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COMMENTS

COMMUNITY PROSECUTION: A REVOLUTION IN CRIME FIGHTING

Devin J. Doolan, Jr.⁺

Statistics show that in recent years violent crime rates have fallen in the United States.¹ Nevertheless, citizens continue to feel unsafe.² Theorists charge that the criminal justice system is to blame.³

Under the traditional criminal justice system, and specifically through traditional prosecution methods, index crimes such as homicide, rape, robbery, and assault are prosecuted vigorously.⁴ Quality-of-life offenses, however, such as vandalism, graffiti, and prostitution, even if successfully

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1. Susan P. Weinstein, *Community Prosecution: Community Policing's Legal Partner*, in FBI LAW ENFORCEMENT BULLETIN 19 (1998) (noting that violent crime rates have declined); see also Callie Marie Rennison, *Criminal Victimization in 1999: Changes 1998-99 with Trends 1993-99*, Aug. 27, 2000 (showing that the national crime rate fell by over ten percent in 1999); Callie Marie Rennison, *Criminal Victimization in 1998: Changes 1997-98 with Trends 1993-99*, July 18, 1999 (noting that violent crimes "were at their lowest levels since [the Bureau of Justice Statistics] began its National Crime Victimization Survey in 1973"), available at <http://www.ojp.usdoj.gov/bjs/pub/press/cv98.pr>. The violent crime rate fell seven percent in 1998, which was twenty-seven percent lower than in 1993. *Id.*

2. Weinstein, *supra* note 1, at 19 (declaring that "the American public continues to feel threatened by crime").

3. See *id.* (indicating that "[w]hen residents live in fear in their own neighborhoods, the criminal justice system has failed").

4. GEORGE L. KELLING & CATHERINE M. COLES, *FIXING BROKEN WINDOWS: RESTORING ORDER AND REDUCING CRIME IN OUR COMMUNITIES* 77 (1996) (listing serious offenses that were addressed under the traditional justice system, such as murder, rape, robbery, and assault); see also Catherine M. Coles & George L. Kelling, *Prevention Through Community Prosecution*, *THE PUBLIC INTEREST* 69-70 (1999) ("[O]nly felonies like murder, rape, assault, and robbery were recognized as serious.").

prosecuted, result in little or no sanctions.⁵ Thus, quality-of-life crimes receive little attention and are viewed, to a certain extent, as the responsibility of social workers.⁶ Consequently, community concerns are ignored, which, along with the practice of prosecutors containing rather than preventing crime,⁷ leads to reduced confidence in, and in some areas outright distrust of, prosecutors.⁸ Sensing that prosecutors care little about community problems, a citizen's confidence in the criminal justice system declines.⁹

In response to this growing disconnect between community members and prosecutors, several prosecutors' offices throughout the country are prescribing to a new law enforcement philosophy called community prosecution.¹⁰ Community prosecution methods emphasize proactive crime prevention, increased communication among prosecutors, police,

5. Telephone interview with Mike Kuykendall, Senior Attorney, American Prosecutors Research Institute (Nov. 21, 2000) (noting that even when quality-of-life crimes were successfully prosecuted, courts were unable to impose sufficient sanctions because of the lack of available jail space); *see also* American Prosecutors Research Institute, *Community Prosecution Implementation Manual*, at 6 (1995) (noting that few communities had the economic resources available to arrest and prosecute low-level, non-violent offenders, and an equally small number of communities had sufficient jail facilities to incarcerate all of these offenders) [hereinafter APRI]; Heike Gramckow, *Community Prosecution in the United States*, 5-4 EUR. J. ON CRIM. POL'Y AND RES. 14 (1997) (stating that before community prosecution, minor crimes would have received scant attention). *But see* Norma Mancini Stevens, *Defining Community Prosecution*, PROSECUTOR, Mar./Apr. 1994, at 13 (noting that less serious offenses like loitering and vandalizing are disruptive and annoying to residents, cause small businesses in the area to suffer economic loss because customers are afraid to patronize their establishments, and could lead to businesses moving their operations elsewhere).

6. Weinstein, *supra* note 1, at 22.

7. Chris Toth, *Community Prosecution Program Aims at Securing Quality of Life*, S. BEND TRIB., Aug. 20, 2000, at B6 (commenting that members of law enforcement, specifically prosecutors, have traditionally "viewed their role as containing, and not preventing, crime").

8. THE CLINTON ADMINISTRATION'S LAW ENFORCEMENT STRATEGY: THE 21ST CENTURY LAW ENFORCEMENT AND PUBLIC SAFETY ACT 6 (U.S. Dep't Justice 1999), available at <http://www.usdoj.gov/dag/pubdoc/crimestrategy.htm> (last visited Sept. 5, 2000).

9. Michael Genelin, *Community Prosecution: A Difference*, 10 PROSECUTOR'S BRIEF 13, 13 (1998); *see also* George L. Kelling, *Fixing a Broken System: Preventing Crime Through Intervention*, Testimony before Senate Judiciary Committee, Sept. 1, 1998.

10. NATIONAL INSTITUTE OF JUSTICE, RESEARCH ON COMMUNITY PROSECUTION 3 (2000) (noting that the "current concept of community prosecution was developed about a decade ago, most notably by the prosecutors' offices of Kings County, New York, and Multnomah County, Oregon"), available at <http://wincjrs.org/txtfiles1/nij/s1000426.txt>; *see also* TRAINING AND TECHNICAL ASSISTANCE PROVISIONS FOR BJA'S COMMUNITY PROSECUTION GRANTEEES 2 (APRI 2000).

and the community, and renewed focus on citizens' quality of life.¹¹ This type of prosecution is not a specific program; rather, it is a strategy that requires prosecutors to accept a new role within the criminal justice system and, consequently, the community.¹²

Under community prosecution, prosecutors serve as active problem solvers, rather than as reactive case processors.¹³ The goal is to connect with the community in order to increase awareness of criminal activity,¹⁴ renew faith in the criminal justice system,¹⁵ promote community involvement¹⁶ and accountability,¹⁷ improve the quality of life in communities,¹⁸ and reduce the sense of vulnerability faced by citizens.¹⁹

Instead of relying solely on criminal law to fight crime, prosecutors pursue non-traditional strategies and partnerships.²⁰ Opportunities for

11. Genelin, *supra* note 9, at 14 (identifying various aspects of community prosecution including "crime control/reduction, the diminishment of individual and community fear, neighborhood and/or city physical improvement, aspects of social service delivery and/or increased communication between the public and community/city agencies, particularly law enforcement, public/private partnerships, and the creation of a problem solving/reduction organization"); *see also* RESEARCH ON COMMUNITY PROSECUTION, *supra* note 10, at 3 (noting that in Multnomah County, Oregon, the prosecutor "determined that a geographically-based approach was more advantageous to improving the quality of the community rather than focusing on specific criminal activities").

12. Genelin, *supra* note 9, at 13 (noting that in order to establish effective solutions to community problems, prosecutors must listen to the community members).

13. *Id.* (concluding that prosecutors are altering their role in the criminal justice system from passive partner to active initiator).

14. Roger Conner, *Community Oriented Lawyering: An Emerging Approach to Legal Practice*, NAT'L INST. JUST. J., Jan. 2000, at 27 (commenting on how community prosecutors are better able to ascertain "various actors, groups of actors, and places in the neighborhood [that] were linked to crime").

15. Genelin, *supra* note 9, at 14 (adjudging an active involvement in the community by prosecutors leads to the perception that the justice system generally is constructive). Past feelings of indifference or animosity held by community members gives way to a new-found support for the system. *Id.*

16. Gramckow, *supra* note 5, at 16 ("Community members that have the opportunity to observe and learn about the work of the prosecutor gain a better understanding of the limits of criminal justice interventions and can become actively involved in finding alternative responses or support the prosecutor in his work.").

17. *Prevention Through Community Prosecution*, *supra* note 4, at 84 (noting that prosecutors report to police and citizens regarding their actions).

18. Captain Ross E. Swope, *Community Prosecution in Washington, D.C.*, UNITED STATES ATTORNEYS' BULLETIN 22 (1997); *see also* APRI, *supra* note 5, at 21 (discussing the establishment and implementation of community prosecution in Washington, D.C., to address community complaints).

19. Weinstein, *supra* note 1, at 19 (explaining that when residents fear living in their own neighborhoods, the criminal justice system is not working).

20. *See generally Prevention Through Community Prosecution*, *supra* note 4, at 76.

partnerships exist in all areas associated with the community, from city councils to fire departments and from business organizations to faith-based groups.²¹ Because of the history of quick-fix governmental programs, however, prosecutors must actively establish these partnerships and be persistent in their efforts to maintain quality relationships.²²

Once established, partnerships promote a heightened accountability for prosecutors, business leaders, faith-based groups, and community members.²³ For example, under community prosecution, prosecutors are responsible for reporting back to residents who voice complaints. Thus, prosecutors become directly accountable for their actions, residents become better informed about their concerns, and the once-prominent bureaucratic wall is dismantled.²⁴ Further, when community members

21. Nancy E. Gist, *Working as Partners With Community Groups*, BUREAU OF JUSTICE ASSISTANCE BULLETIN, COMMUNITY PARTNERSHIP SERIES, Sept. 1994 (explaining that potential partners include those affected by a problem, those who are forced to deal with its consequences, and those who would gain from its eradication). Gist sets forth a breakdown of this partnership structure using a hypothetical graffiti problem. *Id.* A graffiti problem directly affects area business owners, residents, and highway and park departments. *Id.* Those forced to deal with the consequences include insurers, area residents, elected officials, and law enforcement. *Id.* Finally, those who would gain from the problem's eradication include realtors, the chamber of commerce, and area residents. *Id.*

22. APRI, *supra* note 5, at 22 (noting that community prosecution requires motivated, personable, empathetic individuals); *see also* State's Attorney Marna McClendon, Address at the National Community Prosecution Conference in Alexandria, Va. (Sept. 26, 2000) (indicating that because of past detachment from the community by prosecutors, as well as subsequent mistrust by the community of prosecutors, it will often be necessary to "keep coming to the table" in order to build trust and the free-flow of information); Gist, *supra* note 21 (conceding that because law enforcement is sometimes viewed as a mistrusted outsider, the formation of quality partnerships is not always automatic or easy). When faced with this obstacle, Gist recommends that prosecutors team with a community leader or a valued institution, such as a church, a school principal, or a neighborhood organization. *Id.*

23. *Prevention Through Community Prosecution*, *supra* note 4, at 84 (commenting that "community prosecutors report to citizens and police on why they took, or did not take, a particular course of action concerning a case or offender from a neighborhood, and what they plan to do next"); *see also* Fern Shen, *Howard County Seeks to Erase Graffiti, Other Quality-of-Life Crimes*, WASH. POST, May 4, 1997, at B7 (reporting a statement by U.S. Attorney Brenda Johnson, deputy chief of the District of Columbia's community prosecution section, "[w]e're trying to be there for the people, but also to give the people a sense [of], 'This is your neighborhood; you've got to tell us what's going on'").

