

University of Denver

Digital Commons @ DU

Sturm College of Law: Faculty Scholarship

University of Denver Sturm College of Law

2003

Between Town and Gown: The Rise and Fall of Restorative Justice on Boulder's University Hill

Thomas D. Russell

Follow this and additional works at: https://digitalcommons.du.edu/law_facpub



Part of the **Law Commons**

Between Town and Gown: The Rise and Fall of Restorative Justice on Boulder's University Hill

Publication Statement

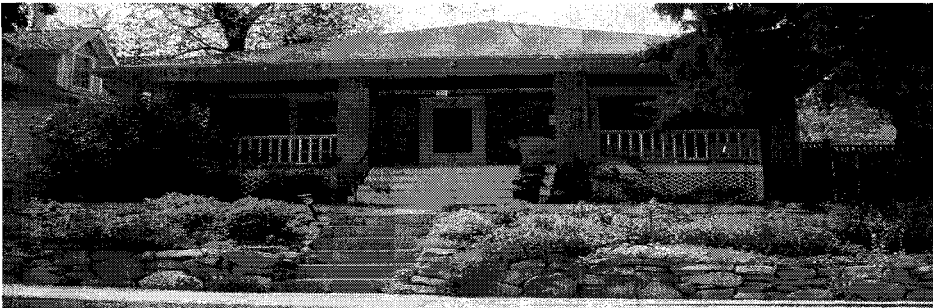
Originally published in 2003 UTAH L. REV. 91 (2003).

Copyright is held by the author. User is responsible for all copyright compliance.

Between Town and Gown: The Rise and Fall of Restorative Justice on Boulder's University Hill*

*Thomas D. Russell***

I. INTRODUCTION



Seven weeks after I moved to Boulder, University of Colorado students rioted three-quarters of a block from my home. In July 2000, my wife, two young children, and I had moved from Austin, Texas, where I taught at the University of Texas. We bought a small Craftsman Bungalow in Boulder. Boulder real estate is expensive; we paid \$435,000 for the 1600 square foot house. The first owner of the house—which was built in 1911—was the university librarian, who lived there until his death in 1937.¹ Our next-door neighbor on one side was an English professor at the University of Colorado; a retired astrophysicist and his wife had lived on the other side since 1968. I was a visiting professor at the University of Denver's College of Law during the 2000–01 academic year, and I was scheduled to visit at the University of Colorado's law school during the 2001–02 academic year. Because the University of Colorado faculty had seemed more interested in hiring me, my wife and I decided to live in Boulder rather than Denver. We

*© 2002, Thomas D. Russell. All rights reserved.

**Professor of Law and member, Conflict Resolution Faculty, University of Denver. Ph.D. (History) 1993, J.D., 1989, M.A., 1986, Stanford University; B.A., 1983, Northwestern University. E-mail: trussell@law.du.edu.

I thank Terry Rogers, Beth Rogers, and Ms. Loree Greco for their helpful comments. Leia Ursery and Tom Clark, both of the University of Denver College of Law Class of 2004, provided expert research assistance. Diane Burkhardt, Jessica Hogan, and Caryl Shipley of the University of Denver's Westminster Law Library were exceptionally helpful in locating reference sources.

¹City of Boulder Planning Dep't, Historic Building Inventory Record Report (Colorado Historical Society, State ID No. 5BL3346) (on file with Carnegie Branch Library for Local History, Boulder Public Library).

expected Boulder to be like Berkeley, a city in which we once lived for a year. We should have done more research.

Our bungalow was in the southeastern part of a Boulder neighborhood called University Hill (the Hill), which lies immediately west of the University of Colorado's campus.² The campus of the University of Colorado (CU) was one and one-half blocks up the street from of us; one and one-half blocks down the street was the large, then-unoccupied, million-dollar plus house in which JonBenet Ramsey was murdered in December 1996.³ Across the street from the Ramsey house lives Patricia Nelson Limerick, the famous western historian, with her architect husband.⁴ Our house, midway between the Ramsey house and CU, was roughly at the dividing point between rental houses occupied by students and owner-occupied, single family homes. To the north of us, most but not all of the buildings were filled with student renters. To the south of us, owners occupied most but not all of the houses, which, like ours, were built in the early part of the twentieth century. The block behind us was nearly completely dominated by student rental housing. We were just at the southeastern fringe of the student-dominated part of the Hill. We lived on the margin between town and gown.

We now live in Denver, where I have taken a job as a full professor at the University of Denver College of Law. I backed out of the deal to visit at CU's law school. After eighteen months, we sold the house and moved to Denver. During those eighteen months in Boulder, I helped to organize the University Hill Neighborhood Association, served as cochair of its executive committee, and was heavily involved in neighborhood organizing, neighborhood watches, the creation of a neighborhood-driven restorative justice program, and, to a certain extent, city politics. This Article is the story of the rise and fall of restorative justice in my former neighborhood. Although I am a legal scholar, my role in this Symposium is as a community member with restorative justice experience; my focus, then, is on what we did in our neighborhood with restorative justice. I do not intend this as a systematic overview of the theoretical literature. This is a personal story; this Article is laden with my personal opinion.

This is also the story of an empirical legal scholar's first experience with community organizing. I am not an anthropologist, although I often felt like an untrained anthropologist while observing life on the Hill during 2000 and 2001.

²City of Boulder, *City of Boulder—Neighborhood Map*, at http://www.ci.boulder.co.us/publicworks/UHAG/Images/hillhistoric_neigh-sm.jpg (last modified Sept. 25, 2000).

³See JOHN & PATSY RAMSEY, *THE DEATH OF INNOCENCE: THE UNTOLD STORY OF JONBENET'S MURDER AND HOW ITS EXPLOITATION COMPROMISED THE PURSUIT OF TRUTH* (2000); STEVE THOMAS WITH DON DAVIS, *JONBENET: INSIDE THE RAMSEY MURDER INVESTIGATION* (2000).

⁴See PATRICIA NELSON LIMERICK, *THE LEGACY OF CONQUEST: THE UNBROKEN PAST OF THE AMERICAN WEST* (1987); PATRICIA NELSON LIMERICK, *SOMETHING IN THE SOIL: LEGACIES AND RECKONINGS IN THE NEW WEST* (2000).

The report that I offer in this piece is not complete, because the complete story would take a book or several books.

II. THE NEIGHBORHOOD

A. Boulder and The University of Colorado

Boulder is a small, wealthy, largely white town of just over 100,000 people settled at the foot of the eastern edge or Front Range of the Rocky Mountains.⁵ In 2000, Boulder's population was 88.3% white; of the 11.7% of Boulderites who were not white, a mere 1.2% were African American.⁶ Boulder is a very affluent town. Boulder's median family income was \$70,257 in 2000; for the 80302 zip code that encompasses most of Boulder and includes the Hill, the average adjusted gross income for individuals and married couples who filed jointly was \$93,970.14, the highest average for any of Boulder's seven zip codes.⁷

Boulder's housing prices are high as well. In 2000, the median value of owner-occupied housing units in Boulder was \$304,700, as compared with the U.S. median of \$120,496.⁸ City of Boulder staff estimate that just over half of the city's housing units are rental units, and rents are also expensive.⁹ The median rent for renter-occupied units in Boulder was \$818 in 2000, as compared with \$610 for the United States.¹⁰ The highest Boulder rents were on the Hill, where the city estimated that the average rent for a two-bedroom unit was \$944.¹¹ As might be expected, CU students predominate among Hill tenants.

The University of Colorado is a very substantial presence in Boulder. In the fall of 2000, the university enrolled 26,597 total students.¹² Two-thirds were residents of Colorado.¹³ CU students were only slightly more racially diverse than the general population of the city of Boulder, with 13.0% students of color in the fall of 2000.¹⁴ African Americans accounted for 1.7%, or 457 of the total number of CU students enrolled in the fall of 2000.¹⁵

⁵CITY OF BOULDER, COLORADO, SUMMARY OF INFORMATION 2002, Demography 2.9 (2002), available at <http://www.ci.boulder.co.us/hroe/hrae/demog.htm>.

⁶*Id.* at Demography 2.12.

⁷*Id.* at Economy 4.1.

⁸*Id.* at Housing 3.8.

⁹*Id.* at Housing 3.7, 3.8.

¹⁰*Id.* at Housing 3.8.

¹¹*Id.* at Housing 3.11.

¹²Office of Planning, Budget, and Analysis, Univ. of Colo. at Boulder, CU-Boulder Enrollment Snapshot: Fall '00 vs. '01, at 5 fig.5.1, (2001), available at <http://www.colorado.edu/pba/records/>.

¹³*Id.* at 1 fig.1.1.

¹⁴*Id.*

¹⁵*Id.*

CU is a party school. For the year 2000, CU placed fifth in the unscientific yet influential Princeton Review's ranking of the top twenty party schools in the United States.¹⁶ One measure of the validity of this ranking is frequency with which CU students binge drink. The Harvard School of Public Health's College Alcohol Survey found that in 1999, 50% of students at large public universities reported binge drinking in the previous two weeks.¹⁷ At CU, 63% of the students fell into this category.¹⁸ Though university officials sometimes disclaim the party school label, students and some alumni understand and preserve CU's reputation as a party school. In a May 2002 story, a *New York Times* reporter quoted Scott MacMaster, a 2002 CU graduate who explained that: "We're going to get drunk, we're going to party, we're going to do what we do—you can't stop it . . ." ¹⁹ The twenty-two-year-old, freshly minted CU alumnus added: "They're trying to improve the image of the school, but it's always been known as a party school."²⁰

B. *The Hill: Riots and Disorder*

The riot of September 8, 2000—the one near my house—was the seventh University Hill riot since May 1997.²¹ Roughly 1500 to 2000 persons—CU students along with nonstudents—rioted over two nights in May 1997²² during the final exam period. On Halloween 1997, 200 to 800 persons rioted.²³ A 1000-person riot took place after the 1998 Super Bowl Game,²⁴ and several hundred more rioted after the 1999 Super Bowl.²⁵ Later in 1999, 500 to 1000 persons

¹⁶CU, [*Colorado School of Mines on Partying Lists*], DENVER POST, Aug. 17, 2000, at B3, available at 2000 WL 4470616.

¹⁷Office of Planning, Budget, and Analysis, Univ. of Colo. at Boulder, *Alcohol and Drug Use Among CU-Boulder Undergraduates: Results of the College Alcohol Study Surveys*, Tables-UCB and National Data (2001), available at <http://www.colorado.edu/pba/surveys/rwj/>.

¹⁸*Id.*

¹⁹Nick Madigan, *Peace Plan in Boulder Bans Sofas on Porches*, N.Y. TIMES, May 30, 2002, at A14.

²⁰*Id.*

²¹Pam Regensberg, *Police Quash Hill Riot, Two University of Colorado Students Arrested and Suspended*, BOULDER DAILY CAMERA, Sept. 9, 2000, at 1A.

²²Jason Gewirtz, *2nd Night of Violence Rocks Hill, Students in Intensive Care; 10 Others Sent to Hospital, Hill Violence Leaves 12 Injured*, BOULDER DAILY CAMERA, May 5, 1997, at 1A; Elliot Zaret, *Rowdiness Eludes Solution*, BOULDER DAILY CAMERA, May 4, 1997, at 1A; Elliot Zaret, *Students Riot on the Hill, Bonfires Burn as 1,500 Face Off with Police Officers*, BOULDER DAILY CAMERA, May 4, 1997, at 1A [hereinafter Zaret, *Students Riot*].

²³Christopher Anderson, *Melee Erupts near CU Campus; 6 Arrested*, BOULDER DAILY CAMERA, Nov. 2, 1997, at 1A [hereinafter Anderson, *Melee Erupts*]; Christopher Anderson, *Saturday Night Quiet on the Hill, Evening Offers No Repeat of Friday's Confrontation*, BOULDER DAILY CAMERA, Nov. 3, 1997, at 1A.

²⁴*Believe It! Cities Rejoice Over Long-Sought Championship; Boulder, Denver Erupt After Win; Fans Get Rowdy, Revelry Gets out of Hand in Few Places*, BOULDER DAILY CAMERA, Jan. 26, 1998, at 1A.

²⁵*Recent University Hill Riots*, BOULDER DAILY CAMERA, Aug. 29, 2000, at 9A.

marked Halloween with a riot.²⁶ At the start of the academic year in late August 2000, 500 to 1000 students and some others—again, not every rioter has been a student—rioted after a beery block party went bad.²⁷ The September riot, which included about 300 rioters, followed shortly thereafter.²⁸ Since then, students have rioted once more, on December 1, 2001, following a CU football victory at the beginning of the final exam period.²⁹ This latest riot, which involved 1500 to 2000 rioters, was the eighth riot on University Hill in four-and-one-half years.³⁰ In all, these riots involved somewhere between 6000 to 8000 rioters. Three of these riots occurred while I lived on the Hill, and I personally observed two of the three.³¹

Hill riots conform to a predictable pattern of undergraduate minors, mass quantities of beer, and some sort of police action that ends the party before the kegs are drained. Drunken minors—plus some legal drinkers—mill around the street, often near the house where the police have broken up a party. They begin to engage in vandalism—tearing down street signs, rocking and occasionally overturning cars—and throw stones, bottles, and, in 1997, cinder blocks at Boulder police officers.³² Without fail, student riots include the burning of one or more couches taken from the porches or interiors of nearby residences. These

²⁶*Id.*

²⁷Curtis Hubbard, *Another Student Riot Rocks University Hill, Police Use Tear Gas to Break Up Late-Night Parties and Bonfire*, BOULDER DAILY CAMERA, Aug. 28, 2000, at 1A.

²⁸Regensberg, *supra* note 21.

²⁹Ryan Morgan & Allison Sherry, *Fans Rejoice Taking to the Streets, Title Produces Hot Time in City*, DENVER POST, Dec. 2, 2001, at C11.

