

Table of Contents

1. Key Themes	2
2. Research Questions.....	4
2.1. Mission/Vision/Objectives/Goals.....	4
2.2. History	4
2.3. Sponsor/Organization/Structure/Governance	4
2.4. Roles and Responsibilities	4
2.5. Accountability.....	4
2.6. Complaints	4
2.7. Conflict Of Interest.....	4
2.8. Decision-Making.....	4
2.9. Interventions/Referrals/Diversions	5
2.10. Activities/Services/Approaches.....	5
2.11. Offences	5
2.12. Clients	5
2.13. Human Resource Management	5
2.14. Financial Resource Management.....	5
2.15. Material Resource Management	6
2.16. Project Administration.....	6
2.17. Community Services/Resources	6
2.18. Audits/Evaluations/Reviews.....	6
2.19. Working Collaborative Relationships with Other Stakeholders.....	6
2.20. Other Issues.....	7
2.21. Successes	7
2.22. Challenges	7
3. Relevant Documents, Studies and Practices - Yukon	8
3.1. Crown Counsel Diversion Policy.....	8
3.2. Alternative Measures in Canada – 1998	8
3.3. Building Community Justice Partnerships - 1997	8
3.4. A Review of the Justice System in the Yukon - 1986	8
4. Relevant Documents, Studies and Practices – Other Northern Territories.....	10
4.1. Federal Prosecution Service Review – The North - 2001	10
4.2. A Framework for Community Justice in the Western Arctic – 1999.....	17
4.3. Alternative Measures in Canada – 1998	17
5. Relevant Documents, Studies and Practices – Other Canadian.....	19
5.1. Role of the Prosecutor in the 21st Century.....	19
5.2. Crown Prosecutor’s Perspective	20
5.3. Alternative Measures in Canada – 1998	21
6. Relevant Documents, Studies and Practices – USA	22
6.1. National Institute of Justice	22
6.2. Community Prosecution Strategies - 2001	23

1. Key Themes

This is a summary of some of the views presented in this Chapter.

Federal Prosecution Service Review – The North: The lines between the Territory's management of the courts and the monies they receive from the Department for programs (e.g. Aboriginal Justice Strategy (co-funds community justice), Legal Aid, Native Courtworkers, Victim Services, Crime Prevention, Child Support etc.) and the Department's prosecution responsibilities are impermeable. See [4.1](#)

The management of the Department's entire relationship with the territorial government needs to be more integrated to actively draw on the experience of those federal employees who live in the North and deal with the impact of these programs on a routine basis.

Prosecutors in the North spend a great deal of time doing witness preparation, explaining the process, reviewing statements, and keeping witnesses informed. The assistance that Victim Witness Assistants (VWAs) provide to the Crowns in Whitehorse invaluable both in terms of cross-cultural awareness and insight into the special needs of victims. Expanding the number of VWAs, and actually locating these people in the communities, would produce significant benefits. Victims would be better prepared for court; Crowns would have some valuable time freed-up; Crowns could be confident that the victim/witness was receiving the time and attention required; and, hopefully, the victim would feel less hostile to the process. Further, involving First Nations VWAs in the prosecution often provides some level of comfort for a victim, a benefit that cannot be measured.

The daily direct involvement with victims is unique to prosecutions in the North. Crown counsel have an important duty to victims of crime as well to the other community members who find themselves before the courts as witnesses. While the prosecutor is neither a victim's advocate nor the victim's counsel, in First Nations communities, this fine distinction is not well understood. The reality is that the Crown and the RCMP are the link between the justice system and victims and witnesses. Victims must be informed of the progress of a case and, especially in cases of sexual abuse, there must be follow-up with the victim.

Victims of crimes should be informed of victim services that are available and be encouraged to use them. Unfortunately very limited community services are available for victims in small communities. Victims frequently report a lack of comfort with the services that may be available due to the closeness of the community members.

Alternatives to Prosecution in the North: There are several diversion projects throughout the communities in the North, and several communities have signed *Diversion Protocols* with the Crown, the Territorial Government, and the RCMP. Justice committees are common in all three territories and represent an important link between the justice system and individual communities. The Department has been supportive of these committees as they allow the people in the communities to know more about the justice system; to be involved in its administration, and thereby render it more culturally relevant. Justice committees can assist the court in determining the proper sentence to be imposed on an accused. Crown counsel are a key point of connection between the existing justice system and a new, more community-based approach. There are obviously time and resource implications associated with this non-traditional role on the part of the Crown.

The Crown should play a leading role in public education about the law and the legal system, while being sensitive to and taking into account the cultural differences, customs, traditions, and values of the community. The Crown also needs to ensure that all segments of the community are represented. In the North, the Crown's role involves an imprecise balancing act that is difficult, multi-faceted, and time-consuming.

When the court goes to a community, the Crown is there to represent that community. For this concept to have meaning, the Crown has to have an understanding of and be sensitive to aboriginal culture and the local issues in that community. While some efforts have been made to provide northern Crowns with cross-cultural training, the reality is that this knowledge base is largely acquired on a haphazard, "learn-as-you-go" basis. A

planned and systematic approach should be developed to achieve the requisite training, either by cultural immersion training, which may be the most effective and meaningful, or through more traditional formal classroom training. In addition, Crowns would benefit from Aboriginal language training. This training should be ongoing and should be taken by all staff working in the Northern Offices.