24. *Prevention Through Community Prosecution*, *supra* note 4, at 84; *see also* Candus Thomson, *Montgomery Teams Prosecutors With Police on the Street; Community Policing Stresses Familiarity With Neighborhoods*, BALT. SUN, July 6, 2000, at 1B (stating that accountability is raised because prosecutors must report their activities to concerned community members). Feedback must be continuous. *See* APRI, *supra* note 5, at 17-18.

see the benefits that come from working with police officers and prosecutors, they begin to recognize that they have the ability, and the responsibility, to address local problems.²⁵ Thus, when faced with new dilemmas, community members are less likely to passively blame the government, and instead are more likely to actively address community problems, knowing that they have the full support of their prosecutor's office.²⁶ Additionally, prosecutor-citizen dialog enhances the community's understanding of the utilities and constraints of the criminal justice system and places accountability on prosecutors who must now disclose their once-veiled activities.²⁷

Unfortunately, certain factors occasionally make it difficult to implement community prosecution.²⁸ Entrenched distrust of the criminal justice system by citizens whose quality-of-life complaints have long been ignored creates an uphill battle for prosecutors in establishing quality relationships.²⁹ Additionally, some prosecutors resist the shift in philosophy because they feel that their job is to prosecute criminals, not to interact with community members.³⁰ Further, prosecutors often struggle to find outside funding for the implementation and maintenance of their programs.³¹

Nevertheless, the community prosecution philosophy is spreading rapidly to prosecutors' offices throughout the United States.³² With the

It can be transmitted via community meetings, one-on-one consultation, flyers, brochures, and any other means by which the affected community can be reached. *Id.*

25. See *Prevention Through Community Prosecution*, *supra* note 4, at 76-77.

26. APRI, *supra* note 5, at 3-4 (stating that community members and prosecutors are allies in the fight against crime).

27. Kristan Trugman, *Prosecutors Down Neighborhood Bully*, WASH. TIMES, Nov. 13, 1998, at C11 (quoting Assistant U.S. Attorney Stephanie Miller who describes the reaction of community residents when they hear of the constraints of prosecutors: "We don't always have the answers that people want to hear, but at least they have someone to talk to about their problems"); see also *Prevention Through Community Prosecution*, *supra* note 4, at 84.

28. Weinstein, *supra* note 1, at 21 (suggesting that implementing community prosecution successfully requires community input, communication, creative strategies to combat crime, commitment, and continuous evaluation).

29. *Id.* at 21-22 (noting that residents of target areas are sometimes wary of outsiders).

30. *Id.* at 22 (charging that prosecutors often "view community involvement as 'touchy-feely' or the job of social workers").

31. Telephone interview with Mike Kuykendall, Senior Attorney, American Prosecutors Research Institute (Nov. 21, 2000) (stating that only sixty-three out of 176 applicants received funding for fiscal year 2000).

32. Eric H. Holder, Jr., *Community Prosecution*, PROSECUTOR, May/June, 2000, at 31 (listing numerous localities that have implemented community prosecution, including Denver, Colorado; Pima County, Arizona; Los Angeles, California; Montgomery County,

availability of federal grants for start-up and maintenance programs,³³ and the success of established programs,³⁴ it is likely that the strategy's acceptance and utilization will continue to flourish.³⁵

This Comment first examines the differences between the traditional prosecution method and the community prosecution philosophy. Next, this Comment addresses criticism directed toward the community prosecution theory. This Comment then recommends methods for instituting a productive evaluation process, for building commitment to the strategy, and for raising funds for the implementation and maintenance of a successful program. Finally, this Comment argues that the community prosecution philosophy should supplement the traditional method in prosecutors' offices throughout the United States.

Maryland; and Portland, Oregon); *see also* PUBLIC SAFETY ACT, *supra* note 8, at 6 (recognizing that community prosecution programs are being successfully implemented in "neighborhoods from Boston to Los Angeles and from Washington, D.C. to Indianapolis"); Sarah Koenig, *Prosecutor Program Wins Grant, Community-Based Effort is to Cover Entire Jurisdiction; \$93,000 in Federal Funds; Aims Are to Provide Link With Citizens and Head Off Crime; Howard County*, BALT. SUN, Aug. 2, 2000, at 1B (recognizing that Mike Kuykendall, senior attorney for criminal prosecution at the American Prosecutors Research Institute, declared that roughly one-third of the 2,800 states' attorney offices in the United States are practicing some form of community prosecution).

33. James D. Polley, IV, *Capital Perspective*, PROSECUTOR, May/June 2000, at 16 (identifying the availability of up to \$75,000 in planning grants, up to \$200,000 in implementation grants, and up to \$150,000 in enhancement grants).

34. Letter from Charles E. Vose, Deputy City Attorney for the City of Oakland, California, to Mike Kuykendall, Senior Attorney, American Prosecutors Research Institute (Aug. 25, 2000) (on file with the *Catholic University Law Review*) (describing the success of the Oakland Community Prosecution Program). The letter states that the "[p]rogram has begun to forge new partnerships with a community that for years has suffered from the crack cocaine epidemic. [The] Local Neighborhood Crime Council has partnered with [the] Community Prosecution Program resulting in greater community participation in [the] City's crime prevention efforts." *Id.*

35. Douglas F. Gansler, *Implementing Community Prosecution in Montgomery County, Maryland*, PROSECUTOR, July/Aug. 2000, at 30 (recognizing that the U.S. Attorney's Office for the District of Columbia and the neighboring Montgomery County, Maryland, State's Attorney's Office, completely reorganized under the community prosecution theory); *see also* Sam Skolnik, *DOJ Puts Big Bucks Behind Community Prosecution*, LEGAL TIMES, Feb. 8, 1999 (noting that Deputy Attorney General Eric Holder, Jr. stated that as more people come to understand the community prosecution theory, it will begin to spread rapidly); Gramckow, *supra* note 5, at 20-21 (commenting on the likelihood that community prosecution will play a significant role in the future of prosecution in the United States); Thomson, *supra* note 24 (stating that community prosecution will be implemented by every prosecutor's office within the next ten years).

I. TRADITIONAL PROSECUTION: COMMUNITY DISCONNECT AND REACTIVE CASE PROCESSING

During the 1960's, a major transformation took place in the United States criminal justice system.³⁶ The method of policing shifted from crime prevention and community involvement to a reactive system of criminal apprehension and office centralization.³⁷ Prosecutors, following this trend, began to rely on criminal prosecution and incarceration as the central means of addressing crime.³⁸ This change was a symptom of the geographic expansion of law enforcement services that resulted from the growth of cities.³⁹ Urban expansion brought with it the idea that the government should provide assistance to citizens as a whole, rather than to individuals in their communities.⁴⁰ In response, law enforcement offices centralized to better serve the broad spectrum of urban life.⁴¹ The criminal justice system established new goals, such as centralization,⁴² uniformity,⁴³ efficiency, and concentration on serious crime.⁴⁴

The system accomplished what it set out to do, the efficient apprehension and prosecution of serious criminals, yet it failed to address the quality-of-life problems that affected citizens on a daily basis.⁴⁵

36. *Prevention Through Community Prosecution*, *supra* note 4, at 69-70; *see also* Genelin, *supra* note 9, at 13.

37. Genelin, *supra* note 9, at 13.

38. *Prevention Through Community Prosecution*, *supra* note 4, at 70.

39. Genelin, *supra* note 9, at 13.

40. *Id.*

41. *Id.* (“When there wasn’t centralization, when there wasn’t uniformity, the cry of unequal protection was used leading to even more uniformity.”); *see also* FIXING BROKEN WINDOWS, *supra* note 4, at 74 (“[P]olice were to become highly disciplined and closely controlled crime fighters, focusing on murder, rape, robbery, and assault. As professional crime fighters, police would be relieved of their service and order-maintenance functions: social workers could take care of those problems, ‘real’ police fought crime.”). The traditional criminal justice system formed “organizational structures” to support “remote and reactive procedures, such as rapid response to calls for service and patrol by automobile, that would hold police back from interacting with citizens.” *Id.* at 77.

42. *See, e.g.*, FIXING BROKEN WINDOWS, *supra* note 4, at 96 (centralization is evidenced by the traditional system’s focus on 911 systems). Insularity, created by strategies such as the 911 system, prevents the development of relationships with citizens because police-citizen interaction comes only in response to serious crime. *Id.* at 96-97.

43. *Id.* at 84-85 (commenting that “[p]olice officers were expected to make arrests *automatically*—not using judgement or discretion to manage situations (and maybe keep them from getting out of hand), but responding to crises already in progress”) (emphasis in original).

44. George L. Kelling, Address at the American Prosecutors Research Institute’s National Community Prosecution Conference (Sept. 27, 2000).

45. Ian Baird, *Fixing Broken Windows*, 41 CAN. J. CRIMINOLOGY 97, 98 (1999) (noting that officers addressed index crimes, not everyday concerns of the community).

Although serious criminals were convicted and imprisoned, citizens' fear of crime continued to exist, if it did not escalate.⁴⁶ The traditional system lacked a long-term plan for crime prevention, and the short-term remedies ignored low-level offenses.⁴⁷ Low-level offenders were not being sanctioned in a manner that would deter future violations.⁴⁸ Put simply, deterrence by incarceration was not working to fully address citizens' concerns.⁴⁹

The uniformity of the traditional criminal justice system prevented law enforcement officials from identifying and addressing citizens' local concerns.⁵⁰ Limits on governmental resources, moreover, resulted in low-level offenses, such as vandalism and graffiti,⁵¹ becoming relatively unsanctioned.⁵² These low-level crimes were given low priority,⁵³ regardless of their impact on communities.⁵⁴ Insufficient sanctions imposed for quality-of-life crimes signaled to criminals that these offenses could be committed with little or no ramifications.⁵⁵ Consequently, quality-of-life offenses continued to go unchecked, law-abiding citizens stopped working with the criminal justice system, and disorder spread.⁵⁶

46. See Anthony Cardinale, *The New Law in Town: "Community Justice" Program has Assistant DA Working With Police and Going Directly into City Neighborhoods to Help Niagarans With Quality of Life*, BUFF. NEWS, Aug. 6, 2000, at NC1; see also *Prevention Through Community Prosecution*, *supra* note 4, at 72 (stating that the presence of minor offenses creates fear in the community).

47. See *Prevention Through Community Prosecution*, *supra* note 4, at 70 ("[M]inor offenses, like public drunkenness and other 'victimless' crimes, [were] essentially decriminalized.").

48. Kuykendall, Interview, *supra* note 31.

49. Genelin, *supra* note 9, at 13.

50. *Id.*

51. See James Q. Wilson & George L. Kelling, *Broken Windows: The Police and Neighborhood Safety*, THE ATLANTIC MONTHLY, Mar. 1982, at 33 (declaring that "the proliferation of graffiti, even when not obscene, confronts the [citizen] with the 'inescapable knowledge that the environment he must endure . . . is . . . uncontrollable, and that anyone can invade it to do whatever damage or mischief the mind suggests'").

52. Kuykendall Interview, *supra* note 31 (explaining how a shortage of jail space made it difficult for the system to effectively sanction offenders).

53. APRI, *supra* note 5, at 6 (noting that the inability of the criminal justice system to deal with quality-of-life crimes relegated them to a low priority).

54. See Russ Freyman, *D.A.s in the Streets*, GOVERNING, Sept. 1998, at 30 (quoting Philadelphia Councilman James F. Kenney as stating "far more people flee Philadelphia because of nuisance crimes than because of murders"); see also Genelin, *supra* note 9, at 13.

55. See *Prevention Through Community Prosecution*, *supra* note 4, at 72 (stating that ignoring minor offenses "can lead to the influx of violent crime and urban decay").

