

# Police Quarterly

Volume 3, Number 1

March 2000

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Sage Periodicals Press  A Division of Sage Publications, Inc.  
Thousand Oaks • London • New Delhi



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## COMMUNITY PROSECUTION

ROSS E. SWOPE

U. S. Mint Police

*The U.S. Attorney's Office in Washington, D.C., initiated a pilot community prosecution project in that city in 1996. This article describes this innovative program and examines the impact of this project on the prosecutors, police officers, and residents of the Fifth Police District in Northeast Washington, D.C. It describes the successes that can be achieved by including prosecutors in the partnership between the police and community.*

The Fifth District Community Prosecution Initiative was kicked off in front of the police station on June 3, 1996, with much fanfare. All the very important people were there; it was, after all, the pet project of then-U.S. Attorney for the District of Columbia, Eric Holder. This event had all the earmarks of things I had seen before as a 24-year veteran line cop in Washington, D.C. Here was another public relations production that would be forgotten in 30 days, or forced along only to be found to be of no substance at all 2 years later. I was a bit cynical—I had my doubts about this venture. However, after working in this model, observing its progress, and interacting with other police officers, prosecutors, and citizens involved in the initiative, I can say without reservation that it works.

The Washington, D.C., Metropolitan Police Department's Fifth District is located in the northeast area of the city. Many of the neighborhoods served by the 375 police officers assigned to the Fifth District experience high levels of violent crime and drug trafficking. The 90,000 residents call for police service over 120,000 times a year. Between June 1996 and the beginning of 1998, over 6,000 arrests were processed through the Community Prosecution Section.

Dedicated to the initiative are 19 Assistant U.S. Attorney's (AUSAs) and accompanying support personnel. The U.S. Attorney's Office is the agency prosecuting nearly all criminal cases in the nation's capitol. The exceptions are minor offenses like traffic cases and municipal regulation violations.



These exceptions and juvenile matters are handled by the city's attorney's office, the Corporation Counsel. The community prosecutors are assigned only cases originating from the Fifth District, and handle them from the initial filing by the police officer (papering) through trial to disposition. Two of the AUSAs are physically located in the police station on a permanent basis. They work every day with neighborhood residents, police officers, and local and federal agencies. The Fifth District is divided into 13 Patrol Service Areas (PSAs), roughly following neighborhood boundaries. Each PSA, or beat, has 18 to 25 police officers, detectives, and investigators working that area on a permanent basis. Each PSA has one AUSA (and, in some cases, two) from the Community Prosecution Initiative working criminal cases emanating from their particular PSA.

As a captain in the Fifth District, I was not only curious about the endeavor, but concerned. Were the prosecutors really going to do anything for the officers I commanded and the community we serviced? Would this project really have an impact?

From the outset, many of the AUSAs began riding along with the patrol officers. I found them in attendance and participating in community meetings I regularly attended. During these meetings, the AUSAs heard firsthand, and perhaps for the first time, the residents' real concerns.

As police officers and prosecutors, we knew crime was a serious concern for everyone, but the prosecutors did not know the devastating impact that social and physical disorder had on the communities. The level of fear in some residents, the destabilizing effects of disorder, and other quality of life issues were foreign to prosecutors, who had historically focused their efforts on the serious offender.

A major reality check for the prosecutors was their exposure to the community's feelings on open-air marijuana markets. The sale and possession of marijuana in Washington, D.C., is a misdemeanor offense, unless hundreds of pounds are involved. It had often been treated in a cavalier manner by the prosecutors. It was not until they heard from community members what was happening to neighborhoods that they took a second look. Their examination of this seemingly minor offense opened their eyes. The prosecutors were told of the fear these drug markets created in the residents. The increased vehicular traffic at all hours of the day and night and congregating of undesirable persons was a problem. All sorts of physical disorder, from litter to graffiti to abandoned cars, was described as prevalent in the neighborhood. They now look at cases in a different light. Based on their "ride alongs" with police officers, working cases in the same area, and working



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with the community, prosecutors made the link between open-air marijuana markets and their negative impact on the quality of life, their connection to violence and property crimes, and the resources they drain from a police agency.

The two prosecutors posted at the station worked with the police officers, detectives, vice investigators, and housing inspectors in problem solving. They took complaints from residents and resolved literally hundreds of complaints in the first 18 months.