The justice system is not static and continues to evolve. Increasingly, communities are taking on important roles in the administration of justice, largely through their involvement in pre-charge diversion and the administration of community-based court sanctions.

The Crown has an important and complex role to play in linking the justice system to the communities that it seeks to serve. The traditional roles of the prosecutor as police advisor and court advocate remain valid, but new and different expectations have emerged that place additional duties on the women and men who fulfill these difficult positions. In short, more is expected of Crown Counsel in the North where there is a clear expectation that Crown counsel will encourage and assist the communities to develop a justice system that better meets their needs, is sensitive to their values and culture, and represents them.

As a recent history of the Federal Department of Justice's Criminal Law Branch noted: "Prosecutors today are facing challenges they never faced before, prosecuting crimes they never prosecuted before, and working under pressures and tensions they never worked under before." Among the many other new opportunities and challenges identified, the following are noteworthy: **Alternative justice programs**, such as restorative justice, alternative measures, conditional sentencing, diversion programs and drug treatment courts, offer new opportunities to deal with the root causes of crime but put prosecutors in non-traditional roles. They are often also called upon to take part in the policy development of such programs. Changes in legislation and societal expectations require prosecutors to be more attuned to the needs of victims of crime, and to keep them more informed throughout the entire court process. **The role of victims** is particularly pertinent to prosecutors in the North, the bulk of whose caseload is made up of crimes of violence and property offences. It is both the legal reality and the reality of Canadian society that prosecutors need to be increasingly responsive to **Aboriginal concerns** and the growing diversity of Canadian society. As Deputy Minister Morris Rosenberg explained: "Carrying out the duties of a prosecutor is difficult...there is no recipe that guarantees the right answer in every case, and in many cases reasonable persons may differ. A prosecutor who expects certainty and absolute truth is in the wrong business." See [5.1](#)

The emergence of **community prosecution** strategies (primarily in the USA) may signal a major milestone in changing the 'culture' and role of the prosecutor through the development of partnerships and collaborative, problem-solving approaches with the community aimed at improving the quality of life and safety of citizens in neighbourhoods. The most innovative community prosecution initiatives pose fundamental questions about the function of the prosecutor, the ways in which the prosecutor seeks justice and about the organization and operation of the prosecutor's office. These strategies suggest a potentially important shift prosecutorial philosophy, as prosecutors emphasize community-focused crime strategies and adapt values and methods of other community justice innovations, particularly those relating to community policing, court, corrections, and restorative justice initiatives. See [2](#)

2. Research Questions

2.1. Mission/Vision/Objectives/Goals

- see also chapter on “Definitions/Principles” – “Results/Performance Measurement/Accountability”

What are the stated mission/vision/objectives/goals of the Crown Prosecutor (Crown) in community justice?
Short term? Medium term? Long term?

Does the Crown have any suggestions as to what the mission/vision/objectives/goals/values of the other stakeholders should be with respect to community justice?

2.2. History

- see also chapter on “History”

What is the history of the Crown’s role and participation in community justice?

2.3. Sponsor/Organization/Structure/Governance

How does the Crown support the work and decisions of the community justice projects?

Does the Crown have any suggestions as to how should community justice projects be structured?

Does the Crown have any suggestions as to how governmental/non-governmental organizations (that sponsor/support the project) could be organized/structured to support community justice?

2.4. Roles and Responsibilities

What are the roles and responsibilities of the Crown in community justice?

Does the Crown have any suggestions as to what the roles/responsibilities/activities of government/related organizations, councils or working groups should be in community justice?

2.5. Accountability

- see also chapter on “Results/Performance Measurement/Accountability”

What are the overall accountability mechanisms of the Crown with the community justice projects?

Does Crown have any suggestions as to what other accountability mechanisms should be in place for community justice?

2.6. Complaints

- see also chapter on “Results/Performance Measurement/Accountability”

Does the Crown have any suggestions as to what kind of mechanisms should be in place to respond to complaints about the community justice projects?

2.7. Conflict Of Interest

Does the Crown have any suggestions as to how community projects should handle conflict of interest situations and power dynamics?

2.8. Decision-Making

Does the Crown have any suggestions as to how community justice projects should make decisions?

Does the Crown have any suggestions as to how community justice projects enhance its team-building exercises, workshops, training, advice or outside assistance to resolve the differences/disputes?

2.9. Interventions/Referrals/Diversions

– see also chapter on “Interventions/Referrals/Diversions”

Does the Crown have any suggestions about interventions/referrals/diversions that should be handled by the community justice project?

2.10. Activities/Services/Approaches

– see also chapter on “Activities/Services/Approaches”

What activities/services/approaches does the Crown engage in community justice? How much time is spent on them?

Does the Crown have any suggestions as to what activities/services/approaches should be undertaken by the other stakeholders in community justice?

2.11. Offences

- see also chapter on “Offences”

Does the Crown have any suggestions as to what offences should be handled by the community justice projects?

2.12. Clients

- see also chapters on “Offenders” and “Victims”

Does the Crown have any suggestions as to whom the community justice services should be targeted? Accused? Offenders? Victims? Other?