56. See Genelin, *supra* note 9, at 13-14 (noting that the criminal justice system failed to understand that smaller localities make up the whole of society). When communities,

Under the centralized criminal justice system, citizens played a limited role, either reporting crimes or serving as witnesses at trial.⁵⁷ Neither police nor prosecutors used community members to identify local crime trends or to implement neighborhood crime prevention programs.⁵⁸ Thus, lacking sufficient input from the community, central authorities implemented programs that they, and they alone, deemed necessary.⁵⁹

Additionally, the lack of sanctions for low-level offenses resulted in a growing sense of vulnerability among law-abiding citizens.⁶⁰ Without a governmental outlet to voice their concerns, citizens became overwhelmed by the rising tide of unchecked, low-level crime.⁶¹ As a result, citizens were afraid, or found it useless, to address local problems on their own.⁶² In turn, community members began to feel isolated and

whether urban or rural, are ignored and fall into disrepair, harmful consequences follow. *Id.* at 14. Residents of crime-ridden, impoverished communities become inactive and isolated and, generally, do not “engage in . . . reciprocal guardianship behavior.” *Id.* Further, because of the failing conditions of their communities and the lack of governmental response, they come to view the criminal justice system as the “enemy.” *Id.*

57. See *Prevention Through Community Prosecution*, *supra* note 4, at 70, 83 (arguing that a “remote, professional criminal justice ‘system’ that practically ignores citizens concerns is [not] feasible any longer”).

58. Kuykendall Interview, *supra* note 31 (explaining how community-initiated crime prevention programs, such as neighborhood watch and foot patrol, surfaced in response to the inception of community policing, in the early 1980s); see also Genelin, *supra* note 9, at 13 (explaining how community prosecution invites citizens to become involved with police and prosecutors, which, in turn, leads to community support for the criminal justice system, rather than the historical feelings of indifference or hostility).

59. See Genelin, *supra* note 9, at 13.

60. See Cardinale, *supra* note 46 (stating that most city residents do not anticipate being shot; however, they are concerned with things such as having their bicycles stolen from their garage); see also Swope, *supra* note 18, at 22 (noting that during community meetings, residents often complained of “physical and social disorder problems that caused fear and adversely affected the quality of life in their neighborhoods”); Weinstein, *supra* note 1, at 19-20 (commenting that “[w]hen residents live in fear in their own neighborhoods, the criminal justice system has failed”).

61. Genelin, *supra* note 9, at 14.

62. *Id.* (commenting that it has long been recognized that residents of these areas tend not to attack the problems on their own).

unimportant.⁶³ Distrust of the criminal justice system emerged among people inhabiting the overlooked neighborhoods and communities.⁶⁴

This detachment heightened the public's perception that the government was not operating to serve the community.⁶⁵ Without communication, the essential working relationship between community members and prosecutors all but vanished.⁶⁶ Citizens were unable to understand prosecutors' limitations⁶⁷ and prosecutors were unable to understand citizens' needs and concerns.⁶⁸

II. BROKEN WINDOWS: THE PROBLEM IS IDENTIFIED AND A REVOLUTION BEGINS

In 1982, criminologists James Q. Wilson and George E. Kelling published an article in the *Atlantic Monthly* that drew a connection between disorderly behavior, citizen fear, and crime.⁶⁹ This theory was based on various surveys conducted in Newark, New Jersey, Portland, Oregon, Baltimore, Maryland, and Boston, Massachusetts, that documented citizens' views of the criminal justice system.⁷⁰ The results

63. Kuykendall Interview, *supra* note 31 (describing how citizens' displeasure in the criminal justice system was manifested by their failure to report crimes or work with the system, and reporting that Michael Schruck, District Attorney for Multnomah County, Or., explained that citizens lost respect for the rule of law); *see also* Genelin, *supra* note 9, at 13-14; *Prevention Through Community Prosecution*, *supra* note 4, at 70 (noting that "little was expected of criminal justice agencies except to respond to crime and process the ensuing cases").

64. Kuykendall Interview, *supra* note 31 (noting that this distrust was manifested by citizens' lack of crime reporting and their failure to work with the criminal justice system); *see also* Genelin, *supra* note 9, at 13.

65. *See* Weinstein, *supra* note 1, at 23 (commenting that many residents have informed prosecutors that "for the first time, they feel that the criminal justice system is responsive to their needs"); *see also* Genelin, *supra* note 9, at 13; Trugman, *supra* note 27 (commenting on a District of Columbia resident's view that before community prosecution was implemented, residents' only heard the excuses that nothing could be done to address neighborhood problems).

66. Genelin, *supra* note 9, at 13 (commenting that without communication, problems "tend[ed] to enlarge, generating even more crime").

67. *See* Gramckow, *supra* note 5, at 16 (commenting that community members "gain a better understanding of the limits of criminal justice interventions and can become actively involved in finding alternative responses or support the prosecutor in his work"); *see also* APRI, *supra* note 5, at 45-46 (noting that community prosecution enables community members to better understand the role of the prosecutor).

68. Genelin, *supra* note 9, at 13 (asserting that the traditional system's uniform policies failed to address the needs of individual neighborhoods).

69. ATLANTIC MONTHLY, *supra* note 51, at 31. *See generally* FIXING BROKEN WINDOWS, *supra* note 4, at 19-22.

70. FIXING BROKEN WINDOWS, *supra* note 4, at 20 (noting that "[w]hile [these surveys] presented the causal relationship between disorder and fear as an empirical fact,

showed mounting frustration with the system's unresponsive policies and services and with the role of law enforcement agencies and officers.⁷¹ Thus, Wilson and Kelling advanced a new philosophy of crime prevention, the now-famous "broken windows" theory.⁷² Wilson and Kelling argued that by ignoring broken windows community members signaled that nobody cared about their neighborhoods.⁷³ Because of such outward neglect, more windows would be broken and damage would spread to other areas of the community.⁷⁴ Similarly, they argued that by ignoring quality-of-life offenses, law enforcement demonstrated a neglect of community concerns.⁷⁵ In turn, this neglect would lead to more serious crime, fear of crime, and community decline.⁷⁶ Essentially, the "broken windows" theory established a connection between low-level crime and serious crime.⁷⁷

The "broken windows" theory rejected the idea that police and prosecutors should be passive actors in the criminal justice system.⁷⁸ Instead, the theory advocated a proactive approach, whereby police and prosecutors would take steps to *prevent* crime and would address quality-of-life offenses by using innovative problem-solving techniques.⁷⁹

A. Community-Oriented Justice

The "broken windows" theory inspired the concept of community policing.⁸⁰ Community policing operated by physically placing police

the links between disorder and serious crime, and disorder and urban decay, were set forth as hypotheses that required further empirical testing").

71. Genelin, *supra* note 9, at 13.

72. See generally ATLANTIC MONTHLY, *supra* note 51, at 29-38.

73. Kelling Testimony, *supra* note 9.

74. *Id.*

75. *Id.*

76. *Id.*

77. See Michelle Roberts, *Cities Think Small to Make Dent in Crime*, CHI. SUN-TIMES, Jan. 12, 1998, at 6 (quoting Dan Kahan, criminal law professor at the University of Chicago Law School, as saying "[c]riminologists know that crime feeds on itself . . .").

78. See Kelling Testimony, *supra* note 9 (noting that "[c]rime is prevented by criminal justice presence in communities, by persuasion, by order maintenance, by opportunity reduction, by problem solving, as well as law enforcement"); see also *Prevention Through Community Prosecution*, *supra* note 4, at 71.

79. See Kelling Testimony, *supra* note 9.

80. See *Prevention Through Community Prosecution*, *supra* note 4, at 72 (explaining that during the 1980s "police began to return to tactics that maintained close links to the communities, such as foot and bicycle patrol, permanent beats, and devolution of authority to district commanders, sergeants, and beat cops").

officers back in the community.⁸¹ It rejected the theory that officers should enter communities only in response to criminal activity.⁸² Under community policing, officers patrolled specific areas on foot in order to reestablish their presence in the community and form bonds with community members.⁸³ These bonds, in turn, bred community trust and confidence in police officers.⁸⁴ As a result, these citizen-officer partnerships restored confidence in a system that, over time, had failed to address quality-of-life concerns.⁸⁵ Furthermore, the partnerships provided police officers with a greater understanding of crimes unique to individual neighborhoods and increased community support for, and acceptance of, officers in the course of their duties.⁸⁶

B. A Change in the Way Prosecutors Do Business

In the early 1990s, prosecutors began to view their role in the criminal justice system differently.⁸⁷ The traditional criminal justice system, with its reduced emphasis on community order and quality of life, had bred a fearful and isolated populace.⁸⁸ Thus, prosecutors began to seek out new strategies for reconnecting with the community in order to restore

81. See Skolnik, *supra* note 35 (commenting that community policing mandates that officers be assigned to specific neighborhoods to promote closer communication with community members); see also Genelin, *supra* note 9, at 13 (“Police were returning to foot patrols; police were surveying citizens to learn what they, the citizens, believed to be their most serious neighborhood problems; police were concentrating on disorder; and organizing citizen groups had become a priority in many police departments.”).

82. See Skolnik, *supra* note 35 (noting that under community policing, officers are required to develop closer relationships with community members).

83. Brian Forst, *Prosecutors Discover the Community* (unpublished manuscript, on file with *Catholic University Law Review*) (identifying strategies for building community-police officer relationships such as moving officers out of police cars and initiating foot and bicycle patrols, sending officers to schools to speak about criminal and safety issues, and focusing more on crimes of disorder); see also Bureau of Justice Statistics, *Surveys in Twelve Cities Show Widespread Community Support for Police* (1999), available at <http://www.ojp.usdoj.gov/bjs/press/cvpcs98.pr>. Deputy Attorney General Eric Holder stated that “[t]he high degree of citizen support for America’s neighborhood police officers is a testament to the dedicated men and women who work day in and day out to establish relationships with residents in their communities.” *Id.* Surveys conducted in twelve cities reported that eighty-five percent of the residents were satisfied with the community police officers in their neighborhoods. *Id.*

84. See *FIXING BROKEN WINDOWS*, *supra* note 4.

85. See Gramckow, *supra* note 5, at 13.

86. See *id.*

87. See Skolnik, *supra* note 35, at 2 (noting that the first community prosecution program was implemented in Portland, Oregon, in 1990).

88. See Genelin, *supra* note 9, at 13 (contending that there existed a “general distrust” of the criminal justice system).

confidence in the criminal justice system, to enhance the quality of life of citizens, and to spark community involvement in the fight against crime.⁸⁹

Viewing the success of community policing and experiencing frustration with reactionary crime fighting,⁹⁰ prosecutors initiated their own community-oriented approach to crime called “community prosecution.”⁹¹ Although there is no concrete definition for “community prosecution,”⁹² the American Prosecutors Research Institute established that the philosophy “focuses on targeted areas and involves a long-term, proactive partnership among the prosecutor’s office, law enforcement, the community, and public and private organizations in order to solve problems, improve public safety, and enhance the quality of life in the community.”⁹³

89. *Id.* at 13-14.

90. *See* Conner, *supra* note 14, at 32 (noting that, in recent years, lawyers practicing in assembly-line offices have been unsatisfied with their work).

91. *See* APRI, *supra* note 5, at 2. The American Prosecutors Research Institute’s Criminal Prosecution Division identified nine general components of community prosecution as:

a proactive approach; a clearly defined target area; problem solving, public safety and quality of life issues; the direct interaction between the prosecutor and the community and the incorporation of the community’s input into the courtroom; partnerships among the prosecutor, law enforcement, public and private agencies and the community; long-term strategies; the commitment of policy makers; varied enforcement methods; and continuous evaluation.