The chief prosecutor and deputy chief prosecutor of the initiative provided training for the officers at the Fifth District. Initially, the focus of the training was search and seizure, traffic stops and probable cause, but it has expanded to include instruction on how officers can make stronger cases and what information would add to the prosecution. I was surprised to see this training taking place at both the 6 a.m. and 10 p.m. roll calls, not just the 2 p.m. I definitely had not expected this.

Prior to the Community Prosecution Initiative, the review of an arrest or search warrant required a trip downtown and a wait to meet with an AUSA. Now, officers and detectives can have the assistant assigned to the station review it, or call their assigned AUSA and run it past them, having it perfect when they meet them face to face.

Even the most seasoned detectives see the substantial benefit of the Community Prosecution Initiative. One even went so far as to say he would have retired by now if not for the community prosecutors. "We are getting things done . . . being successful . . . making progress." When elaborating on the subject, police officers described several aspects of the program that differed from the standard police-prosecutor model.

The AUSAs assigned to the Community Prosecution Initiative have gained knowledge that is generally absent from other AUSAs. The community prosecutors quickly gain knowledge of the area from which their cases come. This knowledge is built on their site visits to crime scenes in a single community, a small area of Washington, D.C. Instead of looking at crime scenes all over the city, they work the same neighborhood, case after case. When an intersection is mentioned, or an escape route described, many can now visualize exactly what it looks like. As everywhere else, many of the individuals arrested have been through the criminal justice system before. The AUSAs in the initiative now see the same offenders again and again. Just as important, they now see repeat victims. They begin to develop an intimate knowledge of the crime picture and who is involved in the area they are assigned. They recognize the modus operandi of individuals and more



easily link crimes, suspects, and victims. This interaction, this unique knowledge, presents a much clearer picture to the AUSA of just how an offender's behavior impacts a neighborhood. The geographic permanence of the AUSA enhances their knowledge of a particular community. In working cases occurring in the same area and meeting with the community, they develop knowledge of the dynamics of the neighborhood. They identify a community's strengths and weaknesses, its problems and resources, or lack thereof. One AUSA described it by stating, "I now know how a case fits into the fabric of a neighborhood—I am a more effective prosecutor." AUSA Cliff Keenan, the chief prosecutor in the initiative, described the effective prosecutor this way: "There is a sense of responsibility for their part of the city, and more satisfaction doing good for the community. They have a mandate to make a difference and they can." Keenan says, "By citizens' participating in the community prosecution effort, they are better able to promote the welfare of the whole community."

The police officers describe a higher level of commitment by the AUSAs assigned to the Community Prosecution Initiative. This is similar to what I have observed in police officers permanently assigned to a neighborhood. Many see themselves as responsible for the community. There is a higher level of concern and increased interest and effort for the neighborhood. They become more responsive. There is "buy in." Prosecutors also develop a higher level of commitment to the individual detective or police officer. They will see them again, and have to work with them again, possibly soon. The officers are no longer faceless subjects that are encountered perhaps only once a year. This increase in commitment has also translated into higher police performance and satisfaction with the job. Instead of experiencing the frustrations of revolving-door justice, police now have a counterpart in the prosecutor's office who shares their goals and works with them in reducing or eliminating problems. As successes build, the police officers show more initiative, and become that much more committed and creative. There is a reduction in the "What's the use?" attitude.

In the community prosecution model, officers making cases on their beat work with the same AUSA. These repeat efforts have resulted in strong relationships between the prosecutor and the police officers. There is continuity. The officers and detectives work with the same prosecutors day in and day out. Relationships are built on trust and confidence. Police officers and prosecutors go so far as to exchange home telephone numbers. Accessibility and communications are enhanced. Prosecutors now know the strengths of the officers and detectives with whom they work. The detective



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and prosecutor team can call on non-case-related detectives who can assist in the investigation or prosecution because of special information, knowledge, or an informant they have. This does not replace interunit and intraunit communication but builds on it. This can also be said for the creation of relationships with the community, which were almost nonexistent in the past.

