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Unwelcome Guests

A Community Prosecution Approach
to Street Level Drug Dealing
and Prostitution

American Prosecutors Research Institute

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A Community Prosecution Approach to Street Level Drug Dealing and Prostitution

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National Center for Community Prosecution
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TABLE OF CONTENTS

1	<i>Introduction</i>
3	<i>Environmental Changes</i>
7	<i>Trespass/Exclusion Ordinances</i>
13	<i>Diversion Program for First Time Prostitution Offenders</i>
17	<i>A Multi-Faceted Approach</i>
	<i>Colfax Corridor Crime Coalition</i>
	<i>Johns TV</i>
	<i>Area Restrictions</i>
	<i>Public Nuisance Abatement Program</i>
23	<i>Conclusion</i>
25	<i>Resources and Publications</i>
27	<i>Acknowledgements</i>

INTRODUCTION

At their essence, street prostitutes and drug dealers are business people. They have a service or product that they provide to willing purchasers in exchange for either cash or another product in return. Unlike most legitimate businesses, however, their business enterprises bring with them a host of problems, which is why they are also illegal. Some level of violence is not uncommon, and serious, even fatal, health consequences can arise.

Why people choose to sell their bodies or to sell drugs has as many answers as the number of people who do it. This is not to suggest that community prosecutors should not be concerned about the underlying causes. More often, however, the first order of business for the community prosecutor is to make the problem go away.

Look closely at the behaviors you need to address. *Are people loitering? Enforce a loitering ordinance. Are they flagging down passing cars, causing them to stop?* Write and help to enact an ordinance forbidding this particular type of behavior absent an emergency situation. *Are probationers given a condition not to frequent bars or socialize with other known criminals in the neighborhood?* Properly document the behavior and file a probation violation request. *Are litter and graffiti contributing factors?* Organize a neighborhood clean-up and solicit businesses for paint and other supplies. Set up a graffiti hotline to help shut down these budding artists. Hold them accountable when they are caught.

Essential players in problem-solving sessions are those stakeholders who are directly affected by the problem and will directly benefit from your efforts. For example, drug dealing was a chronic problem in a small downtown park in Portland, OR. A nearby merchant suggested turning sprinklers on at random intervals throughout the day. Presto! No more drug dealing in the park. “No expenditure of police or prosecutor resources, the problem is solved, and all we did was water the lawn.”¹ Other communities have used similar tactics, for example, piping in

¹ Conversation with Multnomah County (Portland, OR) Neighborhood Based Deputy District Attorney Wayne Pearson, July 30, 2004.

music considered offensive by the particular constituency—Mozart instead of Metallica.

Common sense suggests that street level prostitution and drug dealing should be attacked from many fronts simultaneously. This monograph addresses promising practices to abate these crimes of livability and highlights creative strategies developed by community prosecutors in Kalamazoo County (Kalamazoo), MI; Multnomah County (Portland), OR; Marion County (Indianapolis), IN; and Denver, CO. These strategies include making changes to the environment to make it less abuser friendly, as well as imposing negative consequences for the suppliers and purchasers of the offending services.

ENVIRONMENTAL CHANGES

Low-level drug dealing and street prostitution thrive where they do not conflict with legitimate businesses, but rather support and are supported by certain elements of the environment. For example:

- Cheap motels, dimly lit parking lots, alleys, and abandoned buildings
- Coffee shops or bars where prostitutes can take a break
- Areas where drug dealers are nearby for prostitutes and their clients
- Roads that allow drivers to slow down or stop, ideally where the driver's side of the vehicle is closest to the curb²

Neighborhoods like these seem to be an open invitation to set up an illegal business and to keep it going. Prostitutes, drug dealers and their clients flock to streets where they are least likely to run into the law or other interference.