2.13. Human Resource Management

Does the Crown have any suggestions as to who should be members of the community justice projects? How they should be selected? Based on what criteria? Community Process, Elders’ recommendation, Healthy/respected members of the community, Recovered from abuse, Ex-Offenders Ex- Victim, Experience/Skills, Interest in justice, other

Does the Crown have any suggestions as to what kind or roles/responsibilities these members should have?

Does the Crown have any suggestions as to what kind of experience/skills these members should have? Does the community have any suggestions as to what kind of education/qualifications these members should have?

Does the Crown have any suggestions as to what kind of informal and formal training these members should have?

Does the Crown have any suggestions as to what whether members should be paid or be volunteers?

Does the Crown have any suggestions as to how volunteers could be recruited?

Does the Crown have any other suggestions regarding human resource management in community justice projects?

What experience and skills do you as a Crown prosecutor have with community justice?

What training/support do you have/received to work with the community justice project?

How many hours per week do work with the community justice project?

Do you take a break from these duties?

Are you formally or informally recognized and rewarded for your work with community justice? By whom?

How often?

How has the workload of the Crown changed as result of involvement with the community justice project?

2.14. Financial Resource Management

- see also chapters on Funding/Budgeting; Costs

Does the Crown have any suggestions as to how funding should be determined for community justice projects?

Does the Crown have suggestions as to how much core funding should be available to the community justice projects?

Does the Crown have any suggestions as to what financial accountability mechanisms should be in place for community justice projects?

<p>2.15. Material Resource Management</p> <p>Does the Crown have any suggestions as to what material resource community justice projects should have?</p>
<p>2.16. Project Administration</p> <p>Does the Crown have any other suggestions as to whether policies/procedures/standards should exist for community justice? <u>see also chapter on “Standards”</u></p> <p>Does the Crown have any suggestions as to whether community justice processes should be open to members of the public?</p> <p>Does the Crown Prosecutor have any suggestions as to community justice project administration?</p>
<p>2.17. Community Services/Resources</p> <p>- see also chapter on <u>“Social Development Factors”</u></p> <p>Does the Crown have any suggestions as to how other stakeholders could facilitate collaboration with programs and agencies providing different support to participants of the community justice project?</p>
<p>2.18. Audits/Evaluations/Reviews</p> <p>- see also chapter on <u>“Results/Performance Measurement/Accountability”</u> and chapter on <u>“Review Methodology”</u></p> <p>Does the Crown have any suggestions regarding the conduct of audits/reviews/evaluations with respect to community justice projects? How often? By whom?</p>
<p>2.19. Working Collaborative Relationships with Other Stakeholders</p> <p>- see also chapter on <u>“Relationships/Partnerships”</u></p> <ul style="list-style-type: none"> - Does the Crown meet with the following stakeholders in the area of community justice? - If so, how often? For what purpose? - Does the Crown have the support of the following stakeholders in the area of community justice? - What is working well, in terms of the Crown’s relationship with the following stakeholders in the area of community justice? - What are the challenges in terms of the Crown’s relationship with the following stakeholders in the area of community justice? - How are disagreements or disputes between parties resolved? - Does the Crown have any suggestions on how to improve working collaborative relationships with the following stakeholders?
<p>Victims– see also chapter on <u>“Victims”</u></p>
<p>Victims’ support/advocacy groups– see also chapter on <u>“Victims”</u></p>
<p>Offenders– see also chapter on <u>“Offenders”</u></p>
<p>Offenders’ support/advocacy groups– see also chapter on <u>“Offenders”</u></p>
<p>Community justice project – see chapter on <u>Community Justice Projects</u></p>
<p>Volunteers - see also chapter on <u>“Volunteers”</u></p>
<p>Community – see also chapter on <u>“Community”</u></p>
<p>First Nations- see chapter on <u>“First Nations/Aboriginal Justice”</u></p>
<p>Native Courtworkers – see also chapter on <u>“Native Courtworkers”</u></p>
<p>Elders – see also chapter on <u>“Elders”</u></p>
<p>Other community resources (e.g. Schools, faith-based organizations, local businesses, non-governmental organizations)</p>
<p>YTG – Community Justice</p>
<p>YTG –Crime Prevention</p>
<p>YTG –Victim Services/Family Violence Prevention Unit– see also chapter on <u>“Victims”</u></p>
<p>YTG –Probation Services – see also chapter on <u>“Probation”</u></p>
<p>YTG –Corrections – see chapter on <u>“Corrections”</u></p>
<p>YTG – Health and Social Services (including Alcohol and Drug Secretariat)</p>

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

YTG Women’s Directorate – see also chapter on <u>“Gender”</u>
YTG Education
YTG Housing
YTG Sports & Rec
Justice Canada
Crown Prosecutors – see also chapter on <u>“Crown Prosecutors”</u>
RCMP – see also chapter on <u>“RCMP”</u>
Judiciary – see also chapter on <u>“Courts”</u>
Defense/Legal Aid – see also chapter on <u>“Defense Counsel”</u>
2.20. Other Issues Does the Crown have specific concerns and/or issues about community justice?
2.21. Successes – see also chapter <u>“Successes”</u> According to the Crown, what are the top (5) five best practices in community justice projects?
2.22. Challenges – see also chapter <u>“Challenges for Change”</u> According to the Crown, what are the (5) five greatest challenges community justice?