Id. *See also* *Prevention Through Community Prosecution*, *supra* note 4, at 73 (identifying prosecutors’ frustration with “imprisoning criminals after the fact,” which led to the notion that new strategies were needed to deal with crime); Skolnik, *supra* note 35 (noting that community prosecution has its roots in community policing); Douglas F. Gansler, *Community Prosecution: Montgomery Relocates Law Enforcement to the Neighborhoods*, WASH. POST, July 11, 1999, at B8 (commenting that many offices implementing community prosecution assign prosecutors to specific neighborhoods and school districts). Conversely, traditional prosecutors’ offices assigned prosecutors based on crime-type, such as “homicide, sex offenses, narcotics, felonies and misdemeanors.” *Id.*

92. *See* Gramckow, *supra* note 5, at 9 (noting that the differing methods of community prosecution that have been implemented in the United States “make it difficult to describe what community prosecution actually means [or] what it looks like”).

93. Weinstein, *supra* note 1, at 20. The American Prosecutors Research Institute, with funding from the Bureau of Justice Assistance, organized focus groups in September 1993 and February 1995. *Id.* The groups included prosecutors, law enforcement officials, and other professionals who were knowledgeable about community prosecution. *Id.* The APRI Community Prosecution Implementation Manual was a result of the 1995 meeting. *See* APRI, *supra* note 5, at vii.

C. The Essentials

Community prosecution is a philosophy, not a rigid program.⁹⁴ Prosecution strategies, therefore, vary depending on the needs of the target community.⁹⁵ The adoption of the community prosecution approach is by no means uniform among all prosecutors' offices.⁹⁶ Thus, flexibility and open-mindedness are essential in order to properly identify and implement strategies individually tailored to meet the needs of specific problem-areas.⁹⁷ Despite the varied implementation methods, a number of common components are viewed as critical to the general understanding and success of community prosecution.⁹⁸

1. Problem Solvers: Thinking Outside the Box

The community prosecution philosophy requires that prosecutors act as problem solvers, rather than simply as case processors.⁹⁹ Their approach to crime fighting is proactive, rather than reactive.¹⁰⁰ Along with traditional criminal prosecution methods, prosecutors implement nontraditional, problem-oriented strategies in order to address livability problems before these problems are exacerbated.¹⁰¹ These new strategies include civil sanctions,¹⁰² nuisance abatement,¹⁰³ restraining orders, health

94. See Trugman, *supra* note 27. Assistant U.S. Attorney Clifford T. Keenan said: "Community Prosecution is not a program or project, it is a philosophy. It is looking at offenders and offenses and how each figures into what's going on in a community. We cannot still look at cases in a vacuum." *Id.*

95. APRI, *supra* note 5, at v.

96. *Id.*

97. See Weinstein, *supra* note 1, at 22 (noting that flexibility and open-mindedness are mandatory requirements for the success of community prosecution); see also APRI, *supra* note 5, at 2 (asserting that flexibility assures that prosecutors will focus their efforts on the specific needs of an individual community).

98. See Weinstein, *supra* note 1, at 20-21; see also Stevens, *supra* note 5, at 13-14.

99. See United States Attorney Eric H. Holder, Jr., Remarks at the formal announcement of the Fifth District Community Prosecution Pilot Program (June 3, 1996); see also Stevens, *supra* note 5, at 13.

100. See Stevens, *supra* note 5, at 13; see also Weinstein, *supra* note 1, at 20 ("Rather than merely waiting for a crime to occur, prosecutors work with the target community to prevent crime.").

101. See Gansler, *Implementing*, *supra* note 35, at 32 (stating that prosecutors are able to receive citizen complaints and "steer [them] in the appropriate direction, whether that involves taking no action, initiating a court case through formal complaint, referring the case to another government agency, referring the case to an alternative dispute resolution organization, applying for a civil protection order or another course of action"); see also *Prevention Through Community Prosecution*, *supra* note 4, at 76; Weinstein, *supra* note 1, at 20.

102. Roger Conner, *Community Oriented Lawyering* (describing civil clean-up orders used to address the problem of nuisance properties in Salt Lake City, Utah), *available at*

and safety-code enforcement,¹⁰⁴ and various other “outside the box” strategies.¹⁰⁵

Additionally, prosecutors coordinate with non-prosecutorial groups, such as property owners, community organizations, and government agencies, to institute geographic changes that reduce or prevent crime.¹⁰⁶ For example, by implementing simple, preventative strategies, prosecutors have restored main thoroughfares that, over the years, had become rundown and plagued by crime.¹⁰⁷ Thus, prosecutors are able to offer solutions to community concerns that might not have been possible using traditional methods.¹⁰⁸ These strategies require prosecutors to be imaginative, for solutions often necessitate planning and partnership unfamiliar to traditional courtroom practitioners.¹⁰⁹

<http://www.communitylawyering.org/examples/anecdotes/problem152.html> (last visited Nov. 15, 2001). Nuisance property owners were issued civil clean-up orders. *Id.* If ignored, the city gained the right to fix the property and attach a lien for the costs. *Id.*

103. *Id.*

104. Weinstein, *supra* note 1, at 21 (offering that if there was a known problem with drug dealing in a particular restaurant, health department officials could search the establishment for health code violations, and if a sufficient amount of violations were found, the officials could close the business). This would result in the termination of the drug dealing operation, in an expeditious manner. *Id.*

105. See *Prevention Through Community Prosecution*, *supra* note 4, at 76 (noting that “[p]rosecutors are also hiring more nonlawyers who can deal effectively with matters of public health, substance-abuse treatment, social services, public relations, community organizing, marketing, journalism, and crime prevention”); see also APRI, *supra* note 5, at 6.

106. Kuykendall Interview, *supra* note 31.

107. HUD Blue Ribbon Practices in Housing and Community Development, John J. Gunther Awards, available at <http://www.hud.gov/ptw/docs/mo1198.html> (last visited Jan. 28, 2002). This example is based on the Kansas City, Missouri Paseo Corridor Drug and Crime-Free Community Partnership Program which was implemented in February 1997. *Id.* The partnership included sixty property owners, community organizations, and local, state, and federal officials. *Id.* The goal was to restore a fifteen-block area that had become one of Kansas City’s worst crime areas. *Id.* A variety of measures were implemented to affect the desired change, such as “no parking” signs on boulevards with drug activity, hotlines for residents to anonymously voice their concerns, and landlord and property owner training. *Id.* The results were impressive: a fifty percent drop in crime after one year and reports that residents, once again, felt safe in their neighborhood. *Id.*

108. See Conner, *supra* note 14, at 28 (noting that the community prosecutor uses traditional case processing as one of his or her many tools in dealing with community problems). Conner lists the following examples of how prosecutors use nontraditional methods to address community concerns: “they use civil remedies, invent new forms of action, create new organizations (community courts, for example), mobilize neighborhood residents, educate victims, use nonadversarial remedies; in other words, whatever it takes.” *Id.*

109. APRI, *supra* note 5, at 23 (noting that nontraditional strategies constitute a major departure from traditional prosecution methods).

In order to lend credibility to the philosophy and foster acceptance among community residents,¹¹⁰ the problem-solving approach is promoted as a long-term strategy, rather than a short-term program.¹¹¹ Prosecutors look beyond their individual cases to identify ways in which they can end the repetitive cycle of crime.¹¹² Because of this long-term focus, community members perceive community prosecution as a philosophical change in the way prosecutors operate.¹¹³

2. Communication and Partnership

A fundamental difference between community prosecution and traditional prosecution is the formation of partnerships among prosecutors, police, and community members.¹¹⁴ Prosecutors work with law enforcement officials,¹¹⁵ public and private sector leaders, civic groups,¹¹⁶ and community members,¹¹⁷ using formal and informal

110. Weinstein, *supra* note 1, at 21.

111. *Id.* at 23 (noting that when residents see community prosecution as a long-term change in philosophy that benefits their communities, they are more willing to aid in the continuance of the strategy).

112. See PUBLIC SAFETY ACT, *supra* note 8 (noting that methods include getting gangs off of street corners, shutting down crack houses, and halting illegal gun trafficking); see also Gramckow, *supra* note 5, at 17 (listing alternative responses, including initiating “drug education in schools, coordinat[ing] projects to develop alternative activities for juveniles, and apply[ing] civil sanctions and city statutes to rid communities of crack houses”).

113. Stevens, *supra* note 5, at 13.

114. APRI, *supra* note 5, at 4-5 (“Partnership is what sets community prosecution apart from more traditional prosecution.”); see also Conner, *supra* note 14, at 28 (quoting researcher Barbara Boland as stating that “[w]ithout community prosecution these relationships rarely develop”).

115. Gansler, *Implementing*, *supra* note 35, at 32. Community prosecutors meet daily with the police to discuss public safety related developments in the community[,] . . . strategize with the police about the best way to approach crime problems, . . . [and] attend police roll calls to provide additional training for police in legal issues of relevance to their job and to gain information on crime problems.

Id.; see also Weinstein, *supra* note 1, at 20-21 (describing how in Philadelphia, Pennsylvania, prosecutors accompany police officers on patrols and investigations, where appropriate, to obtain firsthand knowledge of local crimes and criminals); Joan E. Jacoby et al., *Prosecutor’s Guide to Police-Prosecutor Relations*, 2000 JEFFERSON INST. FOR JUST. STUDY 8 (“In Kalamazoo, Michigan, the prosecuting attorney has a monthly breakfast meeting with the heads of the law enforcement agencies and the state police. [The] talk covers mutual crime problems, the need for more funding, [and other] major events of interest to them.”).

116. *Prosecutor’s Guide to Police-Prosecutor Relations*, *supra* note 115, at 37 (describing how in Kalamazoo, Michigan, the prosecutor’s office established the Neighborhood Prosecuting Attorney Program, which “assigns [an] assistant [prosecutor] to work in [a] specially selected area with Neighborhood Liaison Officers and other neighborhood leaders to implement crime prevention initiatives”).

methods, to identify and address community problems.¹¹⁸ No longer are prosecutors confined solely to the courtroom.¹¹⁹ Instead, prosecutors coordinate with all members of the community in order to better understand and address community concerns *before* and after crimes are committed.¹²⁰

In order to build these partnerships, offices often establish steering committees made up of prosecutors and other community leaders.¹²¹ These committees establish rules and goals for the community prosecution strategy and identify sources for partnership.¹²² Because interaction with community leaders is such an essential part of this

117. Gansler, *supra* note 35, at 32 (noting that prosecutors learn of residents' problems by attending community meetings); *see also Prosecutor's Guide to Police-Prosecutor Relations*, *supra* note 115, at 36 ("In Santa Fe, NM, the district attorney has a public liaison staff person to handle all citizen walk-ins and calls and refer the citizens to other county, city and public agencies if the matters are not of prosecutorial interest.").

118. APRI, *supra* note 5, at 1 (declaring that community prosecution involves "long-term, proactive partnership among the prosecutor's office, law enforcement, the community and public and private organizations, whereby the authority of the prosecutor's office is used to solve problems, improve public safety and enhance the quality of life in the community"); *see also* Gist, *supra* note 21, at 1 (identifying groups that are benefited by partnerships with prosecutors, including "home/school organizations, such as parent-teacher associations; tenants' groups; fraternal, social, and veterans' groups; community service clubs (such as Lions, Kiwanis, JayCees, and Rotary); religiously affiliated groups; and associations of homeowners, merchants, or taxpayers"); Shen, *supra* note 23 ("[The community prosecution] programs place prosecutors in neighborhoods to listen to residents' complaints about vandalism, threatening behavior, small-time drug trafficking, petty theft and similar crimes."); Trugman, *supra* note 27 (describing how the community prosecution program implemented by the U.S. Attorney's Office places prosecutors "in the field and puts them in the neighborhoods to become intimate with the grassroots problems that plague citizens"); Weinstein, *supra* note 1, at 20; Kuykendall Interview, *supra* note 31 (explaining that community prosecution is not just about putting prosecutors in the community to prosecute crimes).