Neighborhood-based prosecutors have proven helpful in many jurisdictions. Storefront prosecutors' offices provide high visibility, thereby deterring some offenders while allowing for quick responses to those who choose to offend anyway. These community-based prosecutors work directly with neighbors, community police officers, code enforcement authorities, and others interested in providing long-term solutions to these tenacious problems.

Community prosecutors can more effectively go where others have perhaps feared to tread due to the inherent authority of their office. For example, is poor lighting contributing to street prostitution? A prosecutor's request for improved street lighting to the Street Lighting Bureau, with the backing of the residents and those business owners harmed by the illegal activity, can be more effective than a request from the residents alone.

Are abandoned cars making it easier for dealers to stash their wares, or for prostitutes to meet with their clients? Community prosecutors work-

² Michael S. Scott, *Street Prostitution*, Problem-Oriented Guides for Police Series No. 2, U.S. Department of Justice, Office of Community Oriented Policing Services (June 13, 2002).

UNWELCOME GUESTS

ing with authorities to have these cars towed go a long way toward eliminating not only the eyesore, but also the milieu for illegal activity.

Are overgrown weeds and shrubs providing natural cover for these rendezvous? The community prosecutor can contact the municipal agency responsible for tree trimming if the offending plants are owned by the city, or make direct contact with the property owner if they are located on private property. If a polite request from the prosecutor is not successful, it may be possible to invoke local ordinances that address chronically offending property owners. If there is no such ordinance, the community prosecutor can draft one and help guide it through the system.

Boarded-up buildings in a neighborhood are not only an eyesore, but potentially dangerous. Children can be injured playing in or near them. Arsonists find them to be appealing targets. And, of course, drug dealers and prostitutes find them especially convenient venues for their particular business transactions. An ordinance making it illegal for anyone other than the property owner to be on vacant or abandoned premises will help keep people out, but it does not address the underlying eyesore. A community prosecutor can work with code enforcement officials either to bring the building up to code or to raze it. In the latter case, it is important to include in the cost of tearing down the building the expenses of fixing up the lot. Perhaps a neighborhood association is interested in overseeing a community garden spot, or a non-profit agency will assist with erecting a small playground for the neighborhood children. In the worst-case scenarios, criminal charges against the property owner may be appropriate if, for instance, families and children are living in deplorable conditions that give rise to imminent health and safety concerns (dangling electric wiring, broken toilets and water pipes, etc.). The community prosecutor can make this happen by reaching out to the necessary parties to get the job done.

In Kalamazoo, community prosecutors worked with a local neighborhood to reclaim a street that had become an open-air drug market by attacking the problem from multiple fronts.³ This criminal activity was

³ Conversation with Kalamazoo County Community Prosecutor Dave DeBack, July 29, 2004.

having a devastating effect on the residents of the street and the neighborhood in general. Community prosecutors joined forces with the police department and neighborhood residents and developed a top-to-bottom approach. Residents petitioned the city to eliminate street parking, thereby deterring loitering and quick stops for drug buys. The police placed an undercover officer in the neighborhood, who made over one hundred drug buys over the course of three months. These buys were reviewed by the community prosecutor and aggressively pursued through the trial courts. Community prosecutors also classified a drug house as a public nuisance and succeeded in boarding it up.

Since the strategy began, there have been no arrests for delivery of a controlled substance in the target area. The strategy also served as the genesis of a neighborhood watch that created a better rapport between the Department of Public Safety and the residents of the area. In addition, the neighborhood has seen an increase in property values, and the follow up by the neighborhood prosecutor in court introduced the concept of neighborhood impact statements to the residents, thereby giving them a voice they had lacked.