The initiative is seen by the police as a team effort. Historically, the officer or detective would conduct the investigation, type up the arrest or search warrant, and go to a prosecutor who would review the application and approve or disapprove. Now, the investigator and the prosecutor work together in a collaborative effort. In the collaborative effort, prosecutors work closely with the investigators, suggesting alternative lines of inquiry, resources that could strengthen the effort, and identifying obscure statutes and case law beneficial to the case. The police and prosecutor brainstorm to come up with possible effective interventions, and the AUSAs are able to give advice on the legality of an officer's ideas or plans. Because of the personal relations built on trust and confidence, the AUSAs are constantly sought out for advice and counsel.

Police and prosecutors have always experienced friction and, at times, relations have been downright shaky. Before the Community Prosecution Initiative, police and AUSAs were constantly at odds over pursuing Assault on a Police Officer (APO) charges. APO is a felony in the D.C. Code, but it was seldom prosecuted as a felony by the U.S. Attorney's Office. They opted for the lesser charge of simple assault if the injury to the officer was minor. Field officers took exception to this rule when they were punched in the mouth while on duty in full uniform. Officers interpreted the simple assault rule as a lack of empathy, understanding, and support on the part of the prosecutor. As a result of community prosecution, APO cases are now screened quite differently.

Another area of contention between police officers and the prosecutors, and to a lesser extent the community and the prosecutors, was their policy to not go forward with charges against offenders for stealing a vehicle when the key was in the ignition. This "key case" policy was not well received by police or in communities experiencing record levels of vehicle theft. Furthermore, many of the arrests for car theft involved a foot chase and considerable danger to the officer. This policy has since been revised.

There were often conflicting objectives between the police and prosecutors, as well as the community and prosecutors. The police want to close a case by investigating the crime, obtaining an arrest warrant, then arresting



the culprit. Their arrest is based on probable cause. The prosecutor, on the other hand, may have to take the case to trial and seeks a conviction based on evidence that is beyond a reasonable doubt. The police want a warrant based on probable cause, and the prosecutor wants a conviction on the warrant but needs evidence beyond a reasonable doubt. The police make arrests. The more arrests they make, the heavier the caseload for the prosecutors and courts. With limited resources in the judicial system, some cases are not prosecuted because they are deemed to be low priority or importance. The community feels some minor nuisance crimes and misdemeanors are disrupting their quality of life and contributing to disorder. These cases are treated with a low priority and are often not prosecuted. The often conflicting objectives between the police and prosecutors and the community are overcome because of the new knowledge, enhanced commitment, and personal relations developed as a result of the Community Prosecution Initiative.

When questioned as to his opinion of the Community Prosecution Initiative, one detective used this example. In 1995, he was assigned a case involving the robbery of a Domino's Pizza delivery man. During the robbery, the victim was stabbed in the eye. He subsequently lost his eyesight. The case went unsolved. During one of his many conversations with a community prosecutor, he told her about the robbery-stabbing and asked her to question any victims, witnesses, or suspects about the mayhem that she came into contact with that were from that area. In 1998, the community prosecutor was interviewing a victim who had been shot by her boyfriend. The AUSA asked if she had any knowledge of anyone being stabbed in the eye in the area in 1995. The shooting victim relayed detailed information to the AUSA. The victim's boyfriend, the man who had shot her, had told her he had stabbed the pizza man and committed the robbery with two others. The AUSA quickly contacted the detective, resulting in the arrest and indictment of the three men responsible for this violent offense. The detective stated this case would remain undetected if not for the community prosecution effort.

The prosecutors assigned to the initiative have strong feelings about it, similar to those voiced by police officers. They also describe it as a team effort. Normally, police officers have to be subpoenaed to court to meet with an AUSA. Even for brief matters, it can take 2 weeks. Now, all prosecutors need to do is call, and they get cooperation and a response from the officer. The personal relationships that have developed have netted results. The interaction with the community is successful. Networks are built. One



The prosecutor, on the other hand, often has a conviction based on a warrant but not on the warrant but on the police make arrests. The police, the prosecutors and the community, some cases are not of great importance. The misdemeanors are disorderly. These cases are often conflictual. The often conflictual and the community are often commitment, and Community Prosecution

Community Prosecution Initiative was assigned a case manager. During the robbery, he lost his eyesight. Conversations with a community member and asked her to the mayhem that she experienced in 1998, the community member was shot by her boyfriend. She was being stabbed in the back. Detailed information to the community member, had told her about the robbery with two others. During the arrest and the offense. The detection of the community prosecution

Strong feelings about it, to describe it as a team effort to court to meet with the community. Now, all prosecutors respond from the officer. They have netted results. The networks are built. One