³⁰*2 More Suspected Rioters Arrested, Police Nab a Total of 28 People Thought To Be Involved in the Dec. 1 Melee*, BOULDER DAILY CAMERA, Dec. 16, 2001, at 1B.

³¹Under Colorado law, a “riot” refers to “a public disturbance involving an assemblage of three or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs the performance of any governmental function.” COLO. REV. STAT. § 18-9-101(2) (2002) (defining “Offenses Against Public Peace, Order and Decency”). All of the Boulder riots mentioned herein were well beyond the minimum required by state statute.

³²Zaret, *Students Riot*, *supra* note 22. On December 1, 2000, the Boulder Police Department awarded retired officer Michelle DiRezza a purple heart. Her career as a police officer ended when May 1997 rioters dropped a cinder block on her head. The citation for the medal follows:

In the spring of 1997, the city and the Boulder Police Department experienced two days of intense rioting on University Hill. This was an extremely dangerous situation involving several thousand out-of-control people, with a real threat to both life and property. Officer DiRezza, along with many co-workers, responded to this obviously dangerous situation without hesitation. Several officers and rioters were injured in the effort to regain control. A rioter threw a cinder block from a rooftop onto Officer DiRezza’s head. Had she not been wearing a helmet, she could easily have been killed. Even with the protection of her helmet, Officer DiRezza suffered severe head trauma and was forced to medically retire from the Boulder Police Department. [Deputy Police Chief] Hughes said, “Officer DiRezza will never be able to work as a police officer again, and the after-effects of this injury and its resulting impairment will forever impact her life.”

street bonfires of stuffed furniture are icons of Hill life.³³ Between 1998 and 2002, more than 100 sofas burned on the Hill, which induced the Boulder City Council to ban their presence on Hill porches beginning in August 2002. The dollar value of the property destruction associated with Hill riots has ranged from \$5,000 to \$10,000, to \$400,000 to \$500,000 damage during the May 1997 riots, which stretched over three days in the Hill's business district.³⁴ Notwithstanding popular conceptions (or excuses), only some of the riots have been associated with sporting victories or losses.

The picture below is one that I took at about 1:30 A.M. on September 8, 2000. Three nineteen-year-old undergraduate women hosted a party for their roommate's twentieth birthday party.³⁵ The women had 200 to 300 student guests,³⁶ five kegs of beer,³⁷ gallons of hard liquor, a DJ, and an intriguing drinking accessory known as an ice luge. Ice luges are ice sculptures into which one pours hard liquor, which runs down an ice chute into an awaiting mouth.³⁸ After the police broke up the noisy party around midnight, many of the drunken, angry guests gathered in the closest intersection.³⁹ The intersection was on an evening migratory pathway between on-campus dormitories and more distant parts of the Hill. In the early part of each academic year, packs of new students trek along this route as they search for Hill parties, and some of these migrating students joined the madding crowd. I heard one excited freshman student remark, "This will be my first riot." Students milled about in the intersection, pushed cars that attempted to move through the intersection, threw rocks and bottles at the police, and started a small fire in the intersection using some brush and some lumber.⁴⁰ Inevitably, some students collected a couch from a nearby house. I snapped a picture of one of the men as he and an associate loaded a flocked, floral sleeper onto the flames.

³³Kim Voorhees & John Voorhees, *The Trouble with Couches: Boulder City Council Is Still on the Hot Seat over the Upholstered Furniture in the "Riot Zone,"* BOULDER DAILY CAMERA, Dec. 30, 2001 at 3E. ("The latest riot, plus several other couch fires this fall, bring[s] the grand total of burned couches in the last several years to approximately 120.").

³⁴Anderson, *Melee Erupts*, *supra* note 23 (noting May 1997 riots caused over \$400,000 damage); Regensberg, *supra* note 21 (noting May 1997 riots caused estimated \$500,000 damage).

³⁵*Police Arrest Another Suspect in Sept. 8 Riot; CU Has Suspended Four Students So Far for Recent Fray*, BOULDER DAILY CAMERA, Sept. 16, 2000, at 1B.

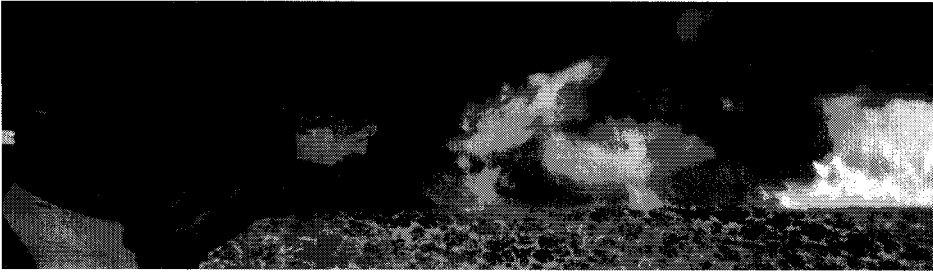
³⁶Regensberg, *supra* note 21.

³⁷A keg of beer, which is known technically as a half-barrel in the brewing industry, contains 15.5 gallons of beer or 165 twelve-ounce drinks. Five kegs can supply 825 beers.

³⁸Icecreations.com, *About Your Drink Luge/Martini Bars*, at <http://www.icecreations.com/drinkluge.htm> (n.d.).

³⁹Regensberg, *supra* note 21.

⁴⁰*Id.*



Watching this riot turned me into a neighborhood activist and set me on the path toward restorative justice. This essay canvasses some of my experience participating in the organization of the neighborhood and discusses different restorative approaches that we employed on the Hill. These approaches are applicable, sometimes with adaptation, to any neighborhood that faces crime. The unusual demographics of Boulder and the Hill make this last point important to understand. I will close with a cautionary tale about why much of our success with restorative justice on University Hill was, in the end, not sustainable. Let me reiterate that I present my personal views in this Article; this is a personal story of my experience organizing a neighborhood and using restorative justice techniques.

Riots are extreme manifestations of the disorder on the Hill. With eight riots in four-and-one-half years, one can say accurately that rioting is common on University Hill. But the more ordinary problems that Hill residents face are those associated with high levels of alcohol use by student tenants living in crowded houses in close proximity to homeowners with jobs and children.⁴¹ Not surprisingly, the greatest problems occur in the areas of transition from student-dominated parts of the neighborhood to those parts in which homeowners predominate. Put simply, what happens in the heart of the student ghetto is not really of great concern to nonstudent homeowners who live outside the student part of the neighborhood. One neighborhood friend and I referred to those parts of the neighborhood as the “Anything Goes Zone.” We knew that some of the same sorts of things that we identified as problems also bothered at least some of the students who lived in those zones, but we let them work the issues out for themselves. We felt that we had enough to contend with on the exterior fringes of the parts of the Hill that students dominated. Conflicts, when they emerged, emerged in the areas of transition—my part of the neighborhood, for example.

Conflicts roughly divided between nighttime and daytime issues. The nighttime issues involve a cultural struggle over public and private activities between the hours of 11:00 P.M. and 3:00 A.M. on the weekend nights of

⁴¹See Henry Wechsler et al., *Secondhand Effects of Student Alcohol Use Reported by Neighbors of Colleges: The Role of Alcohol Outlets*, 55 SOC. SCI. & MED. 425, 428–33 (2002) (summarizing findings of scientific study of neighborhood effects of student alcohol use).

Thursday,⁴² Friday, and Saturday. Students (and also nonstudents) in search of parties migrate to the Hill beginning around 11:00 P.M. The parties generate the usual and often considerable noise of exuberant, crowded, keg parties; this noise bothers nonpartying neighbors. After the parties end, drunken partygoers migrate elsewhere, with attendant yelling, fighting, shooting off fireworks, burning couches, littering yards with plastic beer cups, urinating, puking, and driving while drunk, to name just a few of the activities in the public space that would generate conflicts.⁴³ For employed homeowners who need to get up early on Friday mornings to go to jobs, being repeatedly awakened at 2:00 A.M. leads to the same cranky edginess that parents of infants often display. For Hill parents with infants, who have to get up throughout the night for feedings and diaper changes, additional awakening by student parties is maddening. Having all of this happen week in and week out—as opposed to say one or two weekends per year, as residents in college towns ought to expect—generates much conflict and intense stress within the neighborhood.⁴⁴

The daytime issues on the Hill are different. For the most part, daytime issues were issues of trash, litter, unkempt yards, and parking. Parties leave trails of debris through the neighborhood in the form of discarded cups and broken glass from bottles. Crowded student rental houses also create overflowing, unsightly, and stinky dumpsters. And, of course, during the day many more cars flood into the neighborhood as students from outside the neighborhood park on the Hill during their classes. The daytime issues, generally speaking, were easier, less contentious issues.

Criminal justice professionals and city officials sometimes use the phrase “Quality of Life Issues” to describe the problems that Hill residents face.⁴⁵ In some jurisdictions, police forces aggressively pursue Quality of Life crimes because they believe that these crimes will lead to more serious crimes.⁴⁶ On the other hand, labeling an activity a Quality of Life crime can also be a way of minimizing the issue. As the phrase suggests, Quality of Life issues adversely impact the quality of the lives of affected people. For example, noise in the evening, urine on your front steps, red plastic cups lying along your sidewalk, overflowing dumpsters, and illegally parked cars can diminish the quality of one’s

⁴²The partying starts in earnest on Thursday nights because CU apparently holds few Friday classes.

⁴³Wechsler et al., *supra* note 41, at 431 tbl.4.

⁴⁴University Hill Action Group, *Reviving University Hill*, at <http://www.ci.boulder.co.us/publicworks/uhag-report.htm> (Nov. 28, 2000) [hereinafter *Reviving University Hill*].

⁴⁵See, e.g., James Q. Wilson & George L. Kelling, *Broken Windows: The Police and Neighborhood Safety*, ATLANTIC, Mar. 1982, at 29, 29–39 (outlining how failure to deal with quality of life issues and minor crimes can lead to further, more serious crimes).

⁴⁶See William J. Bratton, *The New York City Police Department’s Civil Enforcement of Quality-of-Life Crimes*, 3 J.L. & POL’Y 447, 448–50 (1995).

life, but by themselves, these intrusions do not threaten physical harm or lasting property damage. The disorderly life on the Hill, though, moved beyond mere Quality of Life issues.

Living on the Hill and witnessing its nightlife firsthand allowed me to see that crimes that criminal justice professionals minimize as Quality of Life issues could often instead be substantial threats to public safety. I saw a lot of fighting and drunk driving. I felt endangered. I saw a great many young men and young women put themselves in vulnerable states of drunkenness. There were a substantial number of reported sexual assaults, and I knew that behind those numbers were many unreported assaults. In the fall of 2001, a young female student coming home from a party was struck and killed by a hit-and-run driver as she crossed the main thoroughfare that separated the Hill from CU's campus.⁴⁷ My neighborhood friends and I also knew that free booze, open parties, and vulnerable, drunk women attracted nonstudent criminals to the neighborhood. The Hill has more crime than any other Boulder neighborhood.⁴⁸ Burglaries are especially common, as were thefts from houses during parties. A thief might drop in, have a beer, and leave with, say, the CD collection or wallets of the unwitting student hosts.

C. *The Stakeholders*

In order to understand the environment on the Hill, there are four stakeholding groups that one must consider. The first group is the nonstudent homeowners, whom I will simply refer to as the neighbors. The second is the students, of course. The third important stakeholding group is the landlords, to whom I have only alluded to this point. The landlords are the only group that clearly profits from the Hill's disorder. The fourth stakeholding group is the city of Boulder—a full analysis of Boulder's municipal government would take much more than this slim Article, and I am only offering the slightest glimpse here. A fifth obvious stakeholder that I will not discuss is CU itself. During the time that I lived in Boulder, my neighborhood associates and I found CU officials to be so unresponsive and intractable, that we never successfully brought them into play. Likewise, no university faculty members took leadership roles in dealing with Hill issues.⁴⁹

⁴⁷See Matt Sebastian, *Hit-and-Run Kills CU Senior, Police Find Car, Expect To Arrest Driver Soon*, BOULDER DAILY CAMERA, Nov. 4, 2001, at 1B (noting that Jamie Frantz died crossing Broadway at about 2:45 A.M.).

⁴⁸Pam Regensberg, *University Hill Leads City in Crime Rate, Residents Bemoan the Appearance of Their Neighborhood*, BOULDER DAILY CAMERA, Sept. 18, 2000, at 19A.

⁴⁹I understand that, in the past year or so, there has been some improvement in the responsiveness of university officials. Part of the impetus may be a new law that requires a minimum one-year suspension of students convicted of rioting or riot-related offenses. See COLO. REV. STAT. § 23-5-124(1) (2002) (“No person who is convicted of a riot offense shall be enrolled

1. Neighbors

The first element in understanding disorder on the Hill is the neighbors; that is, the permanent, nonstudent homeowners of the Hill. Like other conflicts, Hill problems are susceptible to Coasean analysis.⁵⁰ Just as air pollution may be analyzed as unproblematic until a lung gets in the way, joyful student noise is not an issue until it hits an offending ear. And once someone is offended by noise, Professor Coase helped us to understand that both the noisemaker and the offended person are causes of the problem. In a legal or cultural regime that privileged late-night noisemaking, drinking by minors, and the burning of couches in the street, the neighbors would indeed be the causes of the problem. In this vein, some in Boulder argue that street bonfires of couches are legitimate, harmless expressions of student culture. Without mentioning Coase, some argue that there would be no problems if there were no newcomers like me, and if all the neighbors who had been there for decades, like my astrophysicist neighbor, would either move away or refrain from complaining.

Solving the problem of crime by asking those victimized by the crime to move away is unusual. The argument seeks to naturalize or normalize deviant behavior on the Hill and treat as aberrant the behavior and expectations of nonstudents. Another problem with this argument is that even after the neighbors moved away there would still somewhere be a border between the student zone and the nonstudent zone. There the problems would persist.