With the streets quieter, Kalamazoo's community prosecutors were able to collaborate with a non-profit organization that owned a house in the neighborhood. Through grants from the U.S. Department of Housing and Urban Development⁴ and donations from various sources, community prosecutors were able to upgrade the house in exchange for its use as a mini-station for 18 months. Before the mini-station was returned to the non-profit organization in its rehabilitated form, it was used as a Neighborhood Watch meeting place, an alternative dispute resolution site, and a citizen contact location for the office of the prosecuting attorney. The house was returned to the non-profit organization after 18 months with no strings attached, in a reclaimed and safer neighborhood. With this success under their belts, community prosecutors made a simi-

⁴The grants utilized by Kalamazoo County Community Prosecutors were HUD's Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME). For more information on CDBG, see Homes and Communities, *Community Development Block Grant Entitlement Communities Program* <<http://www.hud.gov/progdesc/cdbgent.cfm>> (accessed Nov. 19, 2003). For information on HOME, see Homes and Communities, *Home Investment Partnerships Program* <<http://www.hud.gov/progdesc/home1a.cfm>> (accessed Nov. 19, 2003).

UNWELCOME GUESTS

lar pitch to the neighborhood association. The result was the donation of a house to the police department for two years.

Street prostitutes and hand-to-hand drug dealers draw a near-constant flow of slow moving vehicles with occupants looking to score (sometimes referred to as curb crawling). While a continuous police presence may not be feasible, wise use of intermittent police presence may be especially helpful. The community prosecutor, working with the police, can determine the busiest days and times for criminal activity and request that officers be assigned first to those time frames, but also periodically throughout the less busy times to avoid merely shifting the problem from one time frame to another.

TRESPASS EXCLUSION ORDINANCES

When water and music will not work in addressing street level drug dealing, new ordinances might. Portland's Drug-Free Zones ordinance (14B.20), originally drafted with assistance from a Multnomah County Neighborhood District Attorney, provides one example:

Drug Free Zones. 14B.20.030 Civil Exclusion.
(Amended by Ordinance No. 176950, effective November 1, 2002.)

A. A person is subject to exclusion for a period of ninety (90) days from any public right of way and park within a drug-free zone designated in Code Chapter 14B.20 if that person has been arrested based upon probable cause to believe that the person has committed any of the following offenses within that drug-free zone, unless the offense was committed entirely within a private residence:

1. Attempt to unlawfully possess a controlled substance, in violation of ORS 161.405;
2. Criminal solicitation to unlawfully possess a controlled substance in violation of ORS 161.435;
3. Criminal conspiracy to unlawfully possess a controlled substance in violation of ORS 161.450;
4. Unlawful possession of a controlled substance, in violation of ORS 475.992, other than possession of less than one ounce of marijuana under ORS 475.992 (4)(f);
5. Criminal conspiracy to unlawfully deliver a controlled substance in violation of ORS 161.450;

UNWELCOME GUESTS

6. Unlawful delivery of a controlled substance, in violation of ORS 475.992;
 7. Attempt to unlawfully deliver an imitation controlled substance, in violation of ORS 161.405;
 8. Criminal conspiracy to unlawfully deliver an imitation controlled substance in violation of ORS 161.450; or
 9. Unlawful delivery of an imitation controlled substance, in violation of ORS 475.991.
- B. A one (1) year exclusion from any public right of way and park within a drug-free zone shall take effect upon the date of conviction for any of the offenses enumerated in Subsection A of this Section if that offense was committed within that drug-free zone.
- C. Except as allowed under 14B.20.060, a person excluded from a drug-free zone under authority of this Section may not enter that drug-free zone except to:
1. Attend a meeting with an attorney;
 2. Attend a scheduled initial interview with a social service provider;
 3. Comply with court-or corrections-ordered obligations;
 4. Contact criminal justice personnel at a criminal justice facility;
 5. Attend any administrative or judicial hearing relating to an appeal of:
 - a. the person's notice of exclusion; or
 - b. the denial, revocation, or amendment of the person's variance;

6. Travel through that drug-free zone on a Tri-Met vehicle; or
 7. Travel through that drug-free zone on the I-5, I-84 or I-405 freeways within its boundaries.
- D. While in a drug-free zone, a person who is otherwise excluded may travel only directly to and from the obligations enumerated in 1. - 7. of Subsection C.
- E. If an excluded person is in the drug-free zone from which that person is excluded, in violation of the exclusion during the exclusion period, that person is subject to arrest for criminal trespass in the second degree pursuant to ORS 164.245.

