

Building Partnerships

Community Prosecution in Indianapolis, Indiana



Written by

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Introduction

This document is part of a series profiling five community prosecution programs that have emerged as national models. These programs — in Austin, Denver, Indianapolis, Portland, and Washington D.C.— offer unique perspectives on the issues and practice of community prosecution today. This profile focuses on community prosecution in Indianapolis and, in particular, the successful partnerships community prosecutors have built with residents, police and other government agencies. The other profiles focus on developing new community justice tools (Austin), engaging the community (Denver) and the dynamics of problem-solving (Portland), and implementing an officewide community prosecution program (Washington D.C.).

Getting Started

Marion County Prosecutor Scott C. Newman became interested in community prosecution in 1992 while doing research as a prelude to running for office. “I realized community policing was being implemented and the police were drawing closer to the community. When they would encounter failures [police and residents] were starting to unite against the prosecutor. I thought the prosecutor had to be at the table in these discussions,” Newman recalls.

The idea of giving some deputy prosecutors license to break away from trying cases and take a broader, problem-solving approach to crime and safety appealed to Newman on a personal level as well. As a young deputy prosecutor “the sheer volume and citywide breadth [of the work] didn’t ever let me focus on a problem in a strategic way.” And later, as counsel for a health care company, he saw that “old indemnity companies that measured success on how quickly they paid claims were falling by the wayside to companies that were paying attention to outcomes.” Newman thought prosecutors should start focusing on order and safety in the community rather than the efficiency by which prosecutors pushed cases through the system. After all, order and safety were the kinds of outcomes that his constituents cared about.

Newman inherited a small community prosecution program when he entered office in 1995. His predecessor, Jeff Modisett, had placed two deputy prosecutors part-time in two police district headquarters. These soon developed into full-time positions, and there were plans to enlarge the program, but that didn’t happen until Newman took office. He expanded the program to all five police districts, plus the surrounding suburbs and named it the Street Level Advocacy (SLA) Unit.

Partnership with Police

One of the strengths of Indianapolis' SLA Unit is its ability to forge effective partnerships. Over time, community prosecutors have developed working relationships with a broad range of city agencies, including the police. These partnerships have given community prosecutors a wealth of new ideas and approaches for solving local problems.

It took time to build trust with the police, according to Melinda Haag, the unit's first supervisor and now an assistant U.S. attorney. "When we first went out, police thought we were spies," she remembers. "It wasn't tough to get the office space [in the police district headquarters] but it was hard to get them to trust us."

The distrust was based on a long history of friction. Cops used to blame prosecutors when charges were dropped, saying, "They won't file it. The downtown [prosecutor's] office is the problem," says Major Tim Horty of the Indianapolis Police Department. As for prosecutors, they often felt cops didn't know enough about the law, turning in poorly investigated cases that couldn't be prosecuted.

Having a prosecutor and a paralegal stationed in each district headquarters has helped mend fences. Community prosecutors now work closely with cops, advising them on how to make cases more air-tight, updating them on changes in the law, and offering on-the-spot counsel via police radios, which all community prosecutors carry. The cops, in turn, have begun to see the prosecutors as allies rather than "suits" who gum up the works. Although some cops may resent a prosecutor's insistence on an "iron-clad case," as Horty puts it, they're now more willing to do the extra work prosecutors need. "If knocking on three more doors, or writing down the lighting or marking down temperature and humidity will get it to stick, why not do it because it takes hours to do it later, or they call you at home when you're sleeping," Horty says.

There are numerous examples of prosecutor-police collaborations that have produced tangible results in neighborhoods. In one instance, retold by Diana Burleson, current supervisor of the SLA Unit, an elderly woman called the community prosecutor in her district to complain about drug dealing in a house across the street. The community prosecutor passed on the complaint to the police. Narcotics officers did an undercover buy, executed a search warrant and ultimately arrested several of the tenants. The beat officer who covered the area increased patrols and at one point announced over the public address system of his patrol car, "I'm taking back this corner." Meanwhile, staff from the prosecutor's Narcotics Eviction Program¹ contacted the landlord who agreed, based on the recent arrests, to pursue eviction proceedings against the troublesome tenants. The elderly woman later thanked Newman in person, saying that with the dealers gone, "she was finally having the first good night's sleep in months," Burleson says.

