- Hutchings, Vincent L. and Ashley E. Jardina. "Experiments on Racial Priming in Political Campaigns." *Annual Review of Political Science* 12 (2009): 397-402.
- Igielnik, Ruth, Scott Keeter and Hannah Hartig. "Behind Biden's 2020 Victory." Pew Research Center. 2021: 1-33.
https://www.pewresearch.org/politics/wp-content/uploads/sites/4/2021/06/PP_2021.06.30_validated-voters_REPORT.pdf.
- Levin, Marc. "Finding Smart Ways to Be Tough on Crime: A Perspective on Federal Criminal-Justice Reform." *Texas Review of Law and Politics* 23, no. 2 (2019): 327-334.
- McNulty, Paul J. "Rhetoric Vs. Reality: A Closer Look At the Congressional Crime Bill." The Heritage Foundation. 1994.
<https://www.heritage.org/report/rhetoric-vs-reality-closer-look-the-congressional-crime-bill>.
- Mayhew, David R. *Congress The Electoral Connection*. New Haven and London: Yale University Press, 1974.
- Mayer, Jeremy D. "Nixon Rides the Backlash to Victory: Racial Politics in the 1968 Presidential Election." *The Historian* 64 (2) (2002): 351-366. <https://www.jstor.org/stable/24450414>.
- Mendelberg, Tali. "Racial Priming Revived." *Perspectives on Politics* 6 (1) (2008): 109-123.
https://scholar.princeton.edu/sites/default/files/talim/files/racial_priming_revived_0_0.pdf.
- MIT Election Data and Science Lab. "County Presidential Election Returns 2000-2020." 2022.
<https://doi.org/10.7910/DVN/VOQCHQ>, Harvard Dataverse, V10,
UNF:6:pVAMya52q7VM1P17EZMW0Q== [fileUNF].
- Newell, Walker. "The Legacy of Nixon, Reagan, and Horton: How the Tough on Crime Movement Enabled a New Regime of Race-influenced Employment Discrimination." *The Berkeley Journal of African-American Law and Policy* 15 (2013): 3-36.
- Social Explorer. "Race, population growth, age, educational attainment tables: American community survey 2020 (5-year estimates)." In: Social Explorer editor. Based on data from U.S. Census Bureau; [accessed April 18, 2022]. <http://old.socialexplorer.com/pub/report data/HtmlResults.aspx?reportid=R12390618>.
- Stone, Shari. "Tough Questions for Tough-on-Crime Policies." Ohio Wesleyan University.
<https://www.owu.edu/news-media/from-our-perspective/tough-questions-for-tough-on-crime-policies/>.

Tyner, Andrew. *Complexity, Uncertainty, and the Status Quo*. 2018.
<https://doi.org/10.17615/y466-0c07>.

Weisstanner, David and Carsten Jensen. "Political resources and socioeconomic inequality in policy congruence." 2022. Danish Political Science Association Conference.