3. Relevant Documents, Studies and Practices - Yukon

3.1. Crown Counsel Diversion Policy¹

3.2. Alternative Measures in Canada – 1998 ²

The Crown Prosecutor plays a primary role in the overall delivery of alternative measures programs in Yukon. As the referral agent, the Crown Prosecutor is responsible for recommending and approving all alternative measures.

Youth

The Crown Prosecutor must be satisfied that the charge approval standard is met, and that the criteria set out in the *Young Offenders Act (Canada)* is satisfied before determining whether to refer a young person to alternative measures.

After reviewing the police report, and in some circumstances the pre- court enquiry, the Crown Prosecutor will make a decision to refer the youth to a diversion committee or youth worker for alternative measures. In the event the Crown Prosecutor decides that the youth is not suitable for alternative measures, he/she will then make a decision whether or not to proceed with the laying of a charge and normal court proceedings.

Adult: There are currently no alternative measures programs for adults. Yukon Justice is, however, in the process of developing a program with the intent of modeling the program on existing alternative measures programs for youth.

3.3. Building Community Justice Partnerships - 1997 ³

- It takes time for both a Crown and the community to recognize their common interests and the rich, underdeveloped potential of working together.
 - The opportunity for communities and Crown to know and trust each other is almost non-existent, as Crowns can change from one Circuit to the next.
 - In the Yukon, the Crown are rarely known by the community more than ‘the prosecutor’.
 - Few in the community know them as people.
-

3.4. A Review of the Justice System in the Yukon - 1986⁴

- **Interest in the Community:** Concern was expressed that the Crown Prosecutors are not acquainted with the people and the communities they are serving.
 - It was also felt that they do not adequately reflect the communities concerns during the court process.

¹ For a copy of this policy, please call the Whitehorse Regional Office of Justice Canada at 867-667-8100.

² Statistics Canada, Barry Mackillop, Correctional Services Program, Canadian Centre For Justice Statistic Alternative Measures in Canada – 1998, Feb 1999 <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-545-XIE/85-545-XIE.html>

³ Stuart, Barry. 1997. *Building Community Justice Partnerships: Community Peacemaking Circles*. Ottawa: Aboriginal Justice Learning Network, Department of Justice.

⁴ John Wright and Joanne Bill – A Review of the Justice System in the Yukon, 19 December 1986 – The Government of the Yukon, in response to concerns expressed about the justice system, appointed a panel to review the Justice System in the Yukon.

Research Framework for a Review of Community Justice in Yukon

Community Justice – Crown Prosecutors

- There is a perception and concern that the Crown prosecutors arrive in the community at the last possible moment and leave at the earliest opportunity because they have little or no interest in the community and its problems.
- **Turnover:** Crown Prosecutors change frequently and this frequency only compounds the problem.
- **Preparation:** As well, Crown Prosecutors do not appear well prepared.
 - It was felt that they do not have the time to prepare for the cases prior to their presentation.
- **Exceptions:** There are, however, a few exceptions to this general perception.
 - A few Crown prosecutors travel to a community a day or two prior to the court session to prepare their cases.
 - They do not take the time to meet with the community or band council.
 - These prosecutors who make any effort, no matter how small, to get closer to the community were exceptions to the rule and stood out in the memories of those the Panel interviewed.
- **Victims:** There were concerns expressed that Crown prosecutors were not assisting victims.
 - Members of the communities felt strongly that more must be done by Crown prosecutors to ensure that victims are able to speak to the court during the session.
- **Recommendations:**
 - Crown Prosecutor visit the community at least one day prior to the court sitting to meet the band council and/or the community inter-agency committee and to prepare cases.

4. Relevant Documents, Studies and Practices – Other Northern Territories

4.1. Federal Prosecution Service Review – The North - 2001 ⁵

Background

- ◆ The prosecution of all Federal offences, including the *Criminal Code*, is a federal responsibility in the Yukon, the Northwest Territories (NWT), and Nunavut.
- ◆ In 1955, the Department of Justice assumed responsibility for enforcement of the criminal law in the North and created the first Territorial Court of the NWT and of the Yukon Territory.
- ◆ Responsibility for the criminal justice system is shared between the territorial and federal governments.
 - ◆ The federal government is responsible for the development of legislation and policy, with the territorial government, through delegation, responsible for its administration.
 - ◆ The federal government continues to be responsible for the entire prosecution function.
 - ◆ The territories have significant responsibility for the administration of criminal justice, including the courts, RCMP, the correctional system including probation and aftercare, victim services, legal aid, the promotion of and support for alternative measures, and any number of other community justice initiatives.
 - ◆ Federal prosecution policies and practices have an impact on these systems and programs.
 - ◆ Through dialogue, the territories can affect federal prosecution policy, practice, budgets, or priorities with respect to what is in the public interest.
 - ◆ Close co-operation and collaboration is essential to the effective operation of the justice system in the North.
- ◆ The lines between the territories' management of the courts and the monies they receive from the Department for programs (e.g. Legal aid, victims, crime prevention, child support) and the Department's prosecution responsibilities are impermeable.
 - ◆ The management of the Department's entire relationship with the territorial government needs to be more integrated to actively draw on the experience of those federal employees who live in the North and deal with the impact of these programs on a routine basis.