Reportedly, this ordinance has been remarkably effective in curbing the drug problem: “In the neighborhoods where we’ve been able to implement this plan, drug arrests have decreased significantly and there has been no noticeable corresponding increase in activity elsewhere. In other words, that fear of moving a problem out of one neighborhood and into another hasn’t materialized. The community has embraced ordinances as well, appearing before city council to advocate for them each time they are to be renewed, and noting that the difference in their neighborhood has been like night and day.”⁵ According to Portland Police Bureau statistics, drug arrests in the drug-free zones have declined roughly 80% since the inception of ordinances in the early 1990s as compared with drug arrests outside of the zones, which have remained constant. Portland’s ordinance has withstood a variety of legal challenges at the local court level, and a double jeopardy challenge to the Oregon Supreme Court, and it has been adopted by other jurisdictions across the country.

⁵ Conversation with Multnomah County (Portland, OR) Neighborhood Based Deputy District Attorney James Hayden, July 27, 2004.

The Oregon Supreme Court is not alone in upholding trespass exclusion ordinances. The U.S. Supreme Court in *Virginia v. Hicks*⁶ examined the constitutionality of a trespass-exclusion policy implemented by the Richmond Redevelopment and Housing Authority (RRHA), which was based in part on the Portland ordinance. The written trespass-exclusion policy allowed the RRHA property manager to bar persons who could not “demonstrate a legitimate business or social purpose” for being on the premises. The property covered by the policy included streets and sidewalks that had been conveyed by the City of Richmond to the local Housing Authority. The no trespass policy was enacted to curtail the open-air drug market plaguing the community.

In *Hicks*, the defendant was arrested when he was found to be in an area in which he had prior knowledge that he was prohibited from entering due to past incidents, including criminal activity. The defendant was subsequently convicted of trespass. He appealed, arguing that the trespass-exclusion policy was vague, overly broad, and violated his rights to free speech and association under the United States Constitution. The Virginia Supreme Court ruled against the exclusion, finding that it vested RRHA with “broad and unfettered discretion” to regulate speech protected by the U.S. Constitution.

In the 9-0 decision, the U.S. Supreme Court affirmed the right of local government to enforce laws reflecting “legitimate state interests in maintaining comprehensive controls over harmful, constitutionally unprotect-

⁶ *Virginia v. Hicks*, 539 U.S. 113 (June 16, 2003). *But see Johnson v. City of Cincinnati*, 310 F.3d 484 (6th Cir. Ohio 2002), *cert. denied*, 71 U.S.L.W. 3758 (U.S. June 9, 2003) (No. 02-1452) striking down a trespass exclusion ordinance as overly broad and thus unconstitutional. However, even here the Court stated:

[W]e do not foreclose the possibility that a narrower version of the Ordinance, supported by a clearer record, could withstand strict scrutiny. Temporary exclusion is an extreme measure, but we recognize that municipalities like the City of Cincinnati face formidable challenges in improving the safety and well-being of its citizens in high crime areas. While we have every confidence that the City acted with the utmost good faith and with the best intentions in enacting the Ordinance, the Ordinance, in its present form, does not withstand constitutional scrutiny. *Johnson*, 310 F.3d at 506.

ed *conduct*.⁷⁷ It would appear that the Portland ordinance falls within these approved parameters and could be a template for other jurisdictions wishing to enact a similar ordinance.

In 1995, Portland applied this same concept to prostitution offenses. The Prostitution Free Zone ordinance gives officers the ability to exclude persons who have been arrested for and/or convicted of prostitution from certain geographic areas in the city. If the offender re-enters the area without a variance authorizing his or her presence, the officer may make an arrest for criminal trespass.