AUSA has literally mapped out every resident in a neighborhood, knowing many by name. Community members meeting with the AUSA often call them with information and discuss their concerns. One AUSA told of a case involving an alcoholic who had been terrorizing a quiet neighborhood for years. Once intoxicated, the individual's behavior became bizarre, threatening, and dangerous. Even to the most secure resident he was a major nuisance. The police worked closely with the residents to deal with the problem, to the point of arresting him 48 times in an 18-month time span. Prior to community prosecution, AUSAs failed to take the cases seriously and nothing was done. After the Community Prosecution Initiative was started and a community prosecutor discovered the extent of damage this man was causing to the residents, charges were brought that resulted in an 11-month jail term that would include treatment for his addiction.

In another case, an 18-year-old who was generating high levels of fear in a neighborhood was arrested for breaking into a home while the residents were present. The sergeant who worked in that patrol service area knew the offender's history and his impact on the community. The prosecutor working the area was called and given the background. Because nothing was taken in the burglary and the defendant's criminal record did not reflect a clear picture of the extent of the injury he was causing the community, an alternative strategy had to be developed. The AUSA and the police sergeant working together were able to mobilize residents. In just a few days, the AUSA received 10 telephone calls from residents describing their frightening encounters with the offender. They relayed stories of stalking, threatening notes left on parked cars, and the defendant sitting on the roof of a house at 3:00 a.m. and barking like a dog. When the detention hearing was held, the AUSA was able to present the true story. The defendant was held in jail and was shortly thereafter committed by the court to a mental health facility for treatment. In the absence of community prosecution, this case would not have met with success or solved a serious problem for the community and police.

Much to the dismay of defendants, the AUSAs become so knowledgeable about their PSA that they often have intimate and important information on defense witnesses, including information that can impeach testimony or cause the defense witness to decline testimony. This is information that only a community prosecutor would have learned from working cases and working with the community in one area on a permanent basis. One AUSA stated, "You cannot maximize community policing without



community prosecution." Another said, "This is the way we should be doing things." It is all about quality.

Residents have seen firsthand the benefits of this nontraditional approach to criminal prosecutions. They confirm prosecutors' attendance at meetings, their interest, and their listening to the neighborhood. Residents say the prosecutors know what is going on. They make "bad people feel the heat." Residents have seen them sit through a 3-hour gripe session and have named them the local hero. One resident described the mobilization of the neighborhood when they packed a courtroom at sentencing at the AUSA's request. All the residents interviewed had a success story to tell. They felt the community prosecutor knew how to sort out problems. In the words of a community member served by a community prosecutor, "They make all the difference in the world. The model is working."

As the Community Prosecution Initiative matures, new and innovative interventions to law enforcement involving the community, the police, and the prosecutors continue to develop. Two strategies recently initiated by the community prosecutors focus on conditions of release and victim-impact statements. These have great potential. As a result of their work with the police and the community, the prosecutors assigned to the initiative have come to realize that arrest alone is not always the answer. Offenders who are arrested and released on bond or personal recognizance often go back to the area of arrest and continue to commit crimes. Those arrested for selling drugs go back into the neighborhoods and continue to sell drugs. Petty thieves frequent their favorite spots and continue to break into cars. Retail stores see the same shoplifters back time and time again. During their arraignment, offenders are now ordered to stay out of the patrol service area (beat) where they were arrested. If the offender is found in the PSA by a police officer, the arraignment judge setting the conditions of release will be notified. A bench warrant can be issued and contempt of court charges brought. This strategy could, in effect, bar defendants from the very neighborhoods where they feel comfortable offending or disrupting the lives of law-abiding residents. If the defendant happens to live in the PSA where he or she was arrested, a curfew is recommended as a condition of release.

Now that the prosecutors are hearing of the effects of crime and disorder firsthand, they have implemented a strategy for the judges to hear it also. Typically, during arraignment, release hearings, or sentencing, a judge hears how sorry the offender is for his or her transgressions and what a wonderful person he or she really is. Historically, the rebuttal of this presentation is left to the prosecutor. Prosecutors realized how powerful a rebuttal



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can be if the victim talks about his or her experience. This tactic is now being expanded to include the so-called "victimless" crimes. Community prosecutors now involve residents of neighborhoods in letter writing to the judge and giving testimony on how drug dealing in their community has affected their lives and the lives of others. Judges, presented with this evidence, now have a clear picture of the true level of a defendant's offending.