119. Skolnik, *supra* note 35 (claiming that community prosecution would change the role of the prosecutor, "expanding their jobs beyond plea agreements and courtroom advocacy to include close consultation with local residents and other city agencies").

120. Gansler, *supra* note 91 (describing how Montgomery County prosecutors are assigned to schools to work with teachers and administrators in order to identify potential problems); *see also* Stevens, *supra* note 5, at 13 (acknowledging that the community prosecution approach focuses on the community's articulated needs, whereas traditional methods respond to cases based on criteria such as strength of the case, the severity of the offense, and future dangerousness of the offender); APRI, *supra* note 5, at 3, 14 (prosecutors are able to identify the unique needs of a community through "personal interaction[,] community hearings[,] and outreach to the neighborhood"); Conner, *supra* note 14, at 28 (noting that under community prosecution, "the community helps define what is important, what constitutes success").

121. APRI, *supra* note 5, at 32.

122. *Id.*

process, prosecutors chosen to serve on steering committees are, ideally, self-starters with good management and interpersonal skills.¹²³

In addition to steering committees, prosecutors identify potential partners by attending school meetings, local fairs, civic gatherings, and other community functions.¹²⁴ Prosecutors work to open lines of communication with all members of the community in order to gain a true understanding of the target area's needs and concerns.¹²⁵ In Montgomery County, Maryland, for instance, prosecutors attend community and school functions on a regular basis to identify problem areas and promote awareness and understanding of the criminal justice system.¹²⁶

Once partnerships are established, communication is maintained through monthly meetings with community groups, newsletters, increased phone access to community prosecutors, and various other open-access methods that promote dialog.¹²⁷ These mechanisms provide a forum by which prosecutors and citizens are able to devise solutions to community problems.¹²⁸ Such strategies also include the creation of community impact statements and sentencing letters.¹²⁹ These written declarations describe in detail the impact that particular crimes and

123. *Id.*

124. *Id.* at 17-18 (noting the importance of communication with community members).

125. Kuykendall Interview, *supra* note 31 (noting that it is the citizen groups, not the prosecutors, who identify what problems to address in their communities).

126. Gansler, *supra* note 35, at 31. Since 1998, prosecutors have met with the chief of police for Montgomery County, the commanders of each of the five police districts, the sheriff, representatives of all major law enforcement agencies, the county executive, members of the Board of Education, school principals, the heads of the social services agencies, countless business leaders, community groups, faith-based organizations and citizens.

Id.

127. *See* Stevens, *supra* note 5, at 14; *see also* APRI, *supra* note 5, at 17 (listing the following avenues for establishing communication with the community: materials summarizing prosecution procedures; brochures explaining community prosecution; safety fliers; and lists containing phone numbers for police, prosecutors, and community leaders). The use of media, such as television, radio, and print can be used effectively to promote community prosecution. *Id.* at 18. More specifically, it can be employed to publish case dispositions, locations of unlawful businesses, and nuisance abatement sanctions to keep the community informed of issues and successes outside of the court system. *Id.*

128. Kathleen Shaver, *Local Prosecutors' First Steps: Lawyers Get in Touch With Constituents in Community-Based Approach*, WASH. POST, Aug. 12, 1999, at M1 (noting that community members can get to know the prosecutors and voice their priorities); *see also* Trugman, *supra* note 27 (writing that a District of Columbia resident explained that community meetings allow community members the opportunity to voice their concerns to prosecutors who "know the law and who to contact when we have problems").

129. APRI, *supra* note 5, at 19.

criminals have had on a specific community.¹³⁰ Prosecutors introduce impact statements during in-court sentencing to give the judge a better understanding of the harm inflicted on a community by the defendant's actions.¹³¹ Community impact statements and sentencing letters provide the judge with information regarding a specific offender's unlawful actions and potentially increase the severity of the criminal's sentence.¹³² Prosecutors achieve similar results through the use of probation and parole department letters¹³³ and recidivist community letters.¹³⁴ These prosecutor-coordinated strategies have been successful in making use of community input and participation inside the courtroom.¹³⁵

Establishing a bond with community members heightens the prosecutor's stake in the community.¹³⁶ This proprietary interest is strengthened when a community prosecutor handles only those cases originating in his or her assigned target area.¹³⁷ For instance, community prosecution employs vertical prosecution, wherein cases are directed to prosecutors who are familiar with, or assigned to, areas where the crimes occur.¹³⁸ The prosecutors handle the cases from beginning to end.¹³⁹ Vertical prosecution heightens a prosecutor's understanding of his or her

130. *Id.* (providing that through statements and letters community members are able to show the impact on their daily lives).

131. *Id.*

132. *Id.* (explaining that community impact statements or sentencing letters can be used to explain the impact of a particular criminal activity on a community). These statements can be admitted into evidence, are attached to the court documents, and stay with the case throughout the entire process, continually informing the court of the harmful effects of the activity. *Id.*; see also Weinstein, *supra* note 1, at 21 (noting that community impact statements can strengthen evidence against a particular defendant).

133. APRI, *supra* note 5, at 19 (explaining how these letters can effect the decisions of those who are in charge of releasing criminals after time served); see also Weinstein, *supra* note 1, at 21.

134. APRI, *supra* note 5, at 19 (stating that recidivist letters are written by community members to inform the court, usually at sentencing, about the community's apprehension regarding the criminal's return).

135. *Id.*

136. See Stevens, *supra* note 5, at 13-14.

137. APRI, *supra* note 5, at 3; see also Gansler, *supra* note 35, at 30 (stating that in Montgomery County, Maryland, when prosecutors handle only those cases in their specific areas, their activities promote judicial outreach).

138. APRI, *supra* note 5, at 3.

139. *Id.* (suggesting that vertical prosecution may also operate by assigning all crimes occurring in a certain area to one prosecutor); see also RESEARCH ON COMMUNITY PROSECUTION, *supra* note 10, at 3 (noting that accountability is heightened when prosecutors follow "a particular case or defendant through the entire judicial process").

case,¹⁴⁰ increases a prosecutor's interest in obtaining a successful resolution of the case,¹⁴¹ and avoids circumstances where the defendant slips through the cracks due to a judge's or prosecutor's unfamiliarity with the case.¹⁴²

Additionally, an office implementing community prosecution establishes community prosecution teams, or assigns "field" prosecutors,¹⁴³ to deal with community concerns.¹⁴⁴ These field prosecutors spend a great deal of time, both formally and informally, interacting with community members in order to identify and address specific problems and concerns, and maintain close contact with the community in order to build trust and confidence among all parties involved.¹⁴⁵ The end result of a community prosecutor's presence within his or her assigned communities is increased trust and support by community members of the criminal justice system.¹⁴⁶

3. *The Target*

In order to address problems unique to individual communities, prosecutors target specific areas for the community prosecution strategy's implementation.¹⁴⁷ In order for the scope of the operation to remain readily apparent, the target area is clearly identified through any number of methods, including crime statistics, community surveys, and

140. Forst, *supra* note 83, at 2 (proposing that if a prosecutor handles a case from start to finish, his or her understanding of the matter will be greater than that of a prosecutor who receives a case at a particular stage in the process, with no knowledge of the offenders or of the community where the crime was committed).

141. APRI, *supra* note 5, at 19-20.

142. Forst, *supra* note 83, at 2. Victims of crimes benefit because they are not forced to repeat their traumatic experiences to several individuals. *Id.* Rather, under "vertical prosecution," victims may avoid the traditional "production line approach" by working with one prosecutor who follows the case from beginning to end. *Id.* Thus, the prosecutor becomes vested in the outcome of the case, and his or her accountability is heightened. Gramckow, *supra* note 5, at 13.

143. Gansler, *supra* note 35, at 31 (stating that field prosecutors are assigned only cases originating in their target areas and obtain specific beats and schools in which to build trust and support). *Id.* at 31-32.

144. *Id.* (explaining how field prosecutors coordinate with "the police and community members [in specific districts] to improve public safety through improved outreach to all members of the community, increased input into on-going police investigations and training and a broader role in community problem solving").

145. *Id.* at 32.

146. Conner, *supra* note 14, at 32 (noting that in Boston studies showed that community prosecution "dramatically enhanced trust in the entire justice system – not just the prosecutors – on the part of residents in minority neighborhoods").

147. Stevens, *supra* note 5, at 13; *see also* APRI, *supra* note 5, at 12 (explaining that the size of the target area can be anything from one block to an entire police district).

police planning and support divisions.¹⁴⁸ By focusing their efforts, prosecutors are able to create “realistic and obtainable” goals.¹⁴⁹ When the program begins to realize its goals, prosecutors may then expand to other problem areas.¹⁵⁰

4. Evaluation

Finally, to best meet the needs of the community and to promote the strategy’s effectiveness, a prosecutor’s office conducts continuous evaluation of its community prosecution program.¹⁵¹ Evaluation promotes a better understanding of the program’s strengths and weaknesses, identifies the ever-changing concerns of the community, and serves as an effective tool for enlisting public support.¹⁵² Further, evaluation is necessary because the measures of success in community prosecution are different from those of traditional prosecution.¹⁵³ Winning the case is no longer the sole goal.¹⁵⁴ Rather, under community prosecution the focus is on “solving problems, increasing neighborhood safety, preventing crime, improving quality of life, and fostering economic development.”¹⁵⁵ To achieve these various goals, a community prosecution program must continuously evaluate itself.

III. IF IT IS BROKE, FIX IT

Critics of community prosecution claim the following: it creates partnerships that lead to overzealous prosecution of low-level crimes¹⁵⁶ and conflicts of interest between police and prosecutors;¹⁵⁷ it is too expensive and labor intensive;¹⁵⁸ it is simply another quick-fix federal

148. Kuykendall Interview, *supra* note 31; *see also* Stevens, *supra* note 5, at 13.

149. Stevens, *supra* note 5, at 14.

150. *Id.*

151. Weinstein, *supra* note 1, at 21 (noting that continuous evaluation provides information about the strengths and weaknesses of the program, as well as its overall effectiveness).

152. *Id.*; *see also* APRI, *supra* note 5, at 8 (stating that program evaluations market the program to the community).

153. Gramckow, *supra* note 5, at 20 (“[P]rosecutor performance measures need to be expanded to include other types of activities such as involvement with community groups, sensitivity of community problems and the ability to solve [neighborhood] problems and to develop or direct the development of [programs] for community action.”); *see also* Conner, *supra* note 14, at 28 (noting that the “definition of success has changed”).

154. Conner, *supra* note 14, at 28.

155. *Id.*

156. Koenig, *supra* note 32.

157. *Prevention Through Community Prosecution*, *supra* note 4, at 83.

158. Trugman, *supra* note 27.

program,¹⁵⁹ and it lacks reliable evaluation methods.¹⁶⁰ However, because the traditional criminal justice system failed in responding to citizens' concerns, and because the community-oriented strategy has been so successful and popular wherever it has been implemented, the attacks have garnered little support.¹⁶¹

A. Close Relationships Among Prosecutors, Police, and Community Members: Productive or Counterproductive?

Critics argue that prosecutors' close ties to police officers and community members make them overzealous in their attack on crime.¹⁶² It is argued that prosecutors lose their objectivity and fail to protect the rights of those accused of committing criminal violations when partnerships become too close.¹⁶³ Critics also contend that these close relationships create conflicts in the courtroom, where testimony given by police officers might unfairly tend to favor prosecutors. Further, critics aver that these close relationships impede the objective investigation and prosecution of police misconduct.¹⁶⁴

This criticism, however, lacks merit. In practice, close prosecutor-police relationships allow police officers access to "in-service training on search and seizure issues, traffic stops, and probable cause," which results in heightened awareness by officers of their legal limitations and a better understanding and respect for citizens' rights.¹⁶⁵ Further, when officers encounter gray areas during the dispatch of their duties, they may easily consult with prosecutors for legal advice.¹⁶⁶ As for the alleged overzealous prosecutions, the Due Process Clause of the Fourteenth Amendment restrains unjust actions relating to community-oriented prosecution, just as it does in traditional prosecution.¹⁶⁷ Further, close

159. Skolnik, *supra* note 35.

160. Trugman, *supra* note 27 (commenting that skeptics argue that "there is no substantive data, only anecdotes, linking reduction in crime to community prosecution").