¹ Newman created the Narcotics Eviction Program in 1996 to expedite the eviction of tenants arrested for drug dealing. After a drug-related arrest, the Narcotics Eviction Program notifies the landlord and encourages them to evict the tenant. For eviction proceedings, which are civil matters, a police report and narcotics laboratory test are usually all the court needs to issue a 72-hour order to vacate. The Narcotics Eviction Program also educates landlords about how to screen tenants in the future and how to make future evictions easier by adding lease provisions that make illegal activity clear grounds for eviction

Lawyers for the Community

Outreach to the community was one of the first things Haag did when she began transitioning from downtown case processor to neighborhood prosecutor. “I started going to neighborhood meetings, getting to know the people, learning as much as possible.”

But she learned quickly that the community wasn’t going to welcome her automatically. Haag remembers a particularly prickly moment: “I had my little lawyer suit on and this man, who was very involved in the community and is now a good friend, stood up and said, ‘Why should we trust some white woman from the prosecutor’s office?’ and I said, ‘I’m not asking you to do that right away. I’m asking you to give me time.’” By regularly showing their faces at community meetings, listening to citizen concerns and doing their best to respond to them, Haag and the other community prosecutors were able to earn the confidence of the people living in their districts. “Before, I think, the community always thought we were the lawyers for the police, but now they see us as a lawyer for them,” Haag says.

The community usually sets the neighborhood prosecutor’s agenda. In an East District business area, for instance, prostitution has been a significant problem. “Prostitution was hurting businesses. [Their] employees couldn’t walk across the street without fear of being propositioned. The same was true for their customers. Indianapolis also has the highest rate of syphilis in the country, so it was part of a significant health problem, too,” says Diane Lair, the paralegal assigned to the district with community prosecutor Michelle Presswood.

Targeting Johns

Working closely with a local business association, Presswood and Lair developed the Patronizing Diversion Program, which targets the prostitutes’ customers. “We sat here [in my office] with a member of the community to come up with incentives [to get offenders to cooperate],” Prosecutor Newman says.

The program offers first-time offenders arrested in a specified area a chance to avoid a conviction by, among other things, performing community service. Participants, who are offered the program at a pre-trial conference, must first admit that they’ve patronized a prostitute. They then must participate in a Patronizing Impact Panel, in which community residents talk about the effects prostitution has on the community. “The panel is basically volunteers from the neighborhood who get to say things like, ‘Hey, I live here. My kids have to deal with it. You’re using our park where our kids play,’” says the Rev. Jay Height, president of the business association. At the first impact panel, offenders also heard a woman describe how the arrest of her husband several years ago for patronizing a prostitute hurt her family.

Offenders undergo testing for syphilis and then perform eight hours of community service — all in the course of a single Saturday. “We have them clean-up major thoroughfares in our area, pick up garbage, and local community groups supervise,” Height says. Offenders are ordered to stay outside a one-mile radius of where they were arrested, with waivers available for those who live, work or otherwise have a valid reason to be there. Offenders must also avoid committing any additional criminal offense over the next two years.

Height says the program reflects the fact that the vast majority of people who solicit prostitutes are not from the area. The point of the program, he says, is twofold — “to show them that it’s not a victimless crime and to discourage them from coming back here.” Height thinks community-government collaborations are a powerful weapon against crime and disorder. In addition to the Patronizing Diversion Program, he points to a successful effort to oust drug dealers from an alley by building a community garden dedicated to a fallen police officer. “That was possible because everyone had a part to play, including the prosecutor’s office,” he says.

Fighting Nuisance Properties

One of the larger problems confronting community prosecutors in Indianapolis is “nuisance properties” — houses in residential areas where drug dealing, prostitution and other crimes occur. In many cases, civil violations, such as excessive noise or garbage in the yard, are also involved.

Prosecutors realized that conventional law enforcement responses to a problem property were limited. For instance, if someone is dealing drugs out of their home, law enforcement’s traditional approach is to make an undercover buy — a resource-intensive option that doesn’t always result in an air-tight case. And even if a sting is successful and the dealer is ultimately arrested, it may be more than a year — if ever — before the dealer is taken to jail. Evicting a dealer who owns the property is nearly impossible. And seizing the property using civil forfeiture laws, which allow the government to take possession of property used in the commission of certain crimes, requires a fairly high threshold in Indiana — conviction on a C felony or worse.