For additional information on Portland's Drug and Prostitution Free Zones, go to <http://www.portlandonline.com/auditor/index.cfm?c=28178>.

⁷ *Hicks*, 539 U.S. at ***11 (emphasis added).

DIVERSION PROGRAM FOR FIRST TIME PROSTITUTION OFFENDERS

Indianapolis received a wake-up call in 1999, when the National Centers for Disease Control and Prevention dubbed it the syphilis capital of the nation. Like many large cities, Indianapolis has had a prostitution problem for years. Certain streets in the city are well known among law enforcement, prostitutes, and the prostitutes' customers as havens for this illegal activity.

In the fall of 1999, a resident, businessman and community leader from the near-east side of Indianapolis approached the community prosecutor (known as Street Level Advocates in Indianapolis) in his area about the problem of prostitution. This citizen had personally witnessed acts of prostitution taking place on the sidewalks and alleys surrounding his church. He and others in his neighborhood wanted the criminal justice system to realize that this was not a victimless crime, and that prostitution and patronizing prostitutes negatively impacted the people who live and work in these neighborhoods. The residents were tired of being "cat-called" as they walked to church or the store, and they were fed up with the sight of used condoms in their yards, parking lots, and alleys.

Housed in the neighborhood police station, the community prosecutor had attended many neighborhood meetings, was familiar with the issues of the neighborhood, and had worked with the neighbors and police over several years to address various issues. When the concerned citizen approached her and proposed the idea for a diversion program to hold the "johns" who patronize prostitutes accountable for their behavior, she arranged a meeting with the Marion County Prosecutor, and together they created the Red Zone program. Defendants who are arrested for patronizing a prostitute in a specific geographic area of the East District and who have no prior criminal history are eligible for this diversion program. One goal of this program is to deter these defendants from returning to the neighborhood for the purpose of soliciting prostitution.

Unlike many other standard diversion programs, the Red Zone involves a strong community component. Defendants are required to return to the

UNWELCOME GUESTS

neighborhood where they committed their crime and perform community service work as well as to publicly face the residents who live in the area. In exchange for having their cases dismissed with prejudice, the diversion program requires defendants to report to a designated community center on a specific Saturday. Once there, the following events occur:

- Defendants submit to a syphilis test administered by the health department;
- A community member discusses with them the impact of their behavior on the neighborhood, which is often followed up by a lecture from the police and/or the prosecutor;
- A health department employee advises defendants of the health consequences of patronizing a prostitute;
- Defendants complete a questionnaire addressing their pre- and post-arrest behavior and the impact of that behavior on family, employers, etc.;
- Following the in-person meeting, defendants wear an orange vest and perform community service work for the remainder of the day, picking up trash, pulling weeds, etc., in the geographic area of their arrest;
- Defendants are supervised by community members to ensure that they are working as ordered;
- The court issues a stay-away order, usually for a one-mile radius from the arrest location (exceptions may include work and other modifications).

If a defendant is subsequently arrested within two years, prosecutors refile the original charges and seek jail and other sanctions as appropriate.

Between the inception of the Red Zone in November 1999 and March 2004, 157 defendants participated in the program, and 95 % of them had not been re-arrested for any crime.⁸ Community members who participate in Red Zone as volunteers speak highly of the program and continue to volunteer. The program was expanded in 2002 to include a second area, and a third police district is now planning a Red Zone program.

Indianapolis's approach to prostitution is not limited to just the customer. In a parallel diversion program for first-time offenders, prosecutors will dismiss cases with prejudice against prostitutes who admit to the offense and comply with the following:

⁸ Conversation with Assistant Prosecuting Attorney and Street Level Advocate Program Director Michelle Waymire, April 22, 2004.

- Participate in the New Life Behavior Skills eight-hour counseling program;
- Attend a minimum of 20 hours of Cocaine or Narcotics Anonymous meetings;
- Obtain gainful employment;
- Undergo testing for sexually transmitted diseases; and
- Stay away from the area in which they were arrested.