161. Thomson, *supra* note 24 (quoting a community activist in an area of Washington, D.C., where community prosecution was implemented as saying that community prosecution is the "best initiative that has ever come into my community").

162. *Prevention Through Community Prosecution*, *supra* note 4, at 83.

163. *Id.*

164. *Id.* (positing that close relationships with police officers might impact a prosecutor's ability to address police corruption and abuse).

165. Swope, *supra* note 18, at 22.

166. *Id.* (claiming that officers trust prosecutors and are able to elicit advice whenever necessary).

167. U.S. CONST. amend. XIV, § 1.

monitoring of community prosecution strategies, through formal evaluation procedures, helps identify excessive behavior.¹⁶⁸

B. Who Cares About Vandalism: The Reasons for Community Prosecution's Emphasis on So-Called "Minor" Crime

Defense attorneys and other skeptics claim that community prosecution's emphasis on minor crime is unnecessary.¹⁶⁹ This argument, however, fails to take into account that minor crimes and quality-of-life offenses are what make citizens feel vulnerable.¹⁷⁰ Clearly, these minor offenses affect a larger percentage of citizens than index crimes such as murder and rape.¹⁷¹ Thus, in order to ensure that citizens feel safe, minor offenses must be addressed.¹⁷²

Additionally, as the "broken windows" theory suggests, minor crime, if left unchecked, leads to more serious crime.¹⁷³ By failing to address these lesser offenses, as evident by traditional prosecution methods, prosecutors would be ignoring citizens' concerns and simultaneously would be opening the door for more serious offenses.¹⁷⁴

168. Gansler, *supra* note 35, at 32 (noting that evaluation measures in Montgomery County, Maryland's State's Attorney's Office keep track of all contacts and involvement that prosecutors have with community members).

169. Shen, *supra* note 23 (describing how some defense attorneys claim that community prosecution programs and their focus on quality-of-life crimes are nothing but "overkill [and] showy public relations gestures that divert resources from serious crimes"); *see also* Trugman, *supra* note 27 (quoting U.S. Attorney Eric H. Holder, Jr. as stating, "[s]ome may question why prosecutors would want to hear complaints about piled trash, broken windows on abandoned buildings, or public nuisances. The simple answer is this. These conditions breed crime"); Koenig, *supra* note 32.

170. Koenig, *supra* note 32 (quoting State's Attorney for Howard County, Maryland, Marna McClendon as stating, "[w]hen you talk to people, it's not necessarily the homicides and rapes that make people feel unsafe It's the loitering, the graffiti, [and] the abandoned cars that makes them feel they can't go to their mailbox."); *see also* Shen, *supra* note 23 ("[P]rosecutors focus on crimes that really stick in people's craws.") (internal quotations omitted); ATLANTIC MONTHLY, *supra* note 51, at 32 (noting that in "Boston public housing projects, the greatest fear was expressed by persons living in the buildings where disorderliness and incivility, not crime, were the greatest").

171. Koenig, *supra* note 32.

172. Weinstein, *supra* note 1, at 20 (commenting that community prosecution "addresses less serious crimes . . . that threaten to deteriorate the quality of life in communities").

173. *Prevention Through Community Prosecution*, *supra* note 4, at 72 (minor crimes lead to violent crimes).

174. *Id.*

C. Show Me the Money: Is the Strategy Economically Feasible?

Critics argue that community prosecution is not economically feasible.¹⁷⁵ It is true that during the early stages of implementation, offices practicing community prosecution are likely to encounter increased financial burdens.¹⁷⁶ By publicizing their commitment to community concerns, prosecutors' offices encounter an immediate increase in reports of violations that were formerly considered below the prosecutor's radar.¹⁷⁷ The increase in criminal complaints initially requires stepped-up efforts and expenditures.¹⁷⁸ However, in time, the improved quality of life and enhanced sense of safety in communities lead to the commitment and involvement of community members and reduce costs because prosecutors do not have to "expend monies to continuously 'retake the hill.'"¹⁷⁹ For instance, improvements resulting from citizen-prosecutor partnerships encourage community members to contribute to the strategy's success.¹⁸⁰ Community involvement thereby enables community members to serve as early warning alarms for prosecutors, thus reducing the need for prosecutors and police officers alone, to identify and address all potential crime trends.¹⁸¹ These relationships also create a forum through which prosecutors can identify potential sources for out-of-office funding.¹⁸² Thus, with increased participation by community members and identification of out-of-office funding options, prosecutors are able to offset the costs of increased involvement.¹⁸³

Critics also contend that few communities have sufficient jail space to incarcerate all individuals arrested for committing quality-of-life crimes.¹⁸⁴ This argument erroneously assumes that community prosecution strategies seek incarceration for all offenders.¹⁸⁵ In practice,

175. APRI, *supra* note 5, at 26 ("Installing a community based program, without the firm financial and philosophical commitment to the concept, is ill-advised.").

176. *Id.* at 6. Prosecutors should "anticipate additional costs at the outset." *Id.*

177. *Id.*

178. *Id.*

179. *Id.*

180. *Id.*; see also Editorial, *Community Prosecution*, ARIZ. DAILY STAR, July 8, 1999, at 14A. "[T]he more lasting benefits may be that neighborhood people understand they have the ability to clean up their own communities. In the process, they sweep criminals off their streets and they forge mutually satisfying relationships with law enforcement agencies." *Id.*

181. PUBLIC SAFETY ACT, *supra* note 8, at 6.

182. Gramckow, *supra* note 5, at 15.

183. *Id.*

184. APRI, *supra* note 5, at 6.

185. *Id.*

community prosecutors focus on alternative remedies, such as community service, civil sanctions, environmental change, and nuisance abatement.¹⁸⁶ These strategies promote solutions to quality-of-life problems without placing excessive burdens on local jails.¹⁸⁷

Community prosecution encounters resistance from members of organizations that oppose governmental funding of local programs.¹⁸⁸ Members of these organizations argue that the creation of another federal program will lead to increased dependency by local prosecutors on federal aid.¹⁸⁹ This criticism, however, is unfounded because community prosecution is *not* another governmental program; rather, it is a new way of viewing the prosecutor's role.¹⁹⁰ Funding is needed for a limited time to help institute community prosecution across the United States.¹⁹¹ The critics fail to understand that one of community prosecution's main goals is to increase non-governmental participation in the criminal justice system.¹⁹² The achievement of this goal will reduce, rather than increase, reliance upon governmental funding.¹⁹³ Finally, it must be mentioned that out of the 2,870 prosecutors' offices in the United States, only thirty-three received funding in 1998, and only sixty-one received funding in 1999.¹⁹⁴

D. Is There Enough Time in the Day?

Community prosecution is also criticized for being too labor intensive.¹⁹⁵ Critics question whether prosecutors can add the targeting of less serious, nonviolent crimes to their already heavy case loads.¹⁹⁶

186. *Id.*

187. *Id.* (stating that non-traditional approaches alleviate overburdening of jails).

188. Skolnik, *supra* note 35.

189. *Id.*

190. Weinstein, *supra* note 1, at 21.

191. Kuykendall Interview, *supra* note 31. A similar criticism was made ten to fifteen years ago when the federal government decided to offer funds to prosecutors' offices in order for them to establish domestic violence units. *Id.* However, these domestic violence units have been highly effective at addressing a serious problem in our society, and have since merged into the structure of the prosecutor's office. *Id.* Similarly, community prosecution is needed to address our community's problems, and the strategy, if funded now, will soon merge into the structure of prosecutors' offices throughout the country. *Id.*

192. APRI, *supra* note 5, at 4-5 (noting that "[p]artnership is what sets community prosecution apart from more traditional prosecution").

193. *Id.* at 45, 47 (describing how community prosecution "enables the community to establish and maintain . . . programs to prevent the reoccurrence of the targeted problems," thus reducing the "amount of police and prosecutorial resources repeatedly expended for recurring problems").

194. Kuykendall Interview, *supra* note 31.

195. Trugman, *supra* note 27.

Community prosecution *does* initially require an expanded role for prosecutors; however, the actual labor requirement eventually is reduced through the identification and use of existing community resources.¹⁹⁷ For instance, partnerships are used to develop nontraditional programs for families and youths, such as mentoring, to increase public safety through alternative sanctions, such as community service, and to encourage citizen understanding, accountability, and assistance through law-related educational programs.¹⁹⁸ These alternative response plans, formed and implemented in conjunction with community partners, reduce the need for traditional criminal justice intervention.¹⁹⁹ Thus, despite the prosecutor's expanded role, his or her workload remains manageable because of the community's increased participation.²⁰⁰

E. How Do We Know if Community Prosecution Really Works?

Community prosecution is criticized for its qualitative evaluation methods.²⁰¹ Critics argue that the inferential anecdotes connecting crime reduction to community prosecution are not fully supported.²⁰² Further, it is noted that there is no formal research that conclusively proves that community prosecution enhances public safety and improves quality of life.²⁰³ Such criticism occurs because one of the major goals of

196. APRI, *supra* note 5, at 6.

197. *Id.* at 6, 20-21 (noting that community prosecution strategies merge prosecutors' resources with community resources to address crime).

198. *Id.* at 5; *see also* *Community Prosecution*, *supra* note 180 ("In a city in which law enforcement is understaffed, the cooperation of residents is a must for effective crime fighting.").

199. Gramckow, *supra* note 5, at 16.

200. *Id.* (commenting that alternative response mechanisms likely will lessen the need for formal adjudication and thus will reduce the number of cases to be handled by prosecutors); *see also* Forst, *supra* note 83, at 2 (noting that a common theme of community prosecution is the designation of services outside the criminal justice system). *But see* Shen, *supra* note 23 (noting that prosecutors likely will work more hours in order to participate in school and community meetings).

201. Trugman, *supra* note 27.

202. *Id.* (citing the lack of concrete evidence connecting community prosecution to reduced crime); *see also* Freyman, *supra* note 54, at 28 ("The limited information [on community prosecution] points to positive outcomes, . . . but no solid empirical information is currently available.").

203. Weinstein, *supra* note 1, at 23 (commenting on the lack of formal evaluation directly connecting public safety to community prosecution, but noting that prosecutors believe that the strategy works); *see also* RESEARCH ON COMMUNITY PROSECUTION, *supra* note 10, at 4 ("Although the number of sites with community prosecution has been growing, there have been few research studies that have analyzed these programs.").

community prosecution, crime prevention, is difficult to gauge.²⁰⁴ Prosecutors and research professionals readily admit the above criticism. It must be remembered, however, that community prosecution is a new concept.²⁰⁵ Many research professionals across the country are working on methods to provide a quantitative analysis of community prosecution programs.²⁰⁶ With rigid documentation of community contacts, successful initiatives, physical restoration of target areas, and traditional crime trends, prosecutors will be able to more conclusively link local improvements to community prosecution.²⁰⁷

F. Prosecutors or Social Workers: Can There Be a Compromise?

Criticism comes even from prosecutors themselves.²⁰⁸ There has been some resistance by prosecutors to the theory's focus on societal problems and community concerns.²⁰⁹ Some senior prosecutors resent being asked to supplement their enforcement of serious crimes with community outreach or prosecution of lower level crimes.²¹⁰ These prosecutors began their careers prosecuting misdemeanors, and after paying their dues were assigned to more serious crime sections. Senior prosecutors dislike the idea that they must return to dealing with misdemeanors and other community ills.²¹¹

Some young prosecutors also criticize the community prosecution approach.²¹² Many of these critics are fresh out of law school and lust to

204. Conner, *supra* note 14, at 32 (noting that community prosecution "plays havoc with [the] standard tools of evaluation").