Prosecutors in Indianapolis confronted these realities three years ago in the form of a woman dealing marijuana out of her house despite repeated arrests. The charges weren’t serious enough to send her to jail or pursue forfeiture. Still, complaints kept coming in from frightened neighbors about screams, fights and people coming and going at all hours. Frustrated that conventional law enforcement couldn’t put an end to the problem, a city councilwoman convened a meeting that brought together the police, the prosecutor’s office and other government agencies to brainstorm a new approach. The result was a cooperative effort among agencies to target this woman’s house and several other nuisance properties.

In the case of the marijuana dealer, the county’s Health and Hospital Corporation performed an inspection based on the suspicion that the poorly maintained property might be in violation of the health code. Things worked out far better than expected. “Health and Hospital came in and found lead-based paint and made them move out until they corrected it. And, of course, they had no intention of fixing it up so we got rid of them that way,” says Mark McCleese, who runs the Narcotics Eviction Program.

Prosecutors learned from this experience that by partnering with other city agencies they could often accomplish what pursuing criminal charges could not: Eviction of problem tenants and cleaning up of eyesore properties. Experience indicates that repeated arrests of people for drug-dealing or the execution of search warrants may have minimal impact on the activity in a drug house. But a violation from the Zoning Department for illegally subdividing a property into extra living quarters

could lead to the eviction of tenants, improvements to the property, and, hopefully, an end to the neighbor's complaints.

Community prosecutors now lead multi-agency sweeps every couple months. During an average sweep, two inspection teams each go to about 10 houses that have drawn community complaints. The teams are led by a prosecutor or a paralegal and consist of representatives from the Fire, Zoning and Health Departments as well as Animal Control. Police are there for safety and to do warrant checks. A health inspector usually approaches the property first, explaining to the person who comes to the door that they'd like to conduct an inspection of the property. If the occupant allows them in, the team of inspectors combs the property with flashlights and notebooks, looking for any violation that they can find. Inspectors from the various agencies may eventually be cross-trained "so that rather than having a case filed by one inspector on zoning violations in Zoning Court and another inspector on health violations in Health Court, one inspector can do all the inspections and file them in one court," Lair said.

"We've actually had neighbors and tenants stand up and cheer and hoot and holler, they're so glad to see us," says Lair, who often leads one of the inspection teams.

Expanding Connections

As an outgrowth of the multi-agency sweeps, community prosecutors set up a hotline for neighborhood groups to phone in complaints and created a task force of inspectors from city and county agencies to respond to them. "We try to get creative with solutions to problems. In the past, because of lack of communication, people used to say, 'It's not my problem. They'll take care of it,' but no one would take care of it," Lair says.

Here's an example of how the task force of inspectors has aided problem-solving: Abandoned vehicles were a common sight in one neighborhood. It took months to remove the unsightly hulks because authorities mistakenly thought they needed a court order to do so. By putting their heads together and doing some research, task force members found out that a statute already existed allowing authorities to remove abandoned cars after 72 hours. With that knowledge in hand, authorities can now act quickly to eliminate the eyesore of abandoned vehicles in the neighborhood.

Community prosecutors in Indianapolis are constantly expanding and reinforcing their connections with the police, other government and law-enforcement agencies and the community. Many community residents say that what pleased them most about the community prosecution program is that it gives them better access to the prosecutor's office. "The prosecutor is so distant in normal cases where they're in the downtown office. You might see them when you go to court and that's it. But I know here if I have something that needs to be addressed by a prosecutor, I can call over there [to the district office] and I'm on a first-name basis," says Pam Cole, vice president of the Northwest Neighborhood Association Cooperative Inc., a coalition of seven neighborhood associations. Height calls the community prosecutor in his area "a sales rep" for Newman's office, but with all the positive connotations the words imply:

someone who offers personal service, putting a face on a potentially anonymous and distant organization.

Challenges

Newman feels the natural way to start a community prosecution program is placing prosecutors in police stations. “I think it’s a really good start. You almost can’t go wrong with it,” he says. Now Newman wants to take the program to the next level by integrating his community prosecution philosophy — “We’re not case processors, we’re community safety leaders” — into the rest of his organization.