As with the Red Zone diversion program for the johns, the prosecution may refile a case against a prostitute who commits another offense within two years.

In a plea agreement for repeat offenders, the prostitutes are offered much the same as outlined above, but they also must complete the treatment plan as recommended by the New Life Behavior Skills program, which includes obtaining a G.E.D. and attending the Basic Life Skills class, the Overcoming Addictive Behaviors class, and the Advanced Life Skills class. The New Life Behavior Skills care provider follows up with the defendant if she is in jail or if she violates probation. Although the case is not dismissed upon completion of these requirements, the plea may be modified in other ways, such as recommending that the defendant be eligible for early release from jail.

A MULTI-FACETED APPROACH

Enforcement of criminal ordinances against prostitutes and their customers can place an overwhelming burden upon the criminal justice system, and particularly local jails. In Denver, overcrowding in the county jail prompted the Sheriff's Department to release non-violent offenders—including prostitutes and johns—before the completion of their jail sentences to comply with jail standards and reserve the limited jail space for violent offenders.

Denver has faced the problem of prostitution for decades. For the 30,000 residents who live along the East Colfax Corridor, one of Denver's main thoroughfares, prostitution has been an ongoing problem, but the summers of 2000 and 2001 brought an increase of prostitution activity to the area. There were the usual "Denver Girls," who often are homeless, involved in violent relationships, addicted to drugs and/or mentally ill. Additionally, there was an increase of "circuit girls" who were from out-of-state. These circuit girls tended to be much more brazen about their activities and blatantly disrespectful to community members and to the police. It became such a problem for the residents along the corridor that the city decided to take direct action. Denver citizens, the Mayor, the Denver Police Department, Denver City Council and the Denver City Attorney's Office together initiated a number of strategies: the Colfax Corridor Crime Coalition, Johns TV, Area Restrictions, and Public Nuisance Abatement. These strategies are described below.

Colfax Corridor Crime Coalition

The Colfax Corridor Crime Coalition (CCCC) has been in existence since June 1999. The coalition is comprised of representatives from various neighborhood groups, including the following:

- Colfax Business Improvement District;
- Capitol Hill United Neighbors;
- Beacon Club;
- East Montclair Neighborhood Association;

UNWELCOME GUESTS

- Capitol Hill Neighborhood Partnership;
- Colfax on the Hill Inc.;
- Colfax Business Community;
- Congress Park Neighborhood Association;
- Greater Park Hill Community Inc.;
- North and South City Park Neighborhood Associations;
- Denver City Council members;
- City Attorney’s Community Justice Program;
- The Empowerment Program;
- Urban Peak;
- Aurora Police Department;
- Nuisance Abatement Unit;
- Vice and Narcotics Bureau;
- Denver Police Districts Two, Three, and Six Patrol;
- Neighborhood Police and Impact Officers; and
- Office of the Division Chief of Patrol.

This group of concerned stakeholders meets monthly to address crime along the Colfax Corridor, including drug violations, prostitution, open-air liquor violations, nuisance properties, and disorderly conduct. They address these issues by looking at legislation, public education, collaboration with city agencies, and direct action. The ongoing subcommittee, Prostitution Task Force, addresses street prostitution along the Colfax Corridor. This subcommittee spearheaded many of the strategies addressing prostitution within the city and works closely with city agencies and community members to combat prostitution in a multi-faceted and proactive manner.

Johns TV

Denver has joined other American cities in an effort to combat prostitution by publicizing pictures of individuals who have been convicted of prostitution-related crimes. A program on the city-operated television station displays the mug shot photos of the johns who have been convicted of a prostitution-related crime. These pictures are also viewable on the city’s Web site. The city hopes that Johns TV will act as a deterrent for men who choose to participate in prostitution in the community.