205. Kuykendall Interview, *supra* note 31 (claiming that in 1995 there were only six jurisdictions practicing community prosecution; whereas, today sixty-four percent of large jurisdictions and forty-two percent of small and medium jurisdictions are implementing the strategy in some form).

206. *Id.* (listing the following organizations participating in the establishment of new evaluation methods: American Prosecutors Research Institute, the National Institute of Justice, the Center for Court Information, and Harvard's Kennedy School of Criminal Justice).

207. APRI, *supra* note 5, at 40 (explaining that impact and process evaluation can be used together to provide a thorough analysis of community prosecution programs).

208. Gramckow, *supra* note 5, at 12 (noting that many prosecutors had difficulties prosecuting quality-of-life offenses, such as graffiti and abandoned cars, because they viewed their role as prosecuting felons).

209. *Id.* (noting that a "considerable number of assistant prosecutors were uncomfortable with working closely with community members on issues, such as graffiti and abandoned cars, when they saw their role in charging and prosecuting felons").

210. *Id.*

211. Weinstein, *supra* note 1, at 22 (identifying prosecutors' concerns about increased community involvement).

212. *Id.* (noting prosecutors' concerns about taking on the role of social workers).

enter the courtroom to prosecute the “bad guys.”²¹³ The young prosecutors resist the idea that they should spend time in the community, forging relationships and addressing residents’ concerns.²¹⁴ They believe that the non-criminal aspects of community life should be addressed by social workers, not prosecutors.²¹⁵

These interoffice impediments can be overcome by publicizing the success of the community prosecution programs, rewarding prosecutors who embrace the new philosophy, and assigning respected veterans to highly visible community prosecution positions.²¹⁶ Additionally, prosecutors are public servants with a duty to address citizens’ needs.²¹⁷ Judging from a recent report on community prosecution stating that “the single most common observation in community oriented lawyering is that [prosecutors] like their job,”²¹⁸ these impediments might be overstated. Also, elected prosecutors with active community prosecution programs can use community prosecution considerations in their hiring practices, thus ensuring that new prosecutors will be open to the ideological shift.²¹⁹ As evidenced in reports of established programs, once in place, the benefits of this ideological shift become apparent.

G. Benefits for All

Both prosecutors and citizens benefit from community prosecution.²²⁰ Community involvement and face-to-face interaction between prosecutors and community members build understanding and trust.²²¹

213. *Id.*

214. *Id.*

215. *Id.*

216. APRI, *supra* note 5, at 30 (asserting that a “district attorney who does not attend to internal staff issues, risks failure in the community prosecution effort”).

217. Mark Calender, *Ganster to Start Community Prosecution this Summer*, MONTGOMERY GAZETTE, 1998, at A5 (quoting Assistant U.S. Attorney Clifford T. Keenan as saying “[w]e are service-providers I know it pains some of my colleagues to say so, but we are public servants.”).

218. Conner, *supra* note 14, at 32. An example of the growing acceptance of community prosecution can be seen in the Salt Lake City, Utah, Prosecutor’s Office, where after instituting community prosecution, many prosecutors could not be persuaded to “accept promotions to more conventional lawyering jobs.” *Id.*

219. Kuykendall Interview, *supra* note 31; *see also* APRI, *supra* note 5, at 32 (listing the following qualities that should be looked for in community prosecutors: “self-motivated, artful orator, keen interpersonal skills, empathy, experience in community mobilization, and management training”).

220. *See generally* APRI, *supra* note 5, at 45-46.

221. Weinstein, *supra* note 1, at 21.

Renewed focus on community concerns increases safety and order, and ultimately enhances community participation in crime prevention.²²²

Community prosecution aids the community by offering enhanced communication mechanisms that allow citizens to effectively voice their quality-of-life concerns.²²³ Joint coordination and nontraditional strategies developed by community members, business leaders, and law enforcement officials, allow for the bypass of governmental bureaucracy.²²⁴ These strategies often address and resolve problems more swiftly than those that travel through the criminal justice system.²²⁵ Additionally, residents are able to actively participate in the revitalization and maintenance of their communities, rather than simply watching its decline.²²⁶ Finally, by meeting, interacting, and forming relationships with community members, prosecutors become closely attached to the community and more vested in its overall success.²²⁷

Prosecutors benefit from community prosecution by gaining enhanced and accessible information from citizens regarding criminal offenses.²²⁸ Because of the improved relationships between citizens and prosecutors, when cases proceed to trial witnesses often are more cooperative and the evidence is stronger.²²⁹ Additionally, by using outside resources, community problems are addressed by placing minimal burdens on the court system and the prosecutors.²³⁰ In turn, prosecutors are able to focus

222. APRI, *supra* note 5, at 5.

223. *Id.* at 45-46; *see also* Koenig, *supra* note 32 (noting that residents are pleased that prosecutors are “real people” who can be contacted for help); *see also* Swope, *supra* note 18, at 22 (noting that community residents are given community prosecutors’ office telephone numbers and are urged to call to voice their concerns).

224. Catherine Coles et al., *Prosecution in the Community: A Study of Emergent Strategies*, in JOHN F. KENNEDY SCHOOL, HARVARD UNIV., PROGRAM IN CRIMINAL JUSTICE (Sept. 1998) (explaining how prosecutors are able to use civil law and implement “civil initiatives” to supplement their criminal methods).

225. *Id.*

226. APRI, *supra* note 5, at 45-46.

227. Swope, *supra* note 18, at 23 (noting that community prosecution promotes stronger attachment to, and understanding of, the community); *see also* Douglas F. Gansler, *Community Prosecution*, WASH. POST, July 11, 1999, at B8 (noting that through these relationships, prosecutors get to know their “‘turf,’ its police officers, business leaders, civic and community groups, faith-based organizations, government agencies and above all, its hardened criminals”).

228. PUBLIC SAFETY ACT, *supra* note 8, at 6 (noting that these results will stem from the cultivation of relationships and trust in their communities).

229. *Id.* (noting that the cooperation between prosecutors and citizens will result in more convictions, when warranted).

230. Weinstein, *supra* note 1, at 21.

more attention on community involvement.²³¹ Further, active presence in the community publicizes the fact that prosecutors are working to better address community problems,²³² which leads to increased support for, and reduced hostility toward, the criminal justice system.²³³

Thus far, the results of community prosecution have been favorable. Michael Schrunk, District Attorney for Multnomah County, Oregon, states that “by addressing the basic nuisance . . . community prosecutors ‘keep businesses in [the] neighborhood.’”²³⁴ More importantly, Schrunk adds, “[community prosecutors] keep residents in the neighborhood.”²³⁵ As evidenced by Schrunk’s statement, citizens have expressed strong support for this strategy.²³⁶

IV. HOW TO ENSURE COMMUNITY PROSECUTION’S SURVIVAL: FUNDING, EVALUATION, AND COMMITMENT

Every prosecutor’s office should adopt the community prosecution philosophy. It is time for prosecutors to reconnect with the communities they serve in order to better identify local concerns and implement effective responses. To ensure the long-term success of this philosophy, however, three areas require close attention.

A. Getting Money to Grow on Trees: Various Approaches to Raising Money for the Implementation and Maintenance of Community Prosecution

In order to institute community prosecution strategies effectively and efficiently, prosecutors must have access to training, information, and

231. APRI, *supra* note 5, at 47-48 (noting that community prosecution’s long-term strategy eventually reduces the number of cases to be prosecuted).

232. Genelin, *supra* note 9, at 14 (noting that if prosecutors act on a community level, over time the community members will view the justice system as constructive); *see also* Swope, *supra* note 18, at 22 (noting that in Washington, D.C., residents were provided with community prosecutors’ telephone numbers so that they could voice their concerns); Gramckow, *supra* note 5, at 16 (commenting that the criminal justice system thus becomes “more user friendly and more responsive”).

233. Genelin, *supra* note 9, at 14.

234. Freyman, *supra* note 54, at 30; *see also* Montgomery Relocates, *supra* note 91 (noting that in the District of Columbia’s fifth police district, the only district in the city implementing community prosecution, the number of calls for police services fell from second to fifth in only two years); Swope, *supra* note 18, at 21 (commenting that the community prosecution initiative in Washington, D.C. has worked).

235. Freyman, *supra* note 54, at 30.

236. *Id.* at 28 (quoting Michael Drmacich, Chief of the Community Prosecution Unit in Erie County, New York, as stating that “[p]eople like that someone from the D.A.s office is [in the neighborhood]”).

technical assistance.²³⁷ These things do not come free of charge. Funding from local, state, or federal entities is often of crucial importance to the implementation of a community prosecution program.²³⁸

Federal funding for community prosecution is increasing rapidly.²³⁹ Nevertheless, the amount of federal monies presently available for community prosecution programs will not cover all jurisdictions.²⁴⁰ Although the number of federal grants rose between 1998 and 2000, the coterminous rise in requests for funding resulted in many offices being unable to secure federal funding.²⁴¹ In 1999, thirty-three prosecutors' offices received federal funding.²⁴² In 2000, 176 prosecutors' offices applied for federal funding.²⁴³ Because of this rapid increase in requests for funding, prosecutors must identify alternative sources for economic support.²⁴⁴

In order to secure outside funding, a prosecutor's office must show that it is seriously committed to community prosecution.²⁴⁵ Prosecutors must keep in mind that "funding agencies usually require some form of evaluation in order to determine whether their money has been well spent."²⁴⁶ Thus, detailed plans, close monitoring, and evaluation methods are critical to obtaining financial assistance.²⁴⁷

Along with outside solicitation, prosecutors can secure funding using alternative approaches within their offices, such as retaining monies gained from successful asset forfeiture programs or instituting local tax

237. See generally BJA GRANTEES, *supra* note 10.

238. APRI, *supra* note 5, at 26 (stating that outside funding reduces the "strain on existing prosecution efforts"). Further, prosecutors and administrators will not be as resistant to the change if money is coming in rather than being taken from established programs. *Id.* The manual notes that implementing a community prosecution program without sound financial support is risky. *Id.*

239. BJA GRANTEES, *supra* note 10, at 3 (noting that the five million dollars available to prosecutors' offices in 1999 will be doubled to ten million dollars in the next award period). Additionally, a bill requesting fifty million dollars in funds for Fiscal Year 2001 recently went before the Senate Appropriations Committee. *Id.*

240. *Id.*; see also APRI, *supra* note 5, at 26 (noting that obtaining funding can be difficult, especially when fiscally austere climates exist); see also Polley, *supra* note 33, at 16 (noting that the 1999 federal implementation grants were available for up to fifteen programs and the enhancement grants were available for up to ten programs).

241. BJA GRANTEES, *supra* note 10, at 1.

242. *Id.* (explaining that the approval of funding for 2000-2001 had not been determined).