A more interesting aspect of the blame-it-on-the-neighbors argument is that for decades, the neighbors had, in effect, moved away even while remaining in their houses in the neighborhood. Over the years, neighbors had allowed the neighborhood to decline by passively permitting increasing levels of noise, drinking, trash, and other annoyances. Neighbors stopped complaining about noise and trash and forced themselves to tolerate the degradation of the quality of their lives. As happens with many formerly grand neighborhoods, the long-term residents allowed the neighborhood to fade through inaction.⁵¹ The reasons that neighbors did not complain are complicated and indistinct, but include the usual fear of getting involved and reluctance in getting someone else in trouble. Another reason that neighbors did not complain was because they had learned over time that the city staff would be unresponsive to their complaints, as I will more fully explain below. Instead, neighbors found ways to cope with their injury by, for example, keeping their windows closed in the summertime, running fans or air conditioners, and just getting used to more litter, trash, and rundown yards.

in a state-supported institution of higher education for a period of twelve months following the date of conviction.”).

⁵⁰See RICHARD A. POSNER, *ECONOMIC ANALYSIS OF LAW* (5th ed., Aspen Law & Business 1998) (1973).

⁵¹*Reviving University Hill*, *supra* note 44.

An interesting Boulder-specific twist was that people on the Hill were reluctant to call the police to report crimes, because doing so would label the offenders as “criminals.” Boulderites pride themselves on being such liberals that they are suspicious of invoking the state’s police power against individuals; the odd result, though, is that Boulder’s liberalism metamorphoses into a variant of libertarianism. After the fall 2000 riots galvanized the neighbors to action, the neighbors increasingly recognized their own responsibility for the Hill’s decline. Conversely, students who had enjoyed the permissive environment of the neighbors’ passivity experienced a shift toward more enforcement as a disruption of the natural order and, therefore, as an injustice.

2. *CU Students*

In thinking about the Hill, the second group of stakeholders is the CU students themselves. As I have described, CU students rent houses and apartments on the Hill; they also sometimes occupy houses and condos that their parents have purchased as investments. The Hill at night is also an attractive destination for other students looking for parties. These students binge-drink, make noise, create trash, occasionally riot, and commit other affiliated crimes including sexual assaults and crimes of violence.⁵² In the summer of 2001, for example, a high school kid had his head beaten in with a baseball bat after he stole a keg of beer from one party and took it to another.⁵³

What happens on University Hill is far out of scale compared with what happens in most American university towns. A common argument in defense of the behavior of CU students is that they behave as all students behave. For nine years I taught at the University of Texas, which had more than 50,000 students but did not have problems on the same scale as Boulder. My experience in Austin, as well as Berkeley and even Madison, contradicts the assertion that all college students behave as do CU students. In this Article, though, I am making no effort to adduce the comparative empirical data to support the argument that behavioral patterns in Boulder deviate substantially from the university norm. I believe, however, that there is validity to CU’s recurrent ranking as a top party school.

I have come to understand behavior on University Hill in racial terms as well. As I have emphasized, the great majority of people in Boulder, including the university students, are white. In the evenings on the Hill, the population is even whiter. This is no great surprise; as Henry Wechsler and his Harvard College Alcohol Study colleagues have shown, “Students least likely to binge are African

⁵²See Wechsler et al., *supra* note 41, at 431 tbl.4.

⁵³Greg Avery, *Teen Comatose After Beating, Dispute Broke Out near a University Hill Party*, BOULDER DAILY CAMERA, July 29, 2001, at 1B.

American or Asian, age 24 years or older, or married.”⁵⁴ He further explains that “[i]n 1999, only 16 percent of African American students binged, compared to 49 percent of white students.”⁵⁵ The relative scarcity of African Americans at the University of Colorado is thus one of the reasons for the higher rate of binge drinkers compared with other large public universities. The weekend partying behavior of students on the Hill when I lived there is an expression of the cultural preference for binge drinking by unmarried, young white students.⁵⁶

During the time that I lived on the Hill, I observed a sense of entitlement on the part of students to drink underage and to be as loud and as drunk as they pleased, wherever they pleased. In part, of course, this is what youthfulness is all about. But, I believe that this sense of entitlement was also an expression of white cultural privilege. Oftentimes, students would claim that any restriction of their outdoor nocturnal self-expression was illegitimate. At times, this is expressed as a “right to party.”⁵⁷ Again, the evenings were contests for dominion over the public spaces. Put differently, on the Hill at night, one finds privileged white students in a Hobbesian state of nature.⁵⁸

3. *Landlords*

To this point, I have focused exclusively on students as the wrongdoers. This is an injustice. The next, equally and sometimes more important criminal element on University Hill are exploitive landlords who rent houses in the neighborhood. Many Hill landlords exploit the housing crunch and rising real estate prices. These market forces could create legitimate opportunities for wealth-maximizing behavior. In Boulder, the opportunities are even greater because the city of Boulder years ago limited the construction of new housing, which has inflated Boulder’s housing prices even as the university has admitted more students. The students have faced inflating rents and increased difficulty in finding housing. They feel that they have no choice but to stuff themselves into overpriced, insufficiently maintained rental houses.

What moves Hill landlords’ behavior beyond opportunistic yet legitimate entrepreneurial behavior and into the realm of what economists term rent-seeking

⁵⁴HENRY WECHSLER, BINGE DRINKING ON AMERICA’S COLLEGE CAMPUSES: FINDINGS FROM THE HARVARD SCHOOL OF PUBLIC HEALTH COLLEGE ALCOHOL STUDY 5 (2000), available at http://www.hsph.harvard.edu/cas/Documents/monograph_2000/cas_mono_2000.pdf.

⁵⁵*Id.*

⁵⁶Another racialized aspect to Hill behavior provokes conversation: If the rioters were persons of color, how differently would they be perceived? What would the police do?

⁵⁷BEASTIE BOYS, *Fight for Your Right (To Party)*, on LICENSED TO ILL (def jam Records 1986). *But see* PUBLIC ENEMY, *Party for Your Right To Fight*, on IT TAKES A NATION OF MILLIONS TO HOLD US BACK (def jam Records 1988).

⁵⁸*See generally* THOMAS HOBBES, *LEVIATHAN passim* (Richard Tuck ed., Cambridge University Press 1996) (1651) (describing state of nature and its role in formation of government).

is the way they have exploited the absence of ordinance enforcement by the city of Boulder. The city of Boulder has a variety of ordinances that define landlord's legal use of their rental properties. These include ordinances concerning, for example, the disposal of trash,⁵⁹ the provision of parking spaces,⁶⁰ or the number of tenants who may occupy certain properties.⁶¹ In the fall of 2000, when I began participating in the organization of the neighborhood, the city almost never enforced any of these laws. For example, in the years 1998, 1999, and 2000, the City of Boulder's Environmental and Zoning Enforcement Office received 548 complaints concerning land use violations. These violations included an unspecified number of complaints about overoccupancy, and it is likely that a majority of these land use complaints applied to rental property. The staff charged with enforcing the city's ordinances wrote a total of twenty-two land use summonses over this three-year period; that is, only 3.9% of complaints yielded tickets.⁶² Likewise, over the same three-year period, the Environmental and Zoning Enforcement Office received 1239 complaints about trash and wrote a total of twenty-six tickets, which amounts to 2.1% of complaints.⁶³ A final example is snow shoveling. The city received 1637 complaints about unshoveled sidewalks during the 1998, 1999, and 2000 winters, which yielded a mere ten tickets!⁶⁴ The nonenforcement of land-use, trash, and snow-shoveling tickets benefited all of the city's scofflaws, but the landlords were the greatest beneficiaries. Nonenforcement allowed them to reduce the cost of operating their rental business by exceeding occupancy laws, reducing the frequency of their trash pickup, and by not bothering to contract for snow removal during the winter. The worst Hill landlords were like members of organized crime who move into a town in order to take advantage of a lack of enforcement. Facing little or no enforcement of the laws that regulated rental dwellings on the Hill, a housing supply limited by city ordinance, and an increasing student population, bad landlords were perfectly positioned to exploit their student tenants and the neighborhood at large, which they did.

4. *The City*

The city of Boulder is the fourth major player one must consider in order to understand what was happening on University Hill in the fall of 2000. Boulder is a peculiar place. As noted, city of Boulder officials and staff failed to

⁵⁹BOULDER REV. CODE §§ 6-3-1 to -11 (2002).

⁶⁰*Id.* § 9-3.2-1.

⁶¹*Id.* § 9-3.2-8.

⁶²Env't & Zoning Office, City of Boulder, *Code Enforcement Data*, at

http://www.ci.boulder.co.us/buildingservices/environment/pdf_forms/complaintsummons.pdf (last updated Feb. 21, 2003).

⁶³*Id.*

⁶⁴*Id.*

enforce—really refused to enforce—entire segments of their own ordinances, leaving landlords, for example, largely unregulated. As it happens, the same city staff that handled land-use, trash, and snow tickets also were charged with the responsibility of dealing with noise issues. In the three-year period from 1998 to 2000, the Environmental and Zoning officers received 4884 complaints about nonvehicular noise: about 4.5 per day.⁶⁵ They responded with tickets in 2.1% of the complaints, writing a total of 102 tickets over the three-year period, or one ticket every ten or eleven days.⁶⁶ At the start of the period when the neighbors began to organize, the police were similarly unresponsive; police dispatchers not uncommonly said to Hill complainants, “What do you expect if you live on the Hill?” City staff, like many of the neighbors, avoided actually enforcing ordinances on the books in favor of repeated visits by enforcement staff in order to *educate* offenders such as landlords. In this respect, city staff reflected the wishes of many of the Boulder City Council members, who in turn reflected the preferences of many of Boulder’s citizens. Boulder exhibited a culture of nonenforcement with regard to the laws that most affected the lives of Hill residents. In this way, as I have suggested, Boulder came to resemble a libertarian state more than a liberal one. True liberals, after all, are unafraid to use the power of the state.

III. HARM TO THE NEIGHBORHOOD

The riots of August and September 2000 galvanized a neighborhood that had long acquiesced in habits of vice. Exactly what spurred people to act is impossible to say. The riots themselves had powerful force, but there had been five previous riots. Why take action after these particular riots? My personal hunch is that a reverse-911 call played a key role in spurring the neighbors to action. As the Boulder police prepared to dispense tear gas in order to disperse the August 27, 2000 rioters, they issued a reverse-911 call—that is, a call from the police to the neighbors—in which an automated message to everyone in the neighborhood warned the recipients to stay indoors with the windows closed against the tear gas.⁶⁷ That phone call, I believe, had the effect of bringing the riot and disorder into everyone’s house on the Hill. Without the phone call, neighbors might have read about the riot in the newspaper, which because of deadlines would have

⁶⁵*Id.*

⁶⁶*Id.*

⁶⁷Brita Gustaffson, *Boulder Police Attempting New Riot Control Tactics*, CAMPUS PRESS, Aug. 31, 2000, at <http://bcn.boulder.co.us/campuspress/2000/08/31/reverse911.html>; Julie Poppen, *CU, City Hope To Prevent Riots*, BOULDER DAILY CAMERA, May 5, 2000, at 1A.

reported it two mornings after the riot. Instead, the reverse-911 call caught the neighbors' attention in real time.⁶⁸

In the remainder of this Article, I will describe some of the community organizing and restorative techniques that we used on University Hill. This will offer a good look at a strong community organizing itself using, in part, restorative justice philosophy and techniques. In this section, I will describe how a new definition of crime as harm to the neighborhood helped to organize and focus the neighbors' activity. In a subsequent section, I will briefly describe some of the restorative justice techniques that we used in order to attempt to repair the harm. Ultimately, though, these successes ran up against obstacles that destroyed the restorative justice effort on the Hill and in Boulder. This story, of the decline of restorative justice on University Hill, offers some valuable lessons. The story of the decline offers a valuable cautionary tale about preconditions that must exist in order to support a restorative approach to neighborhood crime.

A. Community Justice Councils

The first restorative or community justice technique that we employed, even before we knew about restorative justice, was a community justice council.⁶⁹ Just after the second riot in September 2000, a retired social worker in our neighborhood organized a large meeting—a speakout of sorts—at which we all got together, stepped up to the microphone, and offered our three-minute reactions to the riots. Before this meeting, we were not an organized neighborhood and few within the neighborhood even knew each other.

The meeting was brilliant: more than 200 people attended. A long train of neighbors described their reactions to the riots and other neighborhood disorder. Particularly powerful were the moments when elderly neighbors described how the riots and use of tear gas frightened them. Another powerful moment was when the manager of a group home for mentally ill persons described the impact upon a schizophrenic person of the noise, lights, and tension associated with the riot.

As an idea, there is nothing especially sophisticated about community justice councils. Indeed, there is nothing about such meetings that must be associated with the idea of restorative justice. Call it what you will, the simple idea is to create an opportunity for neighbors to get together in order to voice their opinions about issues that affect them. These meetings can happen anywhere—in churches, schools, barbershops, or inside a neighbor's house. They provide what used to be

⁶⁸If my analysis of the effect of the reverse-911 call is accurate, then police might consider using reverse-911 calls as ways to spur neighborhoods to organize.

⁶⁹TODD R. CLEAR & DAVID R. KARP, *THE COMMUNITY JUSTICE IDEAL: PREVENTING CRIME AND ACHIEVING JUSTICE* 6–7, 171–73 (1999); DANIEL W. VAN NESS & KAREN HEETDERKS STRONG, *RESTORING JUSTICE* 66–68 (2002) (noting that community justice councils are sometimes referred to as victim impact panels).

called “consciousness-raising,” they develop empathy, and they let neighbors know that others share their concerns.

