

Community Prosecution: Examples of Community Justice in Action

By Michael J. Gilbert, Ph. D.,
Executive Director, National Association of Community and Restorative Justice

This is an excerpt from a draft chapter on Community Justice Modalities from a book project being developed for SAGE Publishing by Michael Gilbert, Marilyn Armour and Janine Geske. The working title is “Building Safe and Livable Communities: Restorative Community Justice”.

The term “Community Justice” refers to a neighborhood level practice that seek operates on nearly identical values and principles as restorative justice. However, instead of on the reparation of harms to people and relationships, it focuses on reparation of quality of life through community based problem solving which is supported and facilitated by local social service and justice institutions.

Community prosecution refers to one type of community justice. It responds to “...grassroots public safety demands of neighborhoods, as expressed... by the people who live in them.... The typical problems involve quality-of-life and disorder offenses...” (Boland, 1996, p. 35). This is consistent with the guiding principles of community justice in that it *focuses on places, problem-solving, pro-active responses, decentralized operations, flexible organizational boundaries, and community change*. As with other community justice modalities, effective community prosecution requires genuine involvement of local stakeholders to define and prioritize neighborhood problems. It also requires co-equal collaborative partnerships between prosecutors, residents, stakeholders (e.g., businesses, non-profit organizations, schools, etc.), justice agencies and other public organizations to reduce crime by identifying and resolving quality of life problems that foster increased incivilities and crime. Traditional prosecution does very little to improve the quality of life within neighborhoods.

Wayne Pearson, the lead prosecutor for of the Neighborhood Prosecutors program in Multnomah County (Portland, Oregon) commented that his first experiences with community

prosecution while working with Lloyd District residents and other stakeholders was a real learning experience. At the outset, he thought he understood the issues and assumed that felony crime was the central problem of concern to residents and that felony prosecution was the logical strategy to address those problems (Pearson, personal communication Nov. 6, 2012):

As a prosecutor, I thought I knew what the problems were and arrived with lots of crime data. I wanted to start developing felony cases but quickly learned that these folks had very different concerns. They wanted something done about misdemeanor offenses and quality of life issues that caused them to feel afraid and ashamed of their neighborhood. This surprised me. It became clear to me that felony prosecution would be ineffective. We had to find new ways to help them.

In this case and others, residents tend to place a higher priority on getting something done about low level incivilities that reduce the quality of life for themselves and their families than they do on prosecution of felony crimes (Swope, 2000, p. 106).

Multnomah County as operated several Neighborhood Prosecutor programs for nearly 20 years. Five of these are focused on geographically defined areas in Portland which are composed of smaller neighborhoods with their own problems, concerns and character. Offices for neighborhood prosecutors are located in storefronts in strip malls or indoor malls and are readily accessible to residents of the area. By being “in the neighborhood” prosecutors begin to learn the area and build constructive relationships with residents based on mutual trust, respect, honesty and understanding. While these prosecutors work with police they are not co-located within police precinct stations. This was a deliberate decision to avoid having prosecutors coopted by police culture and values. This separation of prosecutors from police also helps prosecutors to develop constructive relationships with area residents because their interactions are not strained by broadly shared perceptions among residents that their neighborhoods have been targeted by police based on stereotypes linked to race, ethnicity or class. Furthermore, the

assigned prosecutors have the discretionary power to tailor problem-solving approaches to meet the unique needs and cultural sensitivities of specific neighborhoods.

In one area, the police had received hundreds of calls for service over several months reporting public intoxication. The assigned prosecutor found that most of the calls were about the conduct of a few chronic alcoholic men who lived in or frequented the area. What they had in common was that they bought alcohol at several late night convenience stores and drank it publicly on the streets adjacent to these stores. The prosecutors persuaded store owners not to sell liquor to these particular men.

Another example can be seen in the efforts of the Anti-Gang Prosecutor. Most of the young gang affiliated kids start off committing misdemeanors which meant that they would typically be arrested and taken to a local magistrate who gave them a “Notice to Appear” in court within 30 to 60 days and released on personal recognizance. However, most of these youths led disorganized lives and forgot the court date or misplaced the notice to appear and most failed to appear in court. Anti-Gang Prosecutors working with judges, police and residents designed a new process in which gang affiliated misdemeanants were “booked” temporarily into jail holding before going before a magistrate judge. The magistrate issued a “*Notice to Appear*” for the next day, eliminating the failure to appear problem. The magistrate judge then released them on personal recognizance. At court the next day, a judge discussed their circumstances with them. If their parents appeared with, they were also involved in these discussions. Most of these youths were then placed on conditional “Bench Probation” and released to their parents. The conditions for release required that they not: commit any new offenses, associate with gang members, use alcohol or drugs, enter certain areas where other gang members “hangout” or violate curfew. Those clients with special treatment needs were referred to treatment programs.

These youth were jointly supervised by the court and the juvenile probation department. If police officers observed a youth breaking their probation conditions they were authorized to make an arrest. The primary goal of this innovative approach was to provide young people who appeared in court with sufficient life structure to help them desist from further gang involvement before they were involved in a serious crime and picked up a felony charge (Pearson, 2012). In this way, it sought to prevent crime while also preserving the future life chances of the youths served. Current evidence, suggest that these practices may have played an important role in the sharp reduction in gang related incidents between 2010 and 2012.

These examples of community justice strategies in action are drawn from one modality – community prosecution – but such prevention oriented approaches can be applied in many ways and are limited only by our creativity and willingness to explore the potential of non-traditional practices. When restorative justice practices are used in tandem with community justice strategies we maximize our chances of creating safe and livable neighborhoods where the pressures toward crime and victimization are reduced and when harms do occur they are dealt with in ways that constructive to strengthening the community within which they occurred.