II. Unique Prosecution Environment

- ◆ The reality of prosecutions in the North is very different than in the rest of Canada.
 - ◆ Crowns routinely have to travel to very remote locations under difficult conditions.
 - ◆ The caseload is heavy and demanding and counsel are required to play a number of different roles, particularly in relation to the handling of victims, civilian witnesses and their families.
 - ◆ Witnesses are often unilingual in an aboriginal language and require translation to even speak to the prosecutor, or may not understand the court system.
 - ◆ They may be reluctant to testify in front of or against family and friends.
 - ◆ Most offences are crimes of violence or property offences.
 - ◆ There are, proportionately, many more jury trials in the North than in the South, the majority of which involve sexual assault. Often, the jury does not convict.
- ◆ Prosecutors in the North spend a great deal of time doing witness preparation, explaining the process, reviewing statements, and keeping witnesses informed.
 - ◆ The assistance that Victim Witness Assistants (VWAs) provide to the Crowns in Whitehorse, Yellowknife, and Iqaluit is invaluable both in terms of cross-cultural awareness and insight into the special needs of victims.
 - ◆ Expanding the number of VWAs, and actually locating these people in the communities, would produce significant benefits.

⁵ Department of Justice Canada, Federal Prosecution Service Review, Part Six: The North, 2001, <http://canada.justice.gc.ca/en/dept/pub/fps/rpt2.html#PART6>

Research Framework for a Review of Community Justice in Yukon

Community Justice – Crown Prosecutors

- ◆ Victims would be better prepared for court; Crowns would have some valuable time freed-up; Crowns could be confident that the victim/witness was receiving the time and attention required; and, hopefully, the victim would feel less hostile to the process.
- ◆ Further, involving Inuit, First Nations, or Métis VWAs in the prosecution often provides some level of comfort for a victim, a benefit that cannot be measured.
- ◆ The daily direct involvement with victims is unique to prosecutions in the North. Crown counsel have an important duty to victims of crime as well to the other community members who find themselves before the courts as witnesses.
 - ◆ While the prosecutor is neither a victim's advocate nor the victim's counsel, in small Inuit, First Nations, or Métis communities, this fine distinction is not well understood.
 - ◆ The reality is that the Crown and the RCMP are the link between the justice system and victims and witnesses.
 - ◆ Victims must be informed of the progress of a case and, especially in cases of sexual abuse, there must be follow-up with the victim.
 - ◆ Victims of crimes should be informed of victim services that are available and be encouraged to use them.
 - ◆ Unfortunately very limited community services are available for victims in small communities.
 - ◆ Victims frequently report a lack of comfort with the services that may be available due to the closeness of the community members.

III. Current Operations in the North

- ◆ The Department of Justice has regional offices in Whitehorse, Yellowknife and Iqaluit, as well as an office in Inuvik which is a sub-office of the NWT Regional Office. The staffing of the northern offices is as follows:

	LAs	Other Staff	Total
Yukon	8	3	11
N.W.T.	10	5	15
Inuvik Sub-Office	1	1	2
Nunavut	4	4	8

- At present, the Yukon Regional Office is part of the B.C. and the Yukon Region, whereas both the NWT and Nunavut Regional Offices are part of the Prairie and Arctic Region.
 - While the three Northern Offices are unique within the Department in terms of their responsibility for *Criminal Code* prosecutions, their location, and the issues they confront, each individual office, like each territory, is distinct.
 - Care must be taken not to assume that the Yukon, NWT and Nunavut are the same just because they all happen to be located north of the 60th parallel.
- For many years, various members of the FPS from across Canada have provided short-term back up and support to the Northern Offices as members of the "Northern Flying Squad".
 - The flying squads in the North are composed of federal prosecutors from the Department's southern offices, many of whom have served in the North in the past.
 - Flying squad counsel are called upon to supplement insufficient resident resources due to staffing delays and to back-fill during holidays and training periods.
 - They also handle cases involving the prosecution of police officers; provide specialized expertise in certain areas of the law (wiretaps, organized crime, complex drug conspiracy

files) or simply where the size or complexity of a case is beyond the capacity of the resident staff.

- The Whitehorse Office also retains agents to do some prosecution work. Agents are not currently used in the other two territories.
- Both the NWT and the Yukon Regional Offices currently have a Criminal Litigation Strategy position, with the Crowns in those positions dealing with all files that appear in Yellowknife and Whitehorse Territorial Court.
 - The Strategy has been successful in reducing the Yellowknife caseload and should be applied to all files in the NWT as well.
- The Strategy has not, however, been that successful in the Yukon.
 - The Strategy has been successful in NWT in part because significant credit has been given for early guilty pleas (the judiciary have been active participants in the initiative).
 - Sentences in the NWT are generally higher than in the Yukon, and therefore the Strategy may not be as effective where the discrepancy in sentencing before or after trial is not as great.
 - The situation in the Yukon obviously warrants closer inquiry.
 - Consideration should be given to adopting a formal pre-charge screening model, similar to the ones that exist in British Columbia, Québec and New Brunswick.