Community justice councils are techniques that are effective with any sort of crime, from graffiti through drug dealing, sexual assault, burglary, and even murder. Since moving to Denver, I have participated in a Community Justice Council in the Park Hill neighborhood. The Denver District Attorney’s office, which has a strong orientation toward restorative justice, facilitates such councils in a variety of city neighborhoods.⁷⁰ The council in which I have participated draws from a very different neighborhood than University Hill. Most of the participants are African American and most are senior citizens. Many of their problems were with young people in the neighborhood in rental houses, and instead of drunkenness and rioting, they faced problems of drug dealing. The participants in Park Hill’s Community Justice Councils are more willing to call the police than the white neighbors of University Hill.

B. Formation of the University Hill Neighborhood Association

Following the community justice council meeting, neighbors formed the University Hill Neighborhood Association in October 2000.⁷¹ Chief among my own goals in helping to form this association was the facilitation of communication among its members.

Soon after the neighborhood association formed, I created an e-mail discussion list for the neighborhood using a free listserv available through a company that now exists as Yahoogroups.⁷² Nearly everyone in the neighborhood had access to e-mail, which made e-mail an obvious choice for communication among the neighbors. Of course, e-mail lists are not available to every community. There are other analogous mechanisms, though, such as phone trees or meetings at churches. My impression was that few of our members went to church but nearly all of us had e-mail, so church-based organizing would not have worked for us in the same way that e-mail does. Distributing information to a neighborhood in which most people both attend church and have e-mail would be quite easy.

The big September community justice council, the e-mail list, and the weekly meetings that we initially held facilitated our own redefinition of crime. We began to speak of crime as harm to the neighborhood or the community. The redescription of crime not as harm against the state, nor even as harm to just an

⁷⁰See DenverDA.org, *Community Justice Unit* (2001), at http://www.denverda.org/html_website/denver_da/community_justice_unit.html.

⁷¹See Univ. Hill Neighborhood Ass’n, *Hillneighbors.com*, at <http://www.hillneighbors.com> (last updated Feb. 8, 2003).

⁷²Hillneighbors listserv (for members), on Yahoo! Groups, <http://www.yahoogroups.com>.

individual, is a foundation of the philosophy of restorative justice.⁷³ Redefining crime in this way is not, I have concluded, mere semantics. The shift in the definition of crime is a centrally important move, one that carries with it many unimagined and unintended consequences. I believe, though, that many people utter the new definition but then fail to follow through on the implications.

Instead of thinking of crime as harm to an individual or as an offense against the state, within our association we came to treat crime as harm to the neighborhood. We built upon the stories that we told at the community justice council meeting. A hitherto diffuse neighborhood began to coalesce when neighbors saw how crimes harmed us all. Neighbors saw themselves as part of a larger pattern rather than as isolated victims. The new definition of crime helped to build empathy between neighbors. The new definition of crime as harm to the neighborhood actually strengthened our sense of neighborhood and community in a way that a definition of crime as either an offense against the state or as an offense against an individual could not have.

The shift to a new definition of crime is important for another reason. For members of the community, thinking all the time about how much you hate the criminals in your neighborhood is draining. Thinking of one's self as a victim is debilitating. The shift in the definition of crime to harm to the community makes neighborhood organizing in the face of crime more sustainable. Within myself, I discovered that focusing on the harm to the neighborhood and thinking about ways to repair that harm is a much healthier and sustainable way to go about trying to improve things.

In October 2000, I also created a website for the association. The website has been a very successful tool for the distribution of information to the neighbors. As with the use of e-mail, the success of the website as an organizing tool is in part a function of the relative wealth of those who lived in the neighborhood. This suggests, though, that websites might be equally effective tools in other neighborhoods—particularly in college towns—that face issues of crime. Even so, I believe that in neighborhoods that are relatively less well-to-do, web-based tools can nonetheless be quite effective. Even neighbors who do not have DSL lines in their homes, for example, may have access at work, school, or at the public library. For neighborhoods in which the neighbors do not have web access, some of the techniques that we used on University Hill can be duplicated using old-fashioned printed pages.

The web page—hillneighbors.com—provided news and tools to the people in the neighborhood. A copy of the web page as it existed in early November 2000, is below. This early version of the website was quite simple. At the top, a banner listed the website name using an Arts and Crafts font, which was a

⁷³VAN NESS & STRONG, *supra* note 69, at 7–14, 38–40; *see also* HOWARD ZEHR, *CHANGING LENSES: A NEW FOCUS FOR CRIME AND JUSTICE* 177–214 (1990) (describing how crime should be viewed through restorative lens).

deliberate, exceedingly subtle effort on my part to promote better living through knowledge of the early twentieth century Craftsman movement, which provided the inspiration for most of the architecture in the neighborhood. On the Hill, one often hears the argument that the neighborhood is and always has been a student neighborhood. This is historically false. As I pointed out above, the university's librarian was the first occupant of my house, and the neighborhood was originally a middle-class neighborhood of Craftsman and other early twentieth century houses. The hillneighbors.com font is a quiet subtle rebuttal to the claim that the Hill has always been a student neighborhood.

Beneath the hillneighbors.com banner is a small section of news items. This particular page is from the week just after Halloween 2000, which the news items reflect. The first bullet point was a link to a newspaper story about Halloween, which the city staff reported as relatively quiet—with no riots and only nine arrests—thirty summonses issued on the Hill.⁷⁴ As there had been Halloween riots in 1998 and 1999, there had been much anticipation of another riot on Halloween 2000. The third bullet point links to a newspaper story about the smashing of a plate glass window at the Boulder Police Department's University Hill substation on Halloween weekend, as well as the smashing of a police cruiser's rear window while the police responded to a party on the Hill.⁷⁵ Between those news items was a thank you to a sorority that hosted a Halloween party for Hill children. The news items also include reference to a successful cleanup of the Hill that neighbors conducted. The final news items refer to the creation of the e-mail list noted above and also to the posting of victim impact statements, which will be discussed below. Below the news items was an announcement of the meeting of the association, which meetings were weekly in the first months of the association's existence.

⁷⁴*Police Issue 31 Tickets During Quiet Halloween*, BOULDER DAILY CAMERA, Nov. 2, 2000, at 2B.

⁷⁵*Police Vehicles Being Damaged on Hill*, BOULDER DAILY CAMERA, Nov. 1, 2000, at 2B.

[REDACTED]

The University Hill Neighborhood Association is a group of Boulder neighbors working together for a safe, clean, peaceful, and diverse neighborhood. These pages are a resource for Hill Neighbors who want to improve the neighborhood.

News:

- City reports "relatively quiet" Halloween. Nine arrests/thirty summonses and no riot.
- Halloween Party--We thank Alpha Phi for hosting our children.
- Police vehicles and substation vandalized. Reward offered.
- Overoccupancy and noise at 1300 Cascade.
- Hill Clean-Up on 22 October was a great success.
- Examples of Victim Impact Statements added to site.
- Hillneighbors e-mail list created. See bottom of this page.

Meeting Tonight! ALL ARE WELCOME:

University Hill Neighborhood Association Meetings
Wednesdays 7:00-9:00 p.m.
Grace Lutheran Church, corner of 13th/Euclid

Tools:

What to do:

if there is a noisy party

if your neighbors have messy garbage

about over-occupancy of rental units

about minors drinking alcohol

Please consider joining the hillneighbors e-mail list. By joining the list, you will be able to send e-mail to all subscribers simply by sending a piece of e-mail to hillneighbors@egroups.com

The University Hill Neighborhood Association will use this list for announcements of the Association's activities. As well, individuals will use the list to seek information or express their own views about the neighborhood.

Subscribe to hillneighbors--
an e-mail list for the Hill

enter email address
Click the Join! button -->
after entering your e-mail
address in the box above



Powered by www.egroups.com

The second level of work that the website accomplished—after providing news items—was to provide neighbors with tools that they might use in order to improve their safety and the quality of their lives. I built this section around four main issues that affected us: noise, garbage, overoccupancy, and alcohol, and I focused on the tension between the law on the books and the law in action. I paid particular attention to the friction in the process of enforcing legal rights. I had observed that many of the laws in Boulder were unenforced.⁷⁶ Notwithstanding the high levels of educational attainment of many of my neighbors, I found them to be astoundingly naïve with regard to the process of enforcement. At times, my neighbors seemed to believe that ordinances would be self-executing—that is, that people would not make noise because the ordinance said that noise was unlawful—or that somehow the laws would be enforced with no complainants.

As a law professor, I would characterize my approach to the web project as that of a legal realist.⁷⁷ First, I view law as an instrumentalist; laws are tools that, if one picks them up, can be very powerful. Second, though, I understood that laws are nice, abstract things to have, but one also has to pay attention to the practical politics and bureaucracy of enforcement. Like a good legal realist, then, I focused on the tension between the law on the books and the law in action.⁷⁸ The fact that the well-educated, wealthy, middle-class professionals who were my neighbors needed both lessons and prodding with regard to the law in action offers, I believe, a good reminder that organizers and legal professionals who enter less-wealthy or less-educated neighborhoods may need to focus on some fundamental lessons regarding what law can do and what it takes for law to achieve particular ends. This fundamental lesson in democracy has apparently become lost.

The web tool concerned with the issue of noise provides an example of the approach that I employed on the website. Today, the website carries the same text—some of it now out of date—that I created more than two years ago.⁷⁹ Below is the text of the *Noise* page; graphical elements are omitted and the font is reduced:

⁷⁶See *supra* notes 62–64 and accompanying text.

⁷⁷See LAURA KALMAN, *LEGAL REALISM AT YALE: 1927–1960*, at 3–44 (1986) (describing legal realism).

⁷⁸See JOHN HENRY SCHLEGEL, *AMERICAN LEGAL REALISM AND EMPIRICAL SOCIAL SCIENCE* 160–71 (1995).

⁷⁹Univ. Hill Neighborhood Ass'n., *Noise*, at <http://hillneighbors.com/aNoise.htm>. Other neighbors took over the maintenance of the website in October 2001.

NOISE

You are entitled to quiet enjoyment of your home and neighborhood.

If neighbors are having a loud party that is disturbing your quiet enjoyment of your home, they are violating the Boulder municipal code noise ordinance.

- * The Boulder municipal code noise ordinance has specific provisions for what noise levels are permissible at certain times of day.
- * After 11 pm, amplified music that can be heard from more than 100 feet away (twice the typical lot widths in Boulder) is illegal.
- * Note, though, that even though a party may not violate these noise levels, the party may still violate your quiet enjoyment, which is an offense.

As a first resort, you may wish to call or visit your neighbors to ask them to reduce the noise level.

If that is not possible or you do not feel comfortable doing so, call the Boulder Police at 303-441-3333.

- * If the party happens to be hosted by CU students, you may also wish to let Vice-Chancellor of Students Ron Stump and Ms. Andrea Goldblum (Director of CU's Office of Judicial Affairs) know of your complaint and concerns. (You may send both of them e-mail by clicking on this link.) Be sure to let them know of the address of the party.
- * You should not assume that Vice-Chancellor Stump and Ms. Goldblum will automatically receive information about police intervention at noisy parties hosted by CU students. We have learned that information does not flow efficiently between the Boulder Police Department and CU. Sometimes the information does not flow at all; when it does, the flow is often slow. You can close that gap and speed the transmission of information by sending e-mail to Vice-Chancellor Stump and Ms. Goldblum.

Give the police as much information about the party as possible, including the street address of the party. Tell the police that the party "is disturbing my quiet enjoyment of my home." If there is amplified music (a stereo, for example), tell the police that you can hear amplified music from more than 100 feet. (Again, average lot width is 50 feet.)

The police will ask if you would like to be contact by an officer. Our experience is that you will get better and faster results from the police if you say yes. If you prefer, you can also say that the police should stop to see you "if needed." You can also say no if you prefer not to advertise the fact that you called cops on the party.

In addition, when you call the police about a noisy party, say specifically that you do not want the complaint "stacked" for Environmental Enforcement Officers but that you want regular police officers to respond to your complaint. You might also mention that Captain Sullenberger, the police dispatch commander, established a policy on 30 October that noise complaints on the Hill were not to be stacked for Environmental officers.

If you have trouble with police dispatch, please let Captain Sullenberger know.

Maximum Penalty for violation of Boulder's noise ordinance is a \$1,000 fine plus up to 90 days in jail. Typically, though, first time offenders get fines in the \$2-300 range, although recently one student party-giver on 14th Street received a \$525 fine for her first offense.

Follow-up: Contact the Landlord Victim Impact Statements

The first part of the *Noise* page identifies an abstract legal right and then sets forth the ordinance provisions protecting this right. The first sentence is, "You are entitled to quiet enjoyment of your home and neighborhood." Setting forth this right may seem banal, but one must keep in mind that in Boulder and on the Hill, the entitlement to quiet during the evening hours was contested, as many claimed that anyone choosing to live or remain on the Hill should simply accustom themselves to noise that students, as part of the natural order, were expected and entitled to make. Simple as it may seem to remind people of their right to quiet, it was a necessary first step. I believe that organizers of other neighborhoods should follow this simple example. Neighborhoods that have problems with, for example, burglaries, drug dealers on the corners, speeding, litter, or dog poop on lawns, a good first step is to remind and reinforce people's expectations that they are entitled to be free from these particular aggravations.

The second step on the *Noise* page was a reference to type of activity that most commonly violated neighbors' right to quiet enjoyment: parties. The *Noise* page further personalized the right and the violation by noting: "If neighbors are having a loud party that is disturbing your quiet enjoyment of your home, they are violating the Boulder municipal code noise ordinance." At this point, reference to the ordinance included a hyperlink to the relevant text of the ordinance itself. The page continued with specific reference to different parts of the Boulder ordinances. There are two different noise ordinances in Boulder. One specifies a per se rule that amplified music that could be heard from more than 100 feet violated the ordinance.⁸⁰ Knowing that not everyone could judge 100 feet easily, I noted that most Boulder lots were 50 feet wide, so noise audible from more than two lot widths violated the ordinance. The next type of violation was more qualitative than the amplified music ordinance. Boulder ordinances entitle people to not have the quiet enjoyment of their home disturbed, and the web page included a link to that ordinance.⁸¹

Noise and violations of municipal ordinances may seem to be petty and unworthy of the attention of law review readers, academics, or even practitioners. About this bias, I would like to comment. Law professors like to emphasize fancy issues such as constitutional law issues when they prepare their students to go out into the world to practice law and maybe even help some people. Criminal law professors like to emphasize high-end crimes, particularly felonies like murder and rape. But in the world at large, smaller, lower-level crimes that rarely implicate large constitutional issues are the bread-and-butter issues that really affect people's lives. In 1998 and 1999, for example, the Denver District Attorney's Community Justice Unit surveyed the people in two of Denver's

⁸⁰See BOULDER REV. CODE §§ 5-6-1(b), -2(c) (2002).