Is the Fifth District Community Prosecution Initiative without issues? No. There remain challenges to be overcome. Obviously, with the time spent on cases by the AUSA assigned to the project, they are unable to carry a caseload similar to those working under the standard model. They are not part of the assembly line system. They handle a case from start to finish. They conduct time-consuming debriefings of victims, suspects, and witnesses. This is extremely labor intensive, which means it is more costly. It requires more attorneys. That leads into the second challenge. Is there justification for the higher cost? Although the conviction rate of the Community Prosecution Section is slightly higher than the others, is it worth it? Does the added expense justify the result of an only slightly higher conviction rate? The conviction rate is not the only barometer in measuring effectiveness. It is difficult to measure higher levels of commitment of the AUSAs, fear reduction in a neighborhood, increased quality of life, police officer and community satisfaction, reduction in physical and social disorder, and crimes prevented by prosecuting repeat offenders on weaker cases. It is difficult to quantify success. Survey instruments can be developed and administered to capture important data, but this data still may not translate into bottom-line numbers of reduced caseloads and increased conviction rates.

At the start of the initiative, it was publicly announced that experienced AUSAs in the office would be assigned to the project. Some of those AUSAs not selected to participate view the section as elitists. Other AUSAs, like police officers who do not understand community policing, see them as "hand holders" and "fence painters," not traditional prosecutors.

With the economic crisis that faced the city recently and the unresponsiveness of many city agencies, the community prosecutors must often overcome the skepticism of some community members concerning their ability and willingness to get things done. As some in the community are so used to hearing just talk, the community prosecutors have to work to gain their trust and confidence.

Judges in the Superior Court for the District of Columbia are appointed, not elected. Some have failed to see the benefit of the community prosecution efforts. There is some resistance. Some judges have voiced concern for



what they interpret as overzealousness on the part of the prosecutor. Some judges do not appreciate it. The community prosecutors' rebuttal is, "Well, the community is not satisfied with your sentencing" and "I am not representing myself—I am here representing the people."

Under community prosecution, in the short term, the general caseload of the criminal justice system could be increased. In efforts to solve problems, the office papering guidelines are more flexible. Offenses or individuals who would normally be dropped are pursued because of the now visible impact on neighborhoods. A caseload increase could affect the criminal justice system. It could increase a judge's court docket. Although the theoretical long-term outlook may be reduced criminal cases, it is just that—long term and theoretical. This possible challenge, however, was not reported as a problem in Washington, D.C.

Community prosecution parallels community policing in important ways. Cliff Keenan, chief of the Community Prosecution Section, describes it as a philosophy. It is a nontraditional approach to prosecution, just as community policing is a nontraditional approach to policing. Community prosecution recognizes differences in neighborhoods and provides customized service. Community prosecution forms partnerships with the citizens and the police.

Community policing calls for a partnership between the residents of a neighborhood and the police. It may require help from other governmental agencies, such as public works, social services, recreation, or housing. But no other governmental agency works as closely with the police or is as important to a community's well-being as the prosecutor's office. Police officers and community residents have been working together for years. By prosecutors forming partnerships with the police and residents, community prosecutors become the third leg in a powerful triad. Instead of the three participants working more or less independently on the same or similar problems, they have come together as an effective team. Community policing becomes that much more effective.

The most important accomplishment of this initiative is a heightened level of understanding about the other participants' world. The police officer, resident, and prosecutor are now able to see the others in their own environment. There is a higher level of commitment and more cooperation. Certainly, there is better understanding, and I believe a feeling of attachment to a neighborhood. The Fifth District Community Prosecution Initiative has gone a long way toward improving the safety and quality of life of the residents in Northeast Washington, D.C.

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*Ross E. Swope has a distinguished law enforcement and academic career. He served with the Metropolitan Police Department in Washington, D.C. for 27 years, reaching the rank of commander. He is currently deputy director of the U.S. Mint Police. Swope holds a B.S. from the University of Maryland, an M.S. in criminal justice from American University and an M.S. from Johns Hopkins University. He is also a graduate of the FBI National Academy and the U.K. Police Staff College in Bramshill, England. Swope is the recipient of a Fulbright fellowship in U.K. Police Studies.*