The mayor announced this approach to fighting prostitution following meetings with a group of civic-minded citizens from Denver's Capitol Hill neighborhood. The group, called "The Unsinkables," informed the mayor that, despite Police Department stings that led to the arrests of prostitutes and their clients, they were still finding used condoms in their back yards, and their children were witnessing sex acts in cars parked on the street and in the alleys near their homes.

The TV program and Web site also contain information relating to services available for prostitutes who want to turn their lives around, including substance-abuse programs, job-training programs, health care services relating to sexually transmitted diseases including AIDS, and safe houses for abused women.⁹

Area Restrictions

Denver residents complained that they saw prostitutes arrested numerous times for violating Denver's prostitution ordinance, but these individuals continued to engage in acts of prostitution at the same location. To address this problem the Denver City Attorney's Office and the Denver Police Department, with input from the County Court, developed and are currently implementing a program of area restrictions. In this program, defendants who have been convicted of prostitution offenses are barred from being in designated areas where their crimes were committed. To accomplish this, a defendant is placed on probation, as part of a suspended jail sentence, and an area-restriction order is entered as a condition of the defendant's probation.

Before an area-restriction order can be entered, the court must determine the legitimate needs of a defendant to be in the designated area and accommodate those needs. The needs may include going to a defendant's place of employment, school, doctor's office, counseling, etc. These considerations are best determined by an exchange between the judge and the defendant, so the court can determine the scope of the order and the defendant can express any claimed need to be in the area. After this exchange, the court can confirm that the defendant has no other claim-

⁹ For additional information on Johns TV, see The City and County of Denver, *Johns TV* <<http://denvergov.org/johnstv/default.asp>> (accessed Nov. 19, 2003).

of-need to be in the prohibited area. This may be very helpful in a probation violation hearing if there is a subsequent violation of this order. The court should also consider the boundaries of the geographic area and limit the order to an area that is reasonably related to the criminal activity of each defendant.

When a defendant with an area restriction order is found in a prohibited location, he can be arrested and brought before the court to answer a probation revocation petition. To avoid problems, accurate information must be available to police officers on the street. The officer must be able to verify the existence of the area restriction order and whether the defendant was within an area encompassed by the prohibitions of the order. Maintaining accurate information on these orders is vital to this program.

Public Nuisance Abatement Program

The City and County of Denver developed a Public Nuisance Abatement Program to invoke civil judicial remedies against property used as tools to commit certain crimes that have been classified as public nuisances. In Denver, public nuisance offenses are crimes that have a high negative impact upon the health, safety, welfare, and morals of citizens. Prostitution has been designated as one of the 16 categories of public nuisance offenses.

The tools used by the clients of prostitutes, i.e., their cars and trucks, are used to prowl the community in search of prostitutes, conduct negotiations, transport the prostitute to a secluded location (often not secluded enough), commit the sexual act, and flee the area. The temporary incapacitation of these tools would provide relief to the community. Temporary padlocking or closure of vehicles or real property is considered a worthy remedy to deny the offender continued access to the tools used to commit the offense. Denver's Public Nuisance Abatement Program is remedial and not punitive, and thus has not been subject to review under the Eighth Amendment.

The Denver City Attorney's Office currently files *ex parte* civil lawsuits against motor vehicles that are used to commit, facilitate, aid, promote

the violation, or flee or escape from the commission or solicitation of prostitution. These civil actions are filed in the Denver County Court Civil Division within 30 days of the date the vehicle is first seized and towed to the Denver Sheriff's Vehicle Impound Facility. The civil complaint names the vehicle itself as a defendant, as well as any titled owner with a secured interest via a properly recorded title, or other person known to have a legitimate legal interest in the vehicle (no straw man claimants or unsecured interests).

The complaint alleges that the vehicle constitutes a public nuisance and incorporates a notarized affidavit of a detective of the Denver Police Department. This detective compiles the information about the underlying offense and ownership of the vehicle. Accompanying the complaint is a motion for a temporary restraining order (TRO), which must be issued by the Denver County Court upon a showing of probable cause to believe the vehicle constitutes a public nuisance. The TRO allows the vehicle to be maintained in the sheriff's custody until the civil action reaches final adjudication.