⁸¹See *id.* § 5-3-8(a).

neighborhoods about the problems that they faced.⁸² The two biggest issues were drug dealers and lack of parental supervision.⁸³ Dogs running loose was a big issue as well. The first issue was one that criminal justice professionals were prepared to engage, but lack of parental supervision and dogs are not the sorts of issues about which one learns either in law school or in practice. However, the dog issue was important to the neighborhood, and in order to both make a difference in their lives and in order to demonstrate their own effectiveness, the Community Justice Unit's lawyers and staff worked on both issues, because both issues were important to the community. So, noise may seem to some like a petty issue; try being repeatedly awakened at 2:00 A.M. by fireworks or drunks yelling in order to gain an appreciation for the importance of this issue to Hill neighbors.

After identifying the right to quiet and the ordinances that support that right, the *Noise* page turns to ways that a neighbor might secure quiet when a nearby loud party was disturbing them. The "first resort" was to call or visit the neighbors and ask them to quiet down. This is a neighborly thing to do. At times, students planning a party would give their phone numbers to neighbors and ask them to call if things got too loud. From the students' point of view, this was a good strategy as it reduced the chance that the police would come. However, from experience, neighbors knew that going over to a party in pajamas after midnight to ask dozens or perhaps hundreds of drunk students to quiet down was often ineffective, frequently dangerous, and always humiliating. Even telephoning generally yielded poor results. Nonetheless, this neighbor-to-neighbor approach to noise resolution was the first obvious resolution that the website suggested.

The next step—a big one—was to call the cops. Many, many things keep people from calling the police when they either observe or are victims of crime. Many people in the neighborhood found themselves unable to call the police. They feared retaliation. They hated to be involved. They did not want to get the people keeping them awake in trouble. They preferred to suffer in silence.

Knowing that neighbors were generally reluctant and afraid to call the police, and also knowing that people had been refraining from calling the police for decades, the web pages spell out in detail just how one went about providing police information about a noise violation. Part of the job of neighbors or criminal justice professionals organizing a neighborhood around issues of crime should be instruction in the details of speaking with police dispatchers in order to provide them with all of the information that the police will need in order to take action. Years ago, while living in Austin, I attended a neighborhood meeting in which the police offered instruction about making 911 calls. I found that discussion to be banal beyond belief; now that I have lived in a different neighborhood in which

⁸²Bill Ritter, Jr. & Susan M. Motika, *Community Prosecution Strategies in Denver*, COLO. LAW., Oct. 1999, at 41, 42.

⁸³*Id.* at 44 n.11.

people really did not know how to call the police, I appreciate the need for this basic instruction.

The remainder of the *Noise* page brings two additional stakeholders into play for noise problems, especially for noise violations connected with parties. First, the University of Colorado had announced in the fall of 2000 a new policy in which its judicial affairs officers would issue sanctions for alcohol and other violations, even when these occurred off-campus.⁸⁴ During the time that I lived on the Hill, these sanctions were largely theoretical, although the university has stepped up its enforcement since that time. The web page offers information on how to make sure that the relevant university officials found out about problems that had occurred off campus.

The *Noise* page also offers information about how to find and contact the landlords of houses with offending tenants. Early on, we discovered that landlords preferred to remain blissfully unaware of violations on the part of their tenants. As long as the rent continued to flow, landlords were generally unconcerned about what their tenants did to aggravate the neighbors.⁸⁵ We discovered that in some cases we could enlist landlords in redirecting the behavior of tenants. In cases where the landlords remained unconcerned, contacting the landlords gave neighbors the opportunity to express to the landlords the harm that their tenants and, in some cases, the landlords themselves were doing to the neighborhood.

Taken together, the *Noise* page with all attendant instruction and hyperlinks, which made it easy to send complaints to the university's judicial affairs officers and to communicate with the municipal court staff, appears to be an efficient mechanism for delivering noisy student neighbors into the hands of police, landlords, and university judicial affairs officers for arrest, eviction, and suspension from school. In practice, though, the efficient mechanism generally faltered on the first step: neighbors calling the police. Throughout the neighborhood, few people were willing to call the police, although many visited and read the website's pages. Reading the pages and understanding the procedures may perhaps have had the effect of accustoming some people to the idea that some of their neighbors would be summoning the police for assistance, but generally, there were only a few people willing to make the call to the police. Later, with the development of a community-policing model, a few more neighbors stepped forward and developed a willingness to call the police to report violations and disturbances.

⁸⁴Univ. of Colo. at Boulder, *Three Strikes; Sanctions at CU-Boulder* (2002), at <http://www.colorado.edu/StudentAffairs/alcohol/students/threestrikes.html>; Pam Regensberg, *Students: Three Strikes You're Out, New Policy Means Alcohol, Drug Convictions Can Lead to University Suspension*, BOULDER DAILY CAMERA, Aug. 29, 2000, at 1A.

⁸⁵Greg Avery, *Rental Ordinance Proposed Measure Would Punish Landlords Who Ignore Chronic Tenant Violations*, BOULDER DAILY CAMERA, Aug. 19, 2001, at 1B.

C. *Victim Impact Statements*

The *Noise* page also includes a link to a web page entitled “Victim Impact Statements.”⁸⁶ With regard to restorative justice, this link was the most important link. Indeed, in all of the tools pages on the hillneighbors.com site, the victim impact pages probably had the most impact.

Victim impact statements, as the name suggests, are statements by victims of crimes concerning the harm that a particular crime has caused. Victim impact statements are familiar to law professors in high-end felonies, such as murder, as opportunities for the victim’s families to address the court.⁸⁷ Typically, prosecutors are the criminal justice professionals who ask victims or their families to provide victim impact statements.

As with other pages on the hillneighbors.com site that addressed the basic issues concerning noise, garbage, overoccupancy, and alcohol, the *Victim Impact Statement* page offers basic instruction as to what the statements are and their utility to judges and prosecutors. The page also includes the following description of what to include in a statement:

In your statement, explain the impact upon you of the crimes that have been committed in your neighborhood. You should mention the impact on your quiet enjoyment, the emotional impact upon you and your family, and the reduction in your property value.

The page also linked to two exemplars of statements about a noisy party. The victim impact statement page also included a hyperlink that allowed neighbors to e-mail a statement directly to the Boulder municipal court’s restorative justice coordinator.

The victim impact statements proved to be the most important part of the noise and other crime-tool pages. Notwithstanding their reluctance to call the police, neighbors were great writers of victim impact statements. Using the website, we facilitated the sending of victim impact statements to the municipal court, whose judges read and used the statements in order to understand the impact that Hill crimes were having upon the neighborhood. In this way, one might more properly refer to the statements as community impact statements. On several different occasions, we solicited neighbors to produce impact statements and were successful in collecting such statements from neighbors who would never have considered calling the police.

⁸⁶See, e.g., COLO. REV. STAT. § 16-11-102(1.5) (2002) (defining types of statements that may qualify as victim impact statements).

⁸⁷Elizabeth E. Joh, *Narrating Pain: The Problem with Victim Impact Statements*, 10 S. CAL. INTERDISC. L.J. 17, 21–23 (2002); Amy K. Phillips, *Thou Shalt Not Kill Any Nice People: The Problem of Victim Impact Statements in Capital Sentencing*, 35 AM. CRIM. L. REV. 93, 94 (1997).

During the summer of 2001, for example, many neighbors wrote statements concerning the impact that nightly fireworks explosions had upon them, their families, and even their pets. That summer, we experienced many aerial explosions of bottle rockets, which was especially annoying after 2:00 A.M. Using the website, the neighborhood e-mail list, and also a printed newsletter that the association distributed, a member of the association's executive committee asked association members to write statements concerning the impact of fireworks. Judge Sheila P. Carrigan, the Boulder Municipal Court judge and Boulder's most important advocate of restorative justice, collected these impact statements into a binder. When an offender charged with a fireworks offense was in her courtroom, she would have the offender read through the statements before sentencing. Judge Carrigan used the binder of fireworks impact statements to educate the defendant before her concerning the impact of her or his offense, as well as to broaden the defendant's own understanding of the impact upon the neighborhood.

Neighbors put their thoughts into writing on other occasions as well. Especially eloquent were a collection of victim impact statements written to support an overoccupancy prosecution against a landlord whom neighbors regarded as one of the worst in the neighborhood. Written from a variety of points of view, these statements about a house, known as "Volleyball House," nicely present the attitudes of neighbors who had grown sad and frustrated in watching their neighborhood decline. These statements, written from a variety of standpoints, are collected in Appendix A.

There are two important points to make about the use of victim impact statements. The first point is that the sharing of statements among the neighbors was very important—essential in my view. Sharing the statements served the same function as speaking out at the Community Justice Council. Reading another person's statement of the harm that she has experienced helped to validate the same feelings that other neighbors had. Sharing the statements was consistent with the redefinition of crime as harm to the neighborhood. Victim impact statements that go only to the prosecutor, for example, replicate a definition of crime as harm to a single individual. Sharing the victim impact statements among the affected community members more accurately tracks the definition of crime as harm to the entire neighborhood; indeed, sharing the statements transforms them from being victim impact statements into community impact statements. In this way, a prosecutor's refusal to take community impact statements is a refusal to recognize crime as harm to the community.

The second point about victim or community impact statements, in my opinion, is that they are so powerful that community organizers should facilitate their creation. As I noted, even neighbors who were afraid or reluctant to call the police would write impact statements. As with everything else that the Hill neighbors did, we used the web and e-mail to produce statements. As I have emphasized, I believe that using the Internet to facilitate the creation and *posting*

of statements is possible in more neighborhoods than many think. However, in neighborhoods where computers and Internet access are not so widely available, good, old-fashioned handwritten letters get the job done equally well. Another possibility is using students or neighborhood youths to collect statements from neighborhood residents, either handwriting them or typing them into laptops. Videotape or audiotape can serve the same purpose. Neighbors affected by crime could speak about it on camera or, more anonymously, on audiotape. The tapes, when listened to or viewed by other neighbors, or by offenders, judges, or prosecutors, would present the harm to the neighborhood in a powerful way. Neighborhood organizers could also collect stories on post cards and then later assemble them into a printed newsletter or web pages.

D. Community Policing

The neighbors also developed a program of community policing, which I will very briefly describe.⁸⁸ For a long time, the community policing effort consisted of four to six men in the neighborhood who would walk around the neighborhood during prime party hours in groups of two to four with cell phones. For the most part, these groups strolled the fringe between the heavily studented part of the neighborhood and the area where homeowners lived. As anthropological fieldwork, these walks were extremely interesting.

When these neighbors would spot loud or drunken parties of problematic size, they would call them into the police. The neighbors had no reason to call about parties that were contained or not disturbing the neighborhood with noise. Additionally, whenever the neighbors spotted more serious crime—brawling, assaults, drunk driving, for example—then they would call the police about these crimes as well. There was one exception to the unwritten rule that the neighbors monitored the area at the border between the students and neighbors: fireworks. Because the neighbors really hate fireworks, and because one good bottle rocket could wake people up within a mile radius, patrolling neighbors would search for fireworks offenders beyond the usual limits, often well into the “Anything Goes Zone.”

This community policing effort was symbolically and politically contentious in Boulder. Notwithstanding the fact that the neighbors reported crime to the police, Hill neighbors who participated in the neighborhood watch were called “vigilantes.” The same preconditions that give rise to vigilante activity did indeed exist on University Hill, namely crime plus a lack of enforcement. However, Hill neighbors never took punishment into their own hands; for example, they never

⁸⁸See, e.g., KENNETH J. PEAK & RONALD W. GLENSOR, *COMMUNITY POLICING AND PROBLEM SOLVING: STRATEGIES AND PRACTICES* 167–70, 315–17, 321–46 (2d ed. 1999) (describing efforts of police agencies across United States to implement community policing as new method to address crime and disorder).

captured drunken students or bad landlords in order to beat them up. Furthermore, no neighbors invaded parties with axes in order to chop apart stereos or smash kegs in the style of Carrie Nation. Even so, there were many who viewed the community policing with great suspicion. In October 2001, one landlord wrote to the City Council complaining of vigilantes.⁸⁹ Spense Havlick, a City Council member and CU professor who was sympathetic to the landlord, referred to the neighborhood watchers as a “roving brigade.”⁹⁰

The labeling of the Hill neighbors’ community policing effort as vigilantism is another good indicator of the reluctance, within Boulder’s unusual legal culture, to invoke the power of the state against CU students who engaged in criminal and deviant behavior. In most communities, police are eager to have citizens participate in the identification of criminal activity and criminals. Boulder’s police were initially very reluctant to cooperate closely with the neighbors, but with time the Hill neighbors have developed a warm relationship with the police. Since the time that I left the neighborhood, the police have helped to institutionalize the Hill watch as part of a program called Boulder Citizens on Patrol (BCOP).⁹¹

IV. REPAIRING THE HARM

The story that I have described thus far need not lead to any results that one would necessarily term restorative justice. Along with other members of the University Hill Neighborhood Association, I helped to create mechanisms that would help the neighbors to understand the harm being done to the neighborhood, to act upon it by calling the police more often, and to chronicle the harm using victim impact statements. The writing of victim impact statements, the participation in community justice councils, the attendance at association meetings, and the communication using e-mail all roused the neighbors to action. One form this action might take was more calls to the police, to landlords, and to the university, with the effect that more students would be arrested and kicked off the Hill and maybe out of the university. The neighbors were very angry. If they had been lawless, then whipping them into a frenzy could push them toward vigilante action, with pitchforks, blazing torches, and rifles.