To this end, Newman recently appointed Diana Burleson to succeed Melinda Haag as the community prosecution supervisor, expanding the job to a full-time position. Burleson coordinates the work of the prosecutors in the field, but, with her office in the prosecutor’s downtown headquarters, also serves as “an ambassador to the rest of the office,” Newman says. Burleson reports directly to Newman, in part, to send the message that the work of the community prosecutors is important. “I’ve had the community prosecution staff over to my house, sitting on my deck. I don’t do that with any other unit,” Newman says. “I want these people to be seen as influential. If line deputies don’t respond to street level advocates [community prosecutors], I get mad. They should be able to push things through the system and push buttons where they want to.”

One of the challenges of keeping the unit effective is to constantly make new contacts. “There’s a tendency to get too comfortable with a few people — this little shift of officers and these five community members — and constantly solve their problems while your project becomes more parochial,” Newman says. “We’re always trying to broaden the base. We made a video on how to get your neighborhood group to be drug watchers. We [invited our partners and community residents and] made it into a big movie premiere. That was a good base-broadener.”

The community prosecution team is also trying to come up with ways to measure the results of its work. The prosecutors are working on a form to log community contacts and complaints since so much of what they do begins with a call from a resident or a comment at a community meeting. The community prosecution team is also developing a way to target mid-level recidivists, which they hope will give them another tool for measuring results. They call this initiative “TNT,” which stands for Targeting Neighborhood Troublemakers. Burleson describes these troublemakers as “offenders who don’t poke as high up as C felonies to get into Criminal Court, but they commit irritating misdemeanors or D felonies, the kind of things the neighbors notice.” Each district will identify its own troublemakers. When one is arrested, the prosecutors will pursue various strategies — for instance, vertical prosecution, stay-away orders, higher bail or longer sentences — to ensure that the person does not slip through the cracks and to keep the neighborhood safe from them for as long as possible. They plan to take a similar tack against problem properties. “Each prosecutor will pick a problem property,” Burleson explains. “It could be apartments, a hotel, a one-block area. We’ll hit it hard through all the resources we can to attack a property.”

Tips From the Field The following are some pointers from Indianapolis for people planning or running community prosecution programs:

Set up local offices to foster partnerships. Community prosecutors in Indianapolis are based in the city's five police district headquarters. This has fostered not only greater familiarity with the communities they serve but strong partnerships with the police. Sharing office space puts the community prosecutors and their paralegals daily, routine contact with the police, encouraging them to share ideas, work jointly on investigations and problem-solving projects and learn from each other.

Use non-criminal enforcement to solve intractable criminal problems. Community prosecutors have found that by leading inspectors from various agencies on sweeps, they can deal effectively with nuisance properties. They've also found value in developing personal relationships with people in these agencies. "Before you didn't know names and people to call," community prosecutor Michelle Presswood says. "You get a quicker response when you know somebody personally."

Allow community prosecutors to give low-level cases a high priority and even prosecute certain cases themselves. For example, "downtown" prosecutors might give less time and attention to a minor drug arrest; but if the arrest took place in a notorious drug house or involved a bad apple that has long terrorized a community, a community prosecutor in Indianapolis can prosecute the case vertically — that is, follow the case him or herself from arraignment through sentencing — and seek maximum punishment. At sentencing they can bring in neighborhood impact statements, detailing how the offender has harmed the community and thus bolster the chances of a more severe sentence.

Notes

Center for Court Innovation

The winner of an Innovations in American Government Award from the Ford Foundation and Harvard's John F. Kennedy School of Government, the Center for Court Innovation is a unique public-private partnership that promotes new thinking about how courts can solve difficult problems like addiction, quality-of-life crime, domestic violence and child neglect. The Center functions as the New York State Unified Court System's independent research and development arm, creating demonstration projects that test new approaches to problems that have resisted conventional solutions. The Center's problem-solving courts include the nation's first community court (Midtown Community Court), as well as drug courts, domestic violence courts, youth courts, family treatment courts and others.

Nationally, the Center disseminates the lessons learned from its experiments in New York, helping courts across the country launch their own problem-solving innovations. The Center contributes to the national conversation about justice by convening roundtable conversations that bring together leading academics and practitioners and by contributing to policy and professional journals. The Center also provides hands-on technical assistance, advising court and criminal justice planners throughout the country about program and technology design.

For more information, call 212 397 3050 or e-mail info@courtinnovation.org.

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