IV. Future Strategies for Northern Prosecutions

- For the future, three distinct but related strategies should be initiated with respect to northern prosecutions.
 - The first relates to the devolution of various aspects of the prosecution function to the territorial governments.
 - The second and third relate to a series of process and operational initiatives within the department to better integrate prosecutions and policy and the organizational structure.
- **i. Devolution to Territorial Governments**
 - Discussions between the territorial governments and the Federal Government about devolution of the prosecution function have taken place sporadically for many years, invariably at the request of a territorial Justice Minister to the Attorney General of Canada.
 - These discussions have taken place against the backdrop of the devolution of a wide range of non-justice programs and activities by other federal departments and agencies.
 - An in-depth analysis of the pros and cons of devolution of the prosecution function is beyond the scope of this Review. However, until now, concerns over independence of the prosecution function from political interference have worked against a decision to devolve this important responsibility.
 - Similarly, expressions of concern and reluctance on the part of some senior RCMP officers, various members of the judiciary, and some aboriginal/First Nation groups have re-enforced the view that the timing was not right.
 - To date the Department has operated largely in a reactive mode in relation to the issue of devolution of the prosecution function.
 - However, the creation of Nunavut in 1999 and other recent developments in the North suggest that this reactive approach should be re-visited.
 - A compelling case can be made for the desirability of having the prosecution function rest with the order of government that is closest to the people.
 - Northern *Criminal Code* prosecutions are largely local in nature and broadly linked to the communities that they serve.
 - Given the nature of prosecutions and links to communities, territorial governments are arguably better situated than the Federal Government to manage a prosecution service that reflects the values and standards of the people that it serves.
 - Rather than simply waiting for some or all of the territories to bring forward a case to support devolution, the Department of Justice should indicate to the three territorial

governments its willingness to develop plans with them for the devolution of the function within a specified time period, say 10 years.

- The plans would need to include a concrete, multi-year action plan to ensure that each of the territorial governments acquired the expertise and capacity to assume this responsibility leading up to devolution.
- The plans could authorize personnel exchanges between the two governments and formalize the practice of consulting the territorial government on prosecution policies and priorities.
- These discussions must actively engage Inuit, First Nations and aboriginal leaders and should not replace the involvement of aboriginal and First Nations leaders in the on-going dialogue concerning the administration of justice.
- The uncertainty regarding the future role of the FPS in the North has periodically been a source of anxiety and concern to employees working in the northern regional offices.
 - Proper regard and attention must be paid to providing employees with regular and timely information on the status of the devolution file.
- **Devolution of the Prosecution Function**
Recommendation #35 -- The Department of Justice should formally communicate to the three territories its willingness to work with them in developing a plan for the devolution of the prosecution function in each territory within the next 10 years.
- **ii. Increasing Policy Integration**
 - The nature of the work of the Northern Offices requires a clear and logical connection between the operational and policy roles of the Department. Prosecutors in the North are responsible for prosecuting all *Criminal Code* offences, and as such, are the only ones in the Department who have daily experience with prosecutions that directly involve victims.
 - While consultation does take place on an ad hoc basis, the workload of counsel in the North does not allow the time to share the benefit of their considerable experience, especially when the timeframe for input and response is unrealistically short.
 - This situation is the source of considerable frustration for counsel working in the North and contributes to a sense of isolation from the Department. The Northern Offices are sometimes left scrambling in order to comply with their own department's legislation.
 - The consultation process on all policy, criminal legislation, and Supreme Court criminal matters should be reviewed, and a system should be devised that allows the Northern Offices to offer meaningful input.
 - Mechanisms need to be developed and resources allocated to take advantage of this valuable expertise in the development of criminal law policy and to ensure that Northern prosecutors are kept informed on an ongoing basis of legislative changes and relevant court decisions. One option would be to create a full-time policy position in each of the Northern Offices to make the link between operations and policy development and also to take a proactive role in building and maintaining effective intergovernmental relationships (including Inuit, First Nations, and Métis).
- **iii. Integration of Organizational Structures**
 - Historically, the linkages between the NWT and the Yukon Regional Offices have not been particularly strong.
 - While the Nunavut and NWT Regional Offices are presently working very closely together, this is due largely to the fact that a good portion of the court work in Nunavut continues to be handled by the NWT Regional Office.
 - For a number of reasons, the direction of linkages in the North has tended to be north/south -- the Yukon with B.C., NWT with Alberta.
 - Nevertheless, there are still important similarities between the three offices and the nature of the legal, social and cultural challenges that they face.
 - It would make good sense to formalize linkages between the three offices.

Community Justice – Crown Prosecutors

- Periodic meetings of northern Regional Directors and/or FPS group heads, cooperative training initiatives, prosecutor exchanges and general information sharing are a few examples of ways to enhance the linkages between the three northern offices.
 - A number of new organizational structures have also been suggested.
- **a. Northern Offices Reporting to the Criminal Law Branch (Ottawa)**
 - This option would do little to create a separate "northern voice" and would merely institutionalize existing ad hoc relationships in the department. One variation would have the Yukon Office still report to the BC Regional Office, but these would appear to be only limited benefits to this option.
- **b. Creating a New Northern Region**
 - While creating a distinct region headed by a Senior Regional Director would provide a northern voice and visibility, it would mask the differences between the three existing territories, including the relative progress on devolution.
 - It would also face the practical disadvantage of existing transportation infrastructure which is oriented north-south.
 - While a distinct Northern region may have disadvantages, there would appear to be considerable value in providing centralized support to the Northern offices for a number of common functions such as policy development, training, and recruitment.
- **c. Rearrange the Present Prairies and Arctic Regions**
 - This option which would see two new regions -- Alberta/NWT and Prairies/Nunavut -- would deal with current management problems in the Prairies/Arctic Region, but would not be a long-term solution.
- **d. Northern Flying Squad**
 - While the Northern Flying Squad has played a valuable role in the delivery of prosecution services in the North for many years, it is recommended that the practice be discontinued, except in exceptional circumstances.
 - The administrative costs associated with maintaining the Flying Squad, as well as the financial cost of maintaining law society memberships for departmental counsel in the three jurisdictions are very high.
 - Files must be prepared locally before being handed off to the visiting counsel, most of whom arrive in Whitehorse, Yellowknife or Iqaluit a day or two before a circuit is scheduled to begin and leave immediately upon its conclusion.
 - As a consequence, resident counsel must undertake all of the advance preparations and follow-up work.
- **Additional Resources for Northern Offices**