Even though many of us were very angry—so angry that in extreme cases a few of the neighbors refused to even look at students when they passed them on

⁸⁹Posting of Jan McRoberts, janremax@gudas.com, to Council Hotline (No. 01-101602, Oct. 16, 2001), at <http://www.ci.boulder.co.us/cmo/citycouncil/hotlist1001.htm> (arguing that “[b]ecause of vigilante behavior being exhibited, we know that these new ordinances would not be used just in the severe cases”).

⁹⁰Response from Spenser Havlick to Posting of Kirstin M. Jahn, trademarks@kmjlaw.com, to City Council Hotline (No. 01-101201, Oct. 12, 2001), at <http://www.ci.boulder.co.us/cmo/citycouncil/hotlist1001.htm>.

⁹¹See City of Boulder Police Dep’t, *Boulder Citizens on Patrol*, at <http://www.electroactive.com/clients/bpd/1/community/bcop.htm> (n.d.).

the street—we chose a different path. In great measure due to the guidance that Judge Carrigan provided through her leadership of the Boulder Municipal Court, we began to adopt the language and some of the techniques of restorative justice as solutions to some of the problems that plagued the Hill.

A. Accountability

One of the conceptual foundations of restorative justice practice is accountability. This aspect of restorative justice has appeal for political conservatives, who may otherwise see restorative justice as too soft on crime. As with the redefinition of crime, accountability also turns out to be very powerful. Increasingly, we began to point the finger of blame at ourselves. That is, we explicitly held ourselves accountable for the past harm and ongoing harm to our neighborhood. We did not do this from the start, but once we more fully embraced restorative justice, we began to hold ourselves accountable. Having held ourselves accountable for the decline of the neighborhood, we also asked the city staff, the university, and, of course, offenders, to hold themselves accountable. In retrospect, I believe that we would have had greater success if we had more fully explored our own accountability from the outset.

B. Community Group Conferences

The restorative justice initiative on the Hill included community group conferences. Conferencing is central to restorative justice practice and takes a variety of forms.⁹² The heart of the conference is the face-to-face meeting of the offender and the victim or victims. Conferences are remarkable for many reasons. Most notably, victims do not seek vengeance. Equally important, offenders hold themselves accountable and accept blame.

During the time that I lived on the Hill, neighbors participated in a number of community group conferences, most of them involving students but some involving landlords. I saw the attitudes of the neighbors toward students soften as the neighbors got to know the students as persons. Neighbors who participated in conferences grew less angry. Indeed, genuine friendships between neighbors and student-offenders developed following some conferences.

When introduced to the idea of conferencing, law professors, lawyers, and law students have a bad tendency to imagine conferences between murderers and the families of their victims or between rapist and their victims. Such conferences are indeed fraught with peril, and they happen only very rarely and after a great

⁹²See generally Allison Morris & Gabrielle Maxwell, *Restorative Conferencing*, in *RESTORATIVE COMMUNITY JUSTICE: REPAIRING HARM AND TRANSFORMING COMMUNITIES* 173, 173–97 (Gordon Bazemore & Mara Schiff eds., 2001) [hereinafter *RESTORATIVE COMMUNITY JUSTICE*] (describing different conferencing models).

deal of preparation on both sides.⁹³ Murder is an unusual event, and one should not generalize about the criminal justice system using murder as an example. One should not use murder as the test case for restorative justice; the better test cases are the ordinary crimes that affect people in their everyday lives.

The first victim impact statement that I wrote led to my participation in the first community group conference on the Hill. The pattern of this conference was the same as for subsequent Hill conferences, although the outcome in my first conference was more punitive than in subsequent conferences. In our model, the first step toward conferencing was either a ticket or an arrest. The restorative justice coordinator for the Boulder Municipal Court, Ms. Loree Greco, would screen municipal court defendants when they made appearances in order to select offenders for whom conferencing was appropriate. She looked for offenders who were willing to hold themselves accountable for having caused harm and who would be willing to sit down with affected parties in able to discuss how to repair that harm.

Ms. Greco prepared everyone for the conference and facilitated the meeting. My first conference included Ms. Greco, the offender, her roommate, myself, and another neighbor. We agreed to confidentiality, so I will offer only a general outline of what we discussed. First, the offender discussed the planning of her party and talked about what had gone wrong during the course of the party. She discussed her realization that the party had grown too large and beyond her control. She accepted responsibility for the noise that she and her 150 to 200 guests had generated and acknowledged the risk that the party posed to the neighborhood. Her roommate, who was there as a supporter and not as a defendant, spoke along similar lines but was less active in the conversation.

The other neighbor and I explained the harm that we felt her loud party had done to the neighborhood. We linked the discussion to the September riot, which had happened one block from her house just two weeks before she held her party. We talked of how alarmed the riots made us feel. We explained to her just how close we lived to her, and how her party kept us, our wives, and our children awake. Just across the alley behind her house were homeowner-occupied houses, including one with small children—mine—and another in which a woman in her seventies was nursing her husband with Parkinson's disease. The offender and roommate acknowledged that they had never noticed anyone other than students in the neighborhood. Not noticing the neighbors who were nonstudents, we discovered in other conferences and conversations, was common among the students living on the Hill. We explained the danger that we felt when large parties on the Hill unleashed hordes of drunken minors into the neighborhood. We

⁹³See VAN NESS & STRONG, *supra* note 69, at 186–90; Concentric Journeys, *About the Founder and Facilitator of Concentric Journeys*, at <http://concentricjourneys.com/founder.htm> (n.d.) (offering first-hand perspective from restorative justice facilitator).

also talked about the annoyance of the plastic cups, which blew about the neighborhood after parties.

The community group conferences had two broad sets of goals. The first goal was the development of competency. At the most basic level, the idea of developing competency means helping offenders develop skills that will keep them out of trouble in the future. In some neighborhoods, this might mean getting youth offenders into programs that will help them develop learning or work skills that will keep them in school or get them jobs—the competency developed may have nothing directly to do with the crime under consideration. On the Hill, for offenders, the neighbors' goal was to help students to see us, think about us, and try to avoid activity that made us feel unsafe or kept us awake at night. Sometimes the goal of competency development is expressed differently as reintegrating the offender into the neighborhood or community. For us, this meant enabling the student offenders to see that they were part of a mixed neighborhood that included nonstudent homeowners with different goals and interests than their student neighbors.

The development of competency on the part of the *neighbors* was also a goal, and result, of the conferences. Before we started conferencing, the neighbors had no empathy for students who broke noise or alcohol laws. Too many late-night awakenings had destroyed our capacity for empathy. Initially, neighbors came to conferences very angry; one of Ms. Greco's jobs as facilitator was to channel and redirect the anger of conference participants into useful, respectful conversation. Early on, the conferences helped to open neighbors' eyes to the near universal oppression that students felt at the hands of their landlords. We learned shocking stories about threatening or unresponsive landlords; and we encountered first hand the disappointment and disgust that students accustomed to living respectable, middle-class or upper middle-class lives felt when they found themselves jammed into dilapidated, dirty, and crowded rental housing. We also began to understand students' dissatisfaction with a university that was unresponsive to their needs. We also came to understand that students who were under twenty-one years old—that is, too young to drink—felt that there were no evening or nighttime recreational outlets in Boulder save for drinking from kegs on the Hill. We knew that they were right about this. Finally, we also were reminded in the conferences that our offending, youthful neighbors were simply young and having trouble finding their way in the world. Finding themselves as sophomores—nineteen or twenty years old—packed into houses on the Hill where the beer flowed freely and with no guidance as to the simplest of things such as when to put out recycling, who the neighbors were, or how to get a parking permit, our student neighbors predictably and naturally got into trouble.

Without conferencing, we would have learned nothing about our student neighbors, and they would have learned nothing about us. Absent restorative justice, students would have faced punishment for violating the laws of the state or the ordinances of Boulder. They would have paid fines after wading through

an ungainly municipal court procedure. They would have been punished, and, most likely, the process would have been the punishment.⁹⁴ The offenders would never sit down with the victims; they would never speak together. Each side would have gotten angrier and angrier. They would not have sharpened their empathic skills.

The second goal of the conferences was to reach an agreement that worked to repair at least some of the harm done to the neighborhood. All of the participants in the conference, including the offender, must reach agreement as to how the harm should be repaired. The facilitator is there to keep the victims from bowling over the offender, but in most instances on the Hill, there was no need to restrain the neighbors, as they tended to empathize quickly with the offenders. As part of the agreement that we reached in the first conference, the offender wrote a letter about the consequences of her loud, out-of-control party. She lived in a block that was all students, and she distributed the letter to each of her neighbors. The letter also ran, with her consent, in Boulder's daily newspaper.⁹⁵ She also picked up the trash on the street and paid \$525 of a \$1,000 fine.

The text of the letter is as follows:

To those of you who are not familiar with what has occurred at 920 14th Street, let us fill you in.

In the early days of September, we decided to have a large party in celebration of the new school year. Unfortunately, we have been paying for our poor decision ever since. The party got out of hand and incredibly loud. Because of this, it upset quite a few of our neighbors down the alley and even a block up.

We did not take into consideration the inconvenience of this occasion for our neighboring families and elders. Many of us forget that although we live in an area that consists mostly of college students, we are not the only ones that choose to live here.

In the duration of our sentence, we have had the opportunity to talk to these neighbors and hear what it is that concerns them most about the deteriorating state of their streets. Their four main concerns are 1) the level of noise after hours, 2) the distribution of alcohol to minors, 3) the amount of litter that accumulates on the street, and 4) the illegal over-occupancy of housing.

The level of noise after hours may not seem like a big thing to students partying on a Friday night, but there are also professionals that live among us who have been working all day and would like to rest.

⁹⁴See generally MALCOLM M. FEELEY, *THE PROCESS IS THE PUNISHMENT: HANDLING CASES IN A LOWER CRIMINAL COURT* 199–243 (1979) (arguing that process of handling misdemeanors and lesser felonies in Court of Common Pleas in New Haven, Connecticut is punishment in itself).

⁹⁵*Students Paid High Price for Hill Party*, BOULDER DAILY CAMERA, Feb. 3, 2001.

There are also many children in this area that are trying to sleep with their windows open on warm nights. It is unfair of us to be so selfish. We, at 920, learned this the hard way.

The environmental police showed up at our house and were kind enough to give us a warning. The second time they showed up, we were issued a ticket for \$1,000. This put quite a dent in our pockets. The city is not joking around about noise violations.

We all know that it is incredibly easy to obtain alcohol at any age in this town. This may seem like a great reason to live here, however, it is a huge concern for parents of younger children. How hard would it be for a child to be walking home from a friend's house and be given alcohol by some drunk college student? How would you feel if your 10-year-old was given a beer? We are obviously not at our most responsible when we are drinking. We know that attacks are not an uncommon occurrence around here, and many parents are also worried about young girls' safety on their way home. Again, what if it was your child?

The repercussions of our alcohol intake and distribution were two MIPs [Minor in Possession] at the cost of \$100 each. This brings our tab up to \$1200. It was not a cheap party.

During a weekend on the hill, assume that each student goes through three plastic cups. Then assume that at least half of the students on this campus are out partying. That's roughly 40,000 cups that can get strewn onto the street in a given weekend. We may choose to ignore the litter, but it is still a huge problem around the hill, and many people are quite upset about it. We need to take into consideration the feelings of those who are not out partying and want their homes to look nice.

Lastly, the over-occupancy of housing on the hill is a prominent problem in Boulder. Many people may not know this, but the Boulder statute states that there may not be any more than THREE unrelated people living in a house. Breaking this statute is cause for eviction. This has been the biggest repercussion for our house. We had seven girls living under one roof, and we have all been forced to move out due to the one party that we had. The city was alerted to the fact of our living status, and we had to deal with housing inspection, finding new places to live, and moving out altogether.

When a house has that many people living in it, there is a greater chance that a party will have six times the number of people show up because we all have different friends. This can lead to more noise, more trash, and a greater number of people drinking under age. It is hard enough to keep track of the people at your parties.

In conclusion, our house has dealt with court time, \$1,200 in fines, eight hours of community service, mediation with our neighbors, this

letter to all of those on the 900 block of 14th Street, and moving out of our house. This is a large price to pay for one night of partying.

Please take into consideration the feelings of those who live around you—not just the adults or families, but also the students who aren't out partying. Our neighbors aren't against small, controlled parties with you and a few of your close friends, but think about what you are doing and the consequences of your actions. You can be responsible and still have fun.

From . . . the ex-residents of 920 14th Street.⁹⁶

Other conferences generated a variety of different agreements, several of them quite interesting. One film student made a very nice film about problems of alcohol abuse in the neighborhood.⁹⁷ The neighbors helped him to distribute the film and, predictably, we mounted it on the web for him. Another offender—a nonstudent convicted of a graffiti offense—worked closely with a neighbor, helping to log instances of graffiti in the neighborhood. He worked with her in her house logging files of complaints on her computer about graffiti within the city of Boulder.

The conferences, then, served several important goals, which I would also identify as fundamental restorative conceptions. First, the conferences reinforced a definition of crime as harm to the neighborhood or to the relationships within the community. Second, the conferences repaired some of the harm done. Offenders apologized and meant it. Some sort of good for the neighborhood came out of the agreements entered into at the end of the conferences. Third, the conferences built some skills for the offenders and also for the neighbors. Everyone became better neighbors. Finally, the conferences also helped to reintegrate or perhaps integrate the offenders into the neighborhood by giving them a stake in the neighborhood and also by allowing everyone to get to know everyone else. Real friendships emerged between the permanent neighbors and students as a consequence of these conferences.