243. *Id.*

244. APRI, *supra* note 5, at 26.

245. *Id.* at 27.

246. *Id.* at 37.

247. *Id.* at 27.

measures specifically designed to fund community prosecution.²⁴⁸ Additionally, prosecutors' offices can rely on local business groups and community organizations to raise or donate funds for the program.²⁴⁹ So long as these approaches have clear guidelines to avoid conflicts of interest, prosecutors' offices can utilize these methods to effectively fund community prosecution efforts.

B. "It Just Makes Sense" Will Not Cut It: How to Measure Success?

It is difficult to gauge the success of one of community prosecution's main goals: the *prevention* of crime.²⁵⁰ Therefore, many prosecutors whose offices have implemented community prosecution struggle to find ways to show that the strategy works.²⁵¹ Prosecutors claim that they "know" community prosecution works, and that common sense leads to the conclusion that increased responsiveness to community concerns improves citizens' quality of life.²⁵² However, this intuitive response will

248. *Id.* at 26; see also *Prevention Through Community Prosecution*, *supra* note 4, at 75 (discussing the success of a county sales tax, known today as COMBAT (Community Backed Anti-Drug Tax), initiated by a prosecutor in Kansas City, Missouri, that funded a "program to combat drug trafficking, drug use, and drug-related crimes in general").

249. *Id.* (noting that these measures must be "carefully crafted"). Prosecutors also can raise funds and enlist in-kind donations "through networking, charity events, direct mail or door-to-door appearances." *Id.* at 27; see also *Prosecutors Guide to Police-Prosecutor Relations*, *supra* note 115, at 39 (explaining how the district attorney for Pueblo, Colorado, created a "separate charitable, non-profit corporation" that accepted funds from "community groups, businesses and industries to support computers, personnel to prosecute bad checks, juvenile counselors, program development for juveniles, employment and on-the-job training to support restitution orders"). *But see* Gramckow, *supra* note 5, at 15 (emphasizing that to avoid conflict, prosecutors must "follow legal standards"). Gramckow adds that community prosecution does not seek to benefit one sector of the community at the expense of another. *Id.* The plan is to provide all people with increased access to the criminal justice system. *Id.*

250. Cardinale, *supra* note 46 (explaining that "results seem intangible and hard to measure").

251. Kuykendall Interview, *supra* note 31 (noting that community prosecution is a fairly new concept and there is little historical guidance on evaluation procedures; thus, prosecutors must concentrate on determining methods that monitor their programs most effectively).

252. Gansler, *supra* note 35, at 34 (advancing the common sense rationale that better relationships among prosecutors, police, and community members will lead to improved service for the entire community); see also Cheryl W. Thompson, *D.C. to Expand Community Prosecution*, WASH. POST, Aug. 4, 1999, at B2 (explaining that even though homicides in the District of Columbia's fifth police district dropped from second to fifth after instituting community prosecution, there is no concrete evidence that the drop was a direct result of the new strategy); Freyman, *supra* note 54, at 30 (commenting that despite the lack of concrete evidence linking quality-of-life crimes to more violent crimes, over time community prosecution efforts will prevent crime and benefit cities and neighborhoods).

not help satisfy critics, raise funds, increase public awareness of the program, spot changing community needs, or identify the strategy's strengths and weaknesses.²⁵³ Thus, close monitoring and evaluation is necessary in every office practicing community prosecution.²⁵⁴

Two general issues must be addressed in order to establish an effective evaluation.²⁵⁵ The prosecutor's office must enlist a competent evaluator and determine how best to implement the evaluation.²⁵⁶ Many possibilities exist to determine who qualifies to be an evaluator.²⁵⁷ The evaluator will be responsible for reviewing the "goals, objectives, tasks, resources and overall strategy of the program to insure that they clearly and logically are interrelated and can be measured accurately."²⁵⁸ Thus, viewing the expansive scope of the evaluator's duties, he or she should have experience or training in evaluation methodology,²⁵⁹ be familiar with the criminal justice system,²⁶⁰ and have strong communication skills.²⁶¹ Objectivity is also helpful in promoting reliability and acceptance of the evaluation's results.²⁶²

Many prosecutors' offices have limited resources with which to locate and employ evaluators exhibiting all of the aforementioned characteristics.²⁶³ Consequently, prosecutors often must look to alternative sources to enlist qualified evaluators.²⁶⁴ Evaluators can be identified and hired at little or no cost from among university faculty, graduate students,²⁶⁵ office staff, and outside volunteers.²⁶⁶

253. APRI, *supra* note 5, at 13-14, 19-24, 37.

254. *Id.* at 37.

255. *Id.* at 37, 39.

256. *Id.* at 37-42.

257. *Id.* at 37-39.

258. *Id.* at 42.

259. *Id.* at 38 (noting that three years of experience in evaluating community-based prosecution programs is ideal).

260. *Id.* at 37.

261. *Id.* at 38-39 (requiring strong communication traits to successfully explain the finer points of community prosecution to office and community members).

262. *Id.* at 37-38 (noting that interoffice evaluators might be perceived as too subjective and easily influenced by co-workers or supervisors, thus tainting any positive results).

263. *Id.* at 39.

264. *Id.*

265. *Id.* (explaining how graduate students or professors should be seeking, or have obtained, degrees in "criminology, sociology, public administration, public policy or political science").

266. *Id.* (noting that these options can reduce the cost of the evaluation). Graduate students may offer to conduct evaluations for their theses. *Id.* If members of the office

Once an evaluator is identified, an evaluation plan must be constructed.²⁶⁷ The evaluation should begin at the inception of the program and continue throughout.²⁶⁸ There are two basic methods for evaluating community prosecution: process evaluation and impact evaluation.²⁶⁹

Process evaluation focuses on the means used to implement the community prosecution strategies.²⁷⁰ This method enables prosecutors to gain in-depth knowledge of community prosecution strategies.²⁷¹

Impact evaluation, on the other hand, focuses on the results of the community prosecution strategies.²⁷² This method evaluates whether the program's goals and objectives have been met, and confirms the reason for the results.²⁷³

Used together, these methods provide concrete evidence of the program's bottom-line results and detailed information regarding the means by which these results were achieved.²⁷⁴ The use of only one method, however, fails to provide a complete picture of the connection between community prosecution and community changes.²⁷⁵ For example, if impact evaluation is used exclusively, evaluators would acquire only statistics regarding changes in the community.²⁷⁶ The impact evaluation would lack evidence demonstrating whether the community prosecution strategies were responsible for the changes.²⁷⁷ Critics could

staff are chosen to conduct the evaluation, they should have training or experience in evaluation methodology. *Id.*

267. *Id.*

268. *Id.* at 38-39.

269. *See id.*; *see also* Elaine Nugent, *Documenting & Demonstrating Your Success*, National Community Prosecution Conference, Alexandria, Va. (Sept. 25-27, 2000).

270. APRI, *supra* note 5, at 39 (noting that process evaluation monitors the delivery of services to the target area and "analyzes staff time, staff activities, staff commitment, as well as the allocation and use of material resources necessary for the accomplishment of program goals (e.g., management and staffing, funding, office space and office equipment)"); *see also* Nugent, *supra* note 269 (noting that process evaluation measures what the program is doing and how well it is doing it).

271. APRI, *supra* note 5, at 40.

272. *Id.*

273. *Id.* at 40, 42 (identifying sources for impact evaluation as "public records (e.g., police reports), surveys and questionnaires from the community and personal interviews with community leaders").

274. *See* Nugent, *supra* note 269 (using these two methods together results in the identification of changes in the target area and connects these changes to community prosecution strategies).

275. *See* APRI, *supra* note 5, at 40.

276. *Id.*

277. *Id.*

argue that the community improvements resulted from other factors, such as economic or demographic shifts.²⁷⁸ Thus, in order to provide a complete picture of the program's means and ends, process and impact evaluations must be implemented in tandem.²⁷⁹

There is no single way in which to measure the effectiveness of the community prosecution strategy.²⁸⁰ However, results of the strategy are evident by looking at community changes, such as the reduction or increase in crime, the "willingness of businesses to resume or begin reliable delivery services, [the cleanliness and accessibility of] parks, [the return of] graffiti-free walls and litter-free parking lots, the absence of scantily clad prostitutes, the curtail[ment of] drug trafficking, [and the presence of] thriving churches, and improved schools."²⁸¹

Close and continuous evaluation helps prosecutors identify weaknesses in their strategies and offers guidance on adjustments necessary for the continued success of the program.²⁸² Further, by publicizing the results of successful community prosecution endeavors, prosecutors gain support from community members, local leaders, business groups, governmental agencies, and elected officials.²⁸³ Evaluation also increases the likelihood of obtaining outside funding because the evaluation results offer concrete evidence that funding will not be wasted.²⁸⁴ Finally, evaluations of established programs serve as useful roadmaps for offices that are planning or implementing community prosecution programs of their own.²⁸⁵

C. Commitment: Sending the Message That Community Prosecution is Here to Stay

The long-term success of community prosecution relies heavily on the establishment of interoffice support.²⁸⁶ The chief prosecutor, whether a

278. Cf. *id.* (noting that "process evaluations establish the foundation for more intensive impact evaluations"). Impact and process evaluations should be treated as "complementary analytical tools." *Id.*

279. *Id.*

280. *Prevention Through Community Prosecution*, *supra* note 4, at 81.

281. *Id.* at 81-82.

282. APRI, *supra* note 5, at 8.

283. *Id.*; see also Nugent, *supra* note 269.

284. APRI, *supra* note 5, at 37.

285. Gansler, *supra* note 35, at 34 (noting that evaluations will provide a source of information for study and replication).

286. APRI, *supra* note 5, at 7. In order for community prosecution to fully succeed "[a]ll of the partners in community prosecution must make an equal commitment to long-term strategies." *Id.*

United States, district, state, or county attorney, shoulders much of the burden for ensuring that his or her prosecutors embrace the new philosophy.²⁸⁷ He or she can increase support for community prosecution by hiring prosecutors who display an interest in the philosophy and who show a willingness to work with community members and other local groups.²⁸⁸ Interoffice incentives, such as bonuses tied to successful community prosecution strategies, and formal policies, such as those requiring prosecutors to become involved in community justice activities, should be instituted to promote interoffice support for the strategy.²⁸⁹ At a minimum, the chief prosecutor must enlist a core group of prosecutors from within his or her office to openly embrace the philosophy.²⁹⁰ With strong leadership from the chief prosecutor and continuous support from a core group of prosecutors, community prosecution will enjoy a greater chance of success.²⁹¹

V. CONCLUSION

The community prosecution philosophy has been successful wherever it has been implemented. The strategy has filled the void left by a traditional criminal justice system that was disconnected from the community and lacked the resources to effectively address crimes affecting livability. With continued focus on public safety, traditional and nontraditional problem solving, and changing community concerns, community prosecution will serve as an essential addition, not replacement, to the traditional prosecution method. The success of community prosecution will be evident in the prevention of crime as well as in the reestablishment of community trust and confidence in the criminal justice system. If true partnerships are built among public and private entities and close monitoring and evaluation methods are implemented, community prosecution soon will merge into a larger community justice movement, involving prosecutors, police officers, and all members of society.

287. *Id.*

288. Weinstein, *supra* note 1, at 22.

289. Interview with Douglas F. Gansler, State's Attorney, Montgomery County, Md., in Rockville, Md. (Sept. 13, 2000).

290. Kuykendall Interview, *supra* note 31 (commenting on the importance of enlisting a core group of prosecutors who support community prosecution); *see also* APRI, *supra* note 5, at 28.

291. *See* APRI, *supra* note 5, at 28.