Recommendation #36 -- Additional resources should be provided to each of the northern regional offices. At the same time the Northern Flying Squad should be discontinued.

V. Alternatives to Prosecution in the North

- There are several diversion projects throughout the communities in the North, and several communities have signed *Diversion Protocols* with the Crown, the Territorial Government, and the RCMP.
 - Generally, diversion takes place outside the formal justice system and involves the police referring cases to local justice committees.
 - Justice committees are common in all three territories and represent an important link between the justice system and individual communities.
 - The Department has been supportive of these committees as they allow the people in the communities to know more about the justice system; to be involved in its administration, and thereby render it more culturally relevant.
 - Community justice dispositions are likely to have more meaning for an offender, and justice committees tend to be more effective in monitoring the offender's behaviour and quickly responding to situations of non-compliance with diversion agreements.

Research Framework for a Review of Community Justice in Yukon

Community Justice – Crown Prosecutors

- Post-charge diversion is also an available option.
 - The Crown may initiate this directly or through the referral of a case by the police to the Crown for possible diversion.
- Justice committees can assist the court in determining the proper sentence to be imposed on an accused.
 - Crown counsel are a key point of connection between the existing justice system and a new, more community-based approach.
 - There are obviously time and resource implications associated with this non-traditional role on the part of the Crown.
- In enacting s. 718.2(e) of the *Criminal Code*, Parliament recognized that Inuit, First Nations, and Métis people might not have been dealt with fairly by the justice system.
 - The provision requires that all available sanctions other than imprisonment be considered for all offenders, with *particular attention to the circumstances of aboriginal offenders*.
 - In *R. v. Gladue*, [1999] S.C.R. 688, the Supreme Court of Canada held that this section is remedial, i.e. not simply a codification of existing case law.
 - The section encourages sentencing judges to have recourse to a restorative approach to sentencing, with a new emphasis on decreasing the use of incarceration.
 - This approach is recognized in the Policy Guide for Crown Counsel in Aboriginal Justice Matters that has been developed in both the NWT and the Yukon Regional Offices.
- It is the stated policy of the Attorney General to make the justice system more accessible, inclusive and meaningful to Inuit, First Nations, and Métis peoples.
 - The Crown should play a leading role in public education about the law and the legal system, while being sensitive to and taking into account the cultural differences, customs, traditions, and values of the community.
 - The Crown also needs to ensure that all segments of the community are represented. In the North, the Crown's role involves an imprecise balancing act that is difficult, multi-faceted, and time-consuming.
- When the court goes to a community, the Crown is there to represent that community.
 - For this concept to have meaning, the Crown has to have an understanding of and be sensitive to aboriginal culture and the local issues in that community.
 - While some efforts have been made to provide northern Crowns with cross-cultural training, the reality is that this knowledge base is largely acquired on a haphazard, "learn-as-you-go" basis.
 - A planned and systematic approach should be developed to achieve the requisite training, either by cultural immersion training, which may be the most effective and meaningful, or through more traditional formal classroom training.
 - In addition, Crowns would benefit from Aboriginal language training.
 - This training should be ongoing and should be taken by all staff working in the Northern Offices.
- The justice system is not static and continues to evolve.
 - Increasingly, communities are taking on important roles in the administration of justice, largely through their involvement in pre-charge diversion and the administration of community-based court sanctions.
 - The Crown has an important and complex role to play in linking the justice system to the communities that it seeks to serve.
 - The traditional roles of the prosecutor as police advisor and court advocate remain valid, but new and different expectations have emerged that place additional duties on the women and men who fulfill these difficult positions.
 - In short, more is expected of Crown Counsel in the North where there is a clear expectation that Crown counsel will encourage and assist the communities to develop a justice system that better meets their needs, is sensitive to their values and culture, and represents them.

Relationships with Northern Governments

Recommendation #37 -- The Department of Justice should take steps to formalize the relationship between the northern regional offices and the territorial governments in Northwest Territories, the Yukon

and Nunavut. Regional Directors should be tasked to meet with territorial Deputy Ministers of Justice and other territorial officials on a regular basis to formally consult on prosecution policies and priorities.

Integration of Northern Operational Experience

Recommendation #38 -- The FPS and the Department of Justice should develop a process that facilitates the full integration of operational experience in the North with policy expertise.

Increased Presence in the North

Recommendation #39 -- Northern Regional Directors should be tasked with the development of action plans to increase the presence of the FPS and the Department of Justice in northern communities and to address the need for on-going cross-cultural awareness training for all staff.