The public nuisance abatement ordinance provides that, should the County Court adjudicate the vehicle to be a public nuisance, the court must grant the city certain orders. First, the vehicle shall be "closed" and impounded for a temporary period between six months and one year from the date of judgment. The vehicle is only released upon the payment of all the impoundment and storage fees (currently \$100 and \$20/day respectively). Second, to compensate the city for its costs in pursuing this civil remedy, there is a \$2,000 civil judgment against the owners of the vehicle.

Since the inception of this program in 1997, this civil remedial tool has frequently been utilized to combat prostitution offenses. An estimated 40-50% of these defendants fail to respond to these civil actions, resulting in default judgments and judicial findings that the vehicles are abandoned by their owners, and judicial orders that the vehicles be sold at a bi-weekly public auction.

UNWELCOME GUESTS

Recently, the East Colfax Corridor program benefited significantly from the effort of the nuisance abatement coordinator to collaborate with the Police Department's Vice/Narcotics Bureau and several district commands in reverse prostitution sting operations. The effect of this coordination was a 165% increase in the number of cases filed in County Court. In addition, area restrictions continue to be utilized in the East Colfax Corridor, both during the pre-trial period following arraignment and as a part of the judge's sentence after the case is adjudicated. Although the Denver City Attorney's Office is still collecting data to determine if the area restrictions are effective in actually preventing crime, citizens working and residing in the area believe they are protecting the community from chronic offenders in prostitution cases.¹⁰

¹⁰ Conversation with Assistant City Attorney and Community Justice Program Director Laurie Kaczanowska, July 30, 2004.

CONCLUSION

Street-level drug dealing and prostitution are common facts of life for prosecutors working in challenged neighborhoods. Their effects can be devastating and lead to other quality-of-life issues. Traditional prosecution practices serve to hold the individual offender accountable and can be effective in reducing these particular crimes in the short-term, but have generally proven ineffective as long-term solutions. While it is clear that one strategy won't solve these crimes, it is equally clear that community prosecutors are uniquely poised to problem solve in order to better handle these concerns and make an impact in preventing them. By employing the techniques that are the basic tenets of community prosecution:

- Partnering with a variety of government agencies and community-based groups;
- Using varied methods including problem solving to address crime and public safety issues; and
- Involving the community in the strategy and long-term solutions proposed,

neighborhood-based community prosecutors around the United States are developing long-term prevention, enforcement and treatment plans to permanently address these crimes affecting neighborhood livability.

RESOURCES AND PUBLICATIONS

Resources

Kalamazoo County Prosecutor's Office

227 West Michigan Avenue

Suite 500

Kalamazoo, MI 49007

(269) 384-8078

<http://www.kalcounty.com/opa/CommunityProsecution/inbrief.html>

Multnomah County District Attorney's Office

1021 Southwest 4th Avenue

Room 600

Portland, OR 97204

(503) 988-3162

<http://www.co.multnomah.or.us/da/index.php>

Marion County Prosecuting Attorney's Office

251 E. Ohio Street

Indianapolis, IN 46204

(317) 327-1416

<http://www6.indygov.org/pros/sla/index.htm>

Denver District Attorney's Office

201 W. Colfax Avenue

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Denver, CO 80202

(720) 913-9086

http://www.denverda.org/html_website/index.html

Publications

The following APRI publications are available at www.ndaa-apri.org:

Community Prosecution Implementation Manual

Community Prosecution Planning and Implementation Workbook

The Changing Nature of Prosecution:

Community Prosecution vs. Traditional Prosecution Approaches

What Does it Mean to Practice Community Prosecution?

Organizational, Functional and Philosophical Changes

Juvenile Delinquency and Community Prosecution:

New Strategies for Old Problems

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