C. Sentencing Circles

Another restorative justice technique that we employed in the neighborhood was a sentencing circle.⁹⁸ A sentencing circle resembles a group conference except that, as the name suggests, a sentencing circle comes later in the process,

⁹⁶*Id.*

⁹⁷Videotape: A Message for Freshman Entering the Neighborhood Community (Neal Williams 2001).

⁹⁸See generally Barry Stuart, *Guiding Principles for Designing Peacemaking Circles*, in RESTORATIVE COMMUNITY JUSTICE, *supra* note 92, at 219, 219–41 (describing peacemaking circles and proposing guiding principles for designing and using them).

after adjudication of the offense. Otherwise, the sentencing circle is much like a conference. An offender, along with some supporters—roommates, friends, family members—meets face-to-face with the victims, in our case the neighbors. Ms. Greco, from the Boulder Municipal Court, facilitated.

One of CU's fraternities had a prominent house with a large, second story outside deck. During the summer of 2001, the fraternity had many loud parties on that deck until 2:00 or 4:00 A.M.⁹⁹ The president of the chapter received a noise ticket. The fraternity's officers had the option of paying a \$2300 fine, or they could have entered into a group conference with the neighbors. Instead, they hired an expensive lawyer and put on an elaborate defense during a six-hour trial at which they got all sorts of due process. I would estimate that the cost of the defense was at least \$10,000—they lost.

After losing at trial, the fraternity members assented to join a sentencing circle. As a starting point, they faced a maximum of a \$2000 fine and ninety days in jail. Officers of the fraternity participated in the circle with four neighbors. What the members of the circle developed and agreed upon was a good citizenship plan by which they would keep themselves quieter and keep their yard neater. As well, an architect within our group started helping them do some site planning so that they could more efficiently manage their parking situation. They paid no fine, and no one went to jail. Since the sentencing circle, a number of neighbors have developed warm relationships with individual fraternity members.

D. Cleanups

The most effective restorative justice venture in the neighborhood—and the only one that lasts to this day—are Hill cleanups that take place on the third Saturday of every month. Neighbors—in particular one heroic neighbor—have invested a great deal of energy and emotion in these cleanups. As with the conferences and sentencing circles, the cleanups depend upon the municipal court to deliver convicted offenders to the Hill for the cleanups. The defendants committed their offenses on the Hill, and they return to the Hill to perform one or more cleanups as community service work. That is to say, they return to the neighborhood that they harmed in order to repair some of that harm. Municipal court offenders work alongside neighbors, picking up trash and recyclables, putting them into rolling bins that a Boulder trash and recycling company donated.

Hill cleanups remove trash from the streets, but the more powerful effect of the cleanups comes with the conversations between the offenders and the neighbors. As they work together, rolling a big plastic bin, offenders get to know

⁹⁹Peter Sandberg, *Fraternity Complains About Complaints, Group Reporting More Noise Violations*, BOULDER DAILY CAMERA, July 4, 2001, at 1B.

the neighbors and begin to understand their concerns. The reverse is also true, as neighbors learn about the offenders' lives, hopes, and fears. The principal organizer of the cleanups describes the empathic and emotional breakthroughs accomplished during cleanups as "spine-tingling." For the offenders, the cleanups also help to develop a stake in the condition of the neighborhood. Picking up plastic cup after plastic cup; delivered, unread newspaper after newspaper; or cigarette butt after butt develops a sense of indignation in the offenders at the condition of the neighborhood. Cleanups proved to be more effective than the conferences in getting offenders to understand the impact that their actions had upon others in the neighborhood. The cleanups, of course, serve goals of repair, development of competency, and integration into the neighborhood.

V. THE FALL OF RESTORATIVE JUSTICE

By the fall of 2001, the neighbors had made substantial progress in organizing themselves, cleaning up the neighborhood, and in reducing the aggravations associated with Hill parties. Restorative justice was an important part of this success; although more purely punitive approaches—tickets, fines, and occasional weekends in jail—played an important role as well. The most successful restorative justice initiative was the Hill cleanup, which continues to this day. As well, though, neighbors and offenders regularly participated in community group conferences, which were generating good results for the neighborhood, including friendlier relationships between the neighbors and students. Boulder's Municipal Court judge was extremely supportive of these efforts, which were largely driven by the needs and efforts of the neighbors themselves. That is to say, Boulder's community justice system had become responsive to the needs of the neighborhood. The neighbors' new sense of crime as harm to the neighborhood, an acknowledgement of their own accountability even as they demanded others to be accountable, and the goal of repairing harm to the neighborhood had combined to supplant a formerly unresponsive model of criminal justice with one that had begun to respond to neighborhood needs.

During the fall of 2001, the restorative justice initiative on the Hill fell apart. The decline of restorative justice initiatives on the Hill began with an assault that Hill landlords launched in tandem with some of their tenants at a Boulder City Council meeting in early October 2001. Together, the landlords and students—nearly all of whom were municipal court defendants—came to the council to complain not only that members of the neighborhood association were too aggressive in seeking to have ordinance and other violations prosecuted but also that the community policing effort had turned into trespassing, harassment,

and vigilantism.¹⁰⁰ As a consequence of these charges, neighbors—including myself—backed away from efforts to contact students directly when, for example, their parties disturbed us with noise. Although we had been developing successful, respectful relationships with students using community group conferences, cleanups, and in many other meetings, we shifted away from close contact with our student neighbors. When faced with a loud student party nearby, instead of an initial phone call or knock on a student neighbor's door, we called the police rather than risk facing a claim that we had trespassed on a landlord's property in order to harass student tenants.

The death of restorative justice in Boulder came a week after the contentious council meeting, when Boulder's City Council fired Municipal Court Judge Carrigan. In Boulder, the municipal court judge is an employee of the council. Council members suspended Judge Carrigan on October 9, 2001,¹⁰¹ and on October 12, the city issued a press release indicating that Judge Carrigan had resigned.¹⁰² Council members never discussed publicly their reasons for firing Judge Carrigan, and the reasons for her suspension remain shadowy. Judge Carrigan, formerly the greatest advocate of restorative justice in Boulder, is now a real estate agent, using the slogan "Sheila Carrigan, a great judge of real estate" to advertise her business.¹⁰³

Judge Carrigan's departure completely changed the neighbors' relationship to Boulder's criminal justice system and re-estranged the neighbors from the municipal court. The municipal court restorative justice coordinator, Ms. Greco, found that after Judge Carrigan's departure, she no longer had cases referred to her for conferencing. She was left with a job title but no restorative justice work to do. The court administrator, who assumed greater powers when Judge Carrigan departed, worked to isolate the municipal court, its staff, and judges from contact with the community. This process of reinsulating the court from the community reflected unresolved tensions concerning the role that community needs should play in the adjudication of crime. By February 2002, Ms. Greco resigned her position.¹⁰⁴

The final element in the fall of restorative justice came with the December 1, 2001 riot. At the start of the final examination period and after a football victory, a riot consumed the Hill. At least 1500 rioted on the Hill. They had multiple bonfires, attempted to overturn cars, tore down signs and streetlights, and threw objects at the police. The police used percussion grenades to drive rioters

¹⁰⁰Minutes of the Boulder City Council Meeting at City Council Chambers, Boulder, Colo. 1–2 (Oct. 2, 2001), at <http://www.ci.boulder.co.us/clerk/agenda/2001/011016/03a.2.pdf>.

¹⁰¹Greg Avery, *City Council Suspends Judge, Municipal Judge Suspended with Pay; Reason Confidential, Officials Say*, BOULDER DAILY CAMERA, Oct. 9, 2001, at 1B.

¹⁰²News Release, City of Boulder Public Affairs Division, *Municipal Judge Resigns* (Oct. 12, 2001), available at <http://www.ci.boulder.co.us/comm/pressrelease/2001/1012b.html>.

¹⁰³Sheila Carrigan, *Shelaw Homes*, at <http://www.shelawhomes.com>.

¹⁰⁴Ms. Greco is now the community court planner for the City and County of Denver.

off the Hill and toward CU's campus and filled ten square blocks in the neighborhood with tear gas in order to disperse the rioters. This riot, the first in the United States after the September 11 terrorist attacks, provoked strong negative reactions by state legislators, forced CU officials to begin taking more serious disciplinary action, and pushed city officials past their own high limits of toleration for Hill deviance. As well, many of the student leaders were appalled as they began to recognize the damage that eight riots in a four-and-a-half-year period were doing to the reputation of their alma mater.

VI. CONCLUSION

The rise and fall of restorative justice on University Hill taught us many lessons. We learned positive lessons during the rise about the efficacy of restorative justice, and we also watched with some wonder at the transformative power of restorative practices. During the fall we came to realize that the transformation that we hoped for was impossible given the character of Boulder's legal culture.

For about one year after the fall 2000 riots, we had substantial success incorporating restorative justice ideas into our neighborhood organizing efforts. We reconceived of crime as harm to the neighborhood and held ourselves accountable at least to some extent. Fortified by a new conception of crime and looking for accountability, we applied considerable pressure on Boulder City government, CU, its students, and Hill landlords.

Part of what we successfully changed was some attitudes about law enforcement on the Hill. Against the backdrop of Boulder's culture of nonenforcement, any increase in the amount of enforcement activity appeared to be great. In the eyes of partying students and lawbreaking landlords, the changes we made amounted to a change in the rules of the game. Their response was to claim injustice or to characterize lawful complaints as either vigilantism or harassment. Although we were never successful in increasing substantially the number of people with the gumption to call the police, we did increase the number of calls by forming a neighborhood watch that had the effect of increasing the amount of support for those who were willing to call the police. More importantly, the attitude of the police changed quite dramatically, and the neighbors began to work in partnership with the police.

There was an escalation in the demands for accountability on the part of those who committed the crimes—landlords and students—or those who created conditions that allowed crimes to happen—city staff and again, landlords. We used the language of restorative justice when we made demands. We used the language of restorative justice—harm to the neighborhood, in particular—and we used restorative practices such as conferencing, sentencing circles, cleanups, victim impact statements, and community policing. Our concern about harm to the

neighborhood was tied to practices that we used to repair harm to the neighborhood. In tandem, the twin concepts were very powerful.

Fortified by conceptions of restorative justice, our neighborhood moved quickly. In part this was necessary, because a number of us realized that we had to make as much progress as quickly as possible while there was the energy to accomplish change. However, we ran into problems. The municipal court judge was our strongest supporter, but we knew that other court staff members, including the court administrator, were uncomfortable with or hostile to the new regime that we ushered into Boulder. We increased the workload of the municipal court and its staff by bringing more cases. By demanding that other city staff write more tickets, we created more work for the court staff—we heard through the grapevine that court staffers had shifted the “balance” on the Hill. *We* had, of course. We shifted from a regime of nonenforcement that privileged lawbreaking to a new regime in which the neighbors expected that law would be enforced.

In addition to changing the workload of the municipal court and city staff in ways that made them have to work harder, our approach to and success with restorative justice raised troubling and legitimate issues concerning the structure of Boulder’s criminal justice system. Our chief allies were the judge and her staff member, Ms. Greco. Exactly where in the criminal justice system our restorative justice efforts should have attached is a good question. We began to wonder whether the restorative justice coordinator would be better housed with the prosecutor or perhaps independently of the prosecutor and court. This was a legitimate bureaucratic and structural issue, one that we would have been happy to discuss and attempt to solve. Unfortunately, before we could do that, Judge Carrigan was fired.

Ultimately, I have concluded that our restorative justice efforts were doomed to failure because the city of Boulder—its council, many staff, and many of its citizens—simply are not committed to the rule of law. Boulder hovers between extreme liberalism in some cases—protecting open space or prairie dogs or, more recently, in declaring itself a bird sanctuary—while at the same time recoiling from enforcing other categories of laws, such as land-use, noise, and garbage regulations. Enforcement of its ordinances counts, in my view, as one of the fundamental things that a polity must do in order to call itself a polity. Enforcing the law is the basic attribute of the rule of law. Since I have left the Hill, there has been some improvement on this score, but neighbors still have to wrestle with against a legal culture in which the nonenforcement of laws is the background norm.

The final lesson, then, is an important one for jurisdictions that are considering adopting more restorative approaches to issues of crime. Restorative justice is not an outlet for little polities that really do not want to enforce the law. In talking with city or university officials who express interest in adopting restorative practices, the first question that I now ask is whether the city or

university is committed to enforcing its own laws. If the answer is no, then restorative justice cannot be their answer.

Boulder presently has no restorative justice coordinator in its municipal court and, I suspect, will not fill the position for a long time, if ever. In my view, Boulder turned to restorative justice because city officials and staff were under the mistaken impression that restorative justice was a mushy approach that would give a trendy veneer to a general practice of nonenforcement. They were wrong, and that they were wrong should, I believe, be of some solace to conservatives who might view restorative justice suspiciously as a wacky liberal thing that one does while singing *Kumbaya*. Restorative justice fell on the Hill because restorative justice empowered members of the community to ask for more effective enforcement of Boulder's laws in order to repair harm to the neighborhood and prevent more harm from happening. Restorative justice empowered us to make more demands on our local government. Meeting our demands would have meant that the city of Boulder would have had to enforce its own laws, which was something that the city of Boulder is not prepared to do.

APPENDIX A: VICTIM IMPACT STATEMENTS

*Overoccupancy Case at 1250 Forest*¹⁰⁵

1. The Peony Garden

Dear Loree Greco:¹⁰⁶

We live just half a block from 1250 Forest Avenue. Here's how the misbehavior in the house has had an impact on our lives.

a) Visual. Until a decade or so ago, it was a pleasant house with a handsome peony garden, lovingly tended by the couple who grew old and died there. Since then, it has become a rental property and has deteriorated into a wasteland. First, the plants were allowed to a dusty death, then the garden became an intermittent parking lot, and at last the area that had been a garden was dumped with sand and was turned into a volleyball court. For most of last year, we watched an upholstered couch and some other indoor furniture gradually rot. Usually there are beer cups and beer bottles and empty cigarette packs and decaying cardboard boxes strewn about. The park front area is virtually paved with cigarette butts. There's a low wire fence on the west side of the property, but it's been bent down to the ground. It's total and absolute neglect. To the best of my knowledge, the owner of the property hasn't spent a nickel on watering or five minutes on

¹⁰⁵All of the letters in this Appendix appear as originally submitted to the Boulder City Council, with the exception that the address on each has been changed.

¹⁰⁶Loree Greco was the restorative justice coordinator for the Boulder municipal court.

groundskeeping since the property became a rental unit. It's a disgusting, garbage-y mess.

b) Obstructions. The tenants do not ever—EVER—shovel the snow. Because the sidewalk is shaded from the southern sun in the winter, the snow melts during the day and freezes at night and becomes impossible to pass without danger. Very frequently there's a car left to block half or the whole of the sidewalk. In order to pass by in the winter, one has to tread carefully on the ice and navigate around the automobile. Most of the time, we are simply forced to walk in the road or cross to the north side of the street. Many of the people who use College Avenue are at the age when a broken hip is a real possibility, but neither the landlord nor the tenants seem to care.

c) Noise. Volleyball, it seems, just can't be played without putting the stereo speakers in the window and blasting—no matter how great the inconvenience to the neighbors. Weekend afternoons, when many of us want to work quietly in our gardens, or—heavens forefend—take a nap, are a special time for noise. Not to mention the firecrackers. For some reason, tenants at 1250 have had a love affair with them. One afternoon last year, one of us confronted the tenants who were obviously shooting off explosives. Oh no, they assured her, they weren't the ones who had been playing with firecrackers in the middle of the night. But we're suspicious—the noise seemed to come from the direction of the volleyball court. Again last year, one of us had a talk with a tenant at the house that abuts 1250 on the 10th street side. He was a junior high school teacher, and he was moving out because of the noise. He'd been there a couple of months and couldn't take it any longer.

d) Overoccupancy. It's a very small house, and there were seven names on the mailbox the last time I looked. Trash, noise, vehicles, beer cups: just what can be expected of tenants when nothing is expected of them by the landlord. I've never been inside the house, but if it's as much of a dump as the outside, it's no wonder that it attracts irresponsible tenants. Who else would live in such a place? What would the people who had such pride in their peonies think if they knew that their home has become a blight to the neighborhood?

2. *Within Earshot*

This letter is in regard to the property at 1250 Forest Avenue. Ryan Meadow is the owner of this property, and is being charged with over-occupancy at this address.

1250 Forest is the infamous "Volleyball House." Ask any Hill resident—current or past—about this house and without fail they will know its whereabouts and its reputation within our neighborhood. It gets its namesake from the volleyball court on the side yard of this tiny house. Only once in the last 2 years have I actually seen volleyball being played there. Mostly the court accommodates a living room full of furniture that makes it the perfect setting for

the continuous Spring/Summer beach-party-that-never-ends. The volleyball court also serves as a launching pad for fireworks from June through September.

Unfortunately, I live within earshot of Volleyball House. Four of the five windows in my upstairs bedroom face this property. Countless mornings at around 2:00 A.M., I have been awakened to the post bar closing parties and fireworks coming from 1250. There were a few nights this past summer when I was forced to close my windows and suffer through the heat in order to get a much needed full night's sleep.

Often times there are vehicles parked on the sidewalk in front of 1250 that block pedestrians' traffic. There are simply too many vehicles (i.e. residents) and not enough spaces to accommodate them all. Also remarkable about the property is the constant line up of beer bottles on the porch ledge which seem to be some kind of bizarre trophy case to prove how "fun" these residents are to the rest of the neighborhood. Their porch is just one big ashtray. The house smells even from a distance.

I have actually changed the direction that I leave and enter my alley because of this particular property. I now go the longer way of—up the hill and out—instead of—down the hill and out—since it depresses me to see what I live by.

Twice I have tried to make contact with Ryan Meadow to discuss with him our issues with his property. Quickly you realize that Mr. Meadow is not interested in accessibility. His unlisted phone number and bogus address give you the impression that he has no desire to participate in a dialogue with anyone concerning his business endeavors.

I'm not sure if the same residents of 1250 have lived there that entire time but certainly the same TYPE of resident has: people that don't care how their house appears to the community, people that don't care if they are bothering their neighbors. And after my failed attempts to reach the landlord, it's clear that the landlord is setting this example.

Ryan Meadow makes his living at the expense of our community. This is an example of property management at its worst. I would urge the City Attorney's office and the Municipal Court judge to seek and impose fines for property owners like Ryan Meadow that think they have no responsibility to the communities they serve and total disregard for the rules by which we all must be held accountable.

Thank you for your consideration—and action—in this matter.

3. Broken Glass

I have called the environmental police numerous times regarding the trash and most importantly the glass that is on the grounds of 1250 Forest Avenue. There is more glass than grass and this is a huge safety issue that has affected my quality of life while living on the hill.

I have young children. We like to walk down Forest Avenue to the Dairy Queen or to get a burrito from Illegal Pete's. My children prefer to walk but because of all the glass at 1250 Forest Avenue, I have to force them into a stroller, because I am truly afraid they will get cut badly if they fell or tripped on this property. There are often glass bottles broken in half not to mention dozens of glass shards. My children kick and scream when I force them to ride in the stroller but it is a safety issue so as a mother I have no choice. This is not right.

I have called the environmental police at least 10 times on 1250 Forest Ave. in the past 4 years. I even wrote an editorial for the Open Forum of the Daily Camera referring to this house that was published in March of 1999.

This ghetto-like mentality of the owner of this house as well as its residents show a huge lack of regard for the large number of students, elderly, children, men and women that walk up and down Forest Avenue for both pleasure and business everyday.

I hope that this situation can be rectified so that my children don't have to be put, kicking and screaming, into a stroller as we walk past 1250 Forest Avenue for fear of their safety.

We are hoping that there can be safety standards maintained for the enjoyment of our neighborhood.

Thanks for your attention to this matter.

4. Argued with My Wife

Dear Ms. Greco:

This letter is in regard to an over-occupancy charge against the property located at 1250 Forest Avenue. This property is also known as the "volleyball house," because of its large adjoining sandlot volleyball court. Tenants of the volleyball house refer to their sandlot as "the beach." On January 23, 2001, I wrote to the Environmental Enforcement Office and requested an investigation into over-occupancy. I made that decision while CU and Boulder Police were breaking up one of the frequent and disruptive volleyball house parties at 2:00 A.M., on January 18, 2001. After tolerating unreasonable noise, excessive trash, and dodging illegally parked cars for two years, I had finally reached my limit. You see, I live within half a block of the volleyball house, and my bedroom windows face the direction of the volleyball house and the beach.

This property is owned by Gregory Todd and is managed by Ryan Meadow. Over the last 2 years I have called Mr. Meadow at least 10 times to discuss the volleyball house, and not once was my call returned. On January 21, 2001, I sent a registered (returned receipt) letter to Mr. Todd and Mr. Meadow, informing them of the problems their tenants were creating in the neighborhood. I have attached an electronic copy of the letter sent to Mr. Todd, and would be happy to provide the court with both original returned receipts.

Over the last two years, there have been countless nights when tenants of the volleyball house have awakened me from a sound sleep. Live bands and loud stereos playing on the beach after the bars close is commonplace. Last spring and summer were particularly disturbing. The ongoing noise from drunken revelry, fireworks, and loud music regularly deprived me of sleep. Sometimes I would get up and go outside to try reasoning with the tenants at the volleyball house, and other times I would call the police. Either way I would lose at least two hours of sleep; the first one-half hour was spent hoping the noise would stop, another ½ hour interacting with the tenants or the police, and then another hour trying to get back to sleep. It was so frustrating and wearisome to have to get out of bed at that hour because of these extremely selfish and inconsiderate neighbors. Last spring and summer I went to bed tired and woke up tired. I was irritable, argued with my wife, and did not perform well at work.

The yard of the volleyball house is a perpetual eyesore. On any given day, there are literally hundreds of cigarette butts on the porch and front yard. Beer cans and bottles of all shapes and sizes are also strewn about as if they were lawn ornaments. I have spoken to the tenants about their mess, and they always agree to pick it up, it's just that they never do. As a result, I spend about ½ hour every week picking up their trash in the alley. Believe me, it's really humiliating to have to repeatedly pick up another able-bodied adult's trash. When my family or friends visit I am too ashamed and embarrassed to drive them past the volleyball house, even though I must drive out of my way to avoid it.

The house at 1250 Forest Avenue has been a true public nuisance during the last two spring move-outs. For two weeks last May I was unable to drive my car through the alley because trash from the volleyball house made it impassable. There were mattresses, 2 sofas, broken chairs, stereo equipment, beer bottles, rotting food articles, storm windows, and a waterbed. When I called the EEO and reported the problem I was informed, "Ryan Meadow is really hard to get a hold of." No tickets were ever written for this mess. The trash was finally hauled away two weeks later.

During the last two winters, the sidewalks on the volleyball house have never been shoveled. When take my small dog, Horace, for a walk, I can't just take him around the block because the snow is too deep in front of the volleyball house. Earlier this year I slipped on the ice in front of their house as I was walking around one of their cars that was blocking the sidewalk. I know several elderly neighbors that are forced to walk out of their way because of the slippery sidewalks in front of the volleyball house.

Because the property at 1250 is so neglected and mismanaged, the same tenant profile—loud, rude, careless and inconsiderate—rents it every season. I can't even imagine an "average" college student living there. This house seems best suited for students majoring social life and anti hygiene. How humiliating it must be for 5 students live crammed into a 1,100 square foot house that was built and zoned for 3 people.

Mr. Todd and Mr. Meadow have owned and operated this property without conscience or consequence, and have caused great harm to my family and our community. They are experienced businessmen capable of understanding right from wrong, yet they exemplify exploitive business practices, and show no regard for the community or the law. This indicates to me that money and profit is of utmost importance to Mr. Todd and Mr. Meadow. To that end, I strongly urge the City Attorney and Municipal Court Judge to hold Mr. Todd and Mr. Meadow accountable for their harmful actions. Please impose the \$2,000 per day fine for over-occupancy for every day 1250 Forest Avenue is in violation. I believe that sustaining considerable financial loss is the only way Mr. Todd and Mr. Meadow will understand that the law does in fact apply to everyone.

This will be my 4th summer living on the Hill. I am counting on the City Attorney and Municipal Court Judge to make it much more peaceful than the last three. Thank you for your time and consideration.

Respectfully,

5. *Noise and SUVs*

Dear Loree Greco:¹⁰⁷

I wish to describe to you the impact that the residents of 1250 Forest Ave. have had on me and my family. We live at 1100 10th St. I teach at the University, and I walk to work daily past 1250 Forest Ave. I also often walk by it with my youngest child and even more often with my dog.

1) The area around your property is almost always cluttered with debris and dangerous with broken glass.

2) The volley-ball area is unsightly, and often the tenants playing a game there are noisy, sometimes with rock music being played loudly. At times people run their cars and SUVs up ON to the volley ball area.

3) At night this house can produce a great deal of student noise.

Admittedly it isn't the only night-time source of polluting sound, but it contributes to it. I don't know how many tenants are in there at any one time, but it often seems overflowing with them. The night-time noise from this house has on a number of occasions forced our family to call the City noise-control number after we have been awakened from sleep.

I urge you to consider the neighborhood and exercise proper control over the noise and unsightliness produced by your house.

Thank you.

Sincerely yours,

¹⁰⁷This writer was under the mistaken impression that Ms. Loree Greco, the municipal court restorative justice coordinator and person who handled victim impact statements, was the owner of the property in question.

6. *Troublesome Renters*

Dear Ms. Greco,

I've heard that there is to be a legal proceeding tomorrow (4/3/01) concerning the "volleyball house" on College Ave. between 10th and 11th Streets. Please add my comments to whatever input you have received so far.

The house has contained some of the most troublesome renters in the neighborhood, and this has been the case through several sets of renters over the last several years. The inhabitants may change at the end of each term, but the conditions do not. The small front yard, sidewalk, and grass median apparently serve as a garbage dump for the people living in the house, as this area is regularly covered with bottles, food wrappers, cigarette butts, and pieces of broken household items. There have been large parties there which have caused the police to be called on numerous occasions because of excessive late-night noise. Cars are frequently parked in such a way as to block the sidewalk. Finally, there is the volleyball court. Tattered furniture, beer bottles, discarded food, screaming players and their screaming fans, and cars parked on the sidewalk with their doors open and stereos blasting. I just don't think that the inhabitants of a house should have such an impact on the inhabitants of another house almost a block away. There seems to be no control exerted by the person who manages the property.

Thank you for your time.

7. *Hard to Compete with those who Break the Law*

Loree,

While this is a little different than a normal "victim" statement, I have been injured by the behavior of Mr. Meadows economically. I made a decision in 1993 to buy a rental property. I wanted to buy on the Hill, for I prefer the architecture, ambiance, and location to my own home to be able to monitor and maintain the property. I looked into properties on the Hill at the time, and the financial projections I made, based on legal occupancies, could not support the price of the house. I bought a house in Martin Acres which did meet projections. When I lease that house, I explicitly state in the lease is only for three people and quote B[oulder] R[evised] C[ode].

Thus, by buying and renting houses out with overoccupancy, Mr. Meadows is competing against me locationally (by being on the Hill for a student rental) by using essentially illegal cash flows from rents to purchase property (i.e. pay the mortgage/financial costs of ownership). These are essentially ill gotten gains. This statement applies to all overoccupied housing on the Hill and in Boulder. Why should a business person have to compete against those who break the law?

Sincerely.