Part Seven: Implementation

The recommendations made in this report represent a substantial program of change. Implementing them will require leadership and dedicated effort in a continually changing operational environment that is already characterized by demanding workloads and a shortage of resources. Proceeding to execute these recommendations without a carefully devised plan could result in frustrated efforts and reduced staff morale. Consequently, a comprehensive and fully costed implementation plan should be the first order of business. This plan should include: timetables; the dedicated resources required; the subordinate steps needed to fully implement the recommendations; and the organizations and/or officials responsible for implementation. There should be regular reporting, perhaps on a quarterly basis, to the senior management of the Department concerning progress being made.

The terms of reference for this Review called for the initiation of pilot projects where appropriate. The greatest interest is testing new approaches related to prosecutions. To date, 10 pilot projects have been identified with funding coming from the Department's Strategic Investment Fund. They include the expansion of the Toronto Drug Treatment Court Model to other locations and the development of a pilot project in Yukon that addresses the unique needs of Northern prosecution services.

A complete list of the current pilots is provided in Annex D.

Implementation Plan

Recommendation #40 -- A comprehensive and fully budgeted implementation plan must be developed and approved, with the following priorities for implementing the recommendations of this Review:

- a collaborative approach to prosecutions with provinces and territories;

- development of alternatives to prosecution and instrument of choice;

- strengthening working relationships;

- responding to the needs of the North;

- management of complex cases; and management priorities: information management, planning and coordination capacity, human resources planning, training.

4.2. A Framework for Community Justice in the Western Arctic – 1999⁶

- Justice Canada Crown Attorneys who provide prosecution services in the Northwest Territories have some involvement with local committees, though little direct relationship with them as almost all diversions are pre-charge.
 - Crown involvement is largely occasional and only at a very general level, not with respect to specific matters.
 - Crowns see some committees as being effective and "doing a great job" - matters are resolved faster without going to court.
 - However, they also expressed concerns regarding the extent to which victims' needs, especially those of female victims, are being addressed by committees and whether committee membership is representative of all sectors of the community.
 - Crowns support the aims of the Community Justice Program, though, and feel that they could be more involved through providing education about the criminal justice system as well as information, assistance and support to committees.
 - Some coordinators/committee members attend court when it is held and thus have the opportunity to meet and talk with the Crown Attorney.
 - There is the perception that relatives of the accused are in a situation of conflict of interest when dealing with diversions and that family power structures in communities may undermine the ability of committees to deal with all cases in an impartial and equal manner.
 - The Crown Attorneys would like to receive more information about the program (i.e., the role and duties of the community justice specialists, guidelines for committees, a list of current committees and specialists) and be notified about community justice conferences.
 - They emphasized that communication between the Crown and the program needs to be improved, perhaps through scheduling regular meetings with Division management and with the specialists.

4.3. Alternative Measures in Canada – 1998⁷

Northwest Territories

Role of the Crown Prosecutor

Youth

The final decision for authorizing alternative measures referrals for youth rests with the Crown although this power is devolved to the police.

Although the decision to refer cases to alternative measures programs is devolved to the police in the Northwest Territories, the Crown does, nevertheless, retain the authority to make final decisions. As the general practice is for cases to be referred at the pre-charge stage, the Crown primarily relies on the police and the Community Justice Committee to make decisions on a case by case basis. In the event that the police

⁶ Campbell Research Associates, Kelly & Associates, Smith & Associates, prepared for Government of Northwest Territories, Department of Justice, A Framework for Community Justice in the Western Arctic – June 1999

⁷ Statistics Canada, Barry Mackillop, Correctional Services Program, Canadian Centre For Justice Statistic Alternative Measures in Canada – 1998, Feb 1999 <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-545-XIE/85-545-XIE.html>

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

proceed with a charge, the Crown may, upon review of the case, choose to refer the case, post-charge, to a Community Justice Committee for alternative measures.

The role of the Crown also extends outside the formal justice system, as it essential that the local Community Justice Committee develop strong partnerships between community members and justice system officials. The Crown may play an important role in assisting Committee members to understand the procedures and principles under the *Young Offenders Act (Canada)*.

Adult

As adults are only informally diverted, the Crown does not play a role in the decision to divert these cases

A formal post-charge alternative measures program for adults rests with the Crown and is based on federal authorization. Crown Counsel reviews cases and refers those cases deemed appropriate to the Community Justice Committee in the same manner as the informal process.

5. Relevant Documents, Studies and Practices – Other Canadian

5.1. Role of the Prosecutor in the 21st Century⁸

- The traditional role of the prosecutor is familiar and well accepted.
- The Supreme Court of Canada in 1955 emphasized that the job of the prosecutor is not to obtain a conviction but to bring forward credible evidence of a crime. It should be done firmly but fairly, the country's top court cautioned.
- “The role of the prosecutor excludes any notion of winning or losing; his function is a matter of public duty than which in civil life there can be none charged with a greater personal responsibility,” it said in *Boucher v. The Queen*. “It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings.”
- Mr. Justice Sutherland said the interest in a criminal prosecution is not “that it shall win a case but that justice shall be done
- While these conceptions still hold true as ever, the role of the prosecutor in the 21st century is far more complex.
- Last year's annual conference of the Federal Prosecution Service (FPS), *The Prosecution Function in the XXIst Century*, highlighted many of the new challenges and opportunities facing prosecutors not only in Canada but around the globe. The conference brought together prosecutors from almost every provincial service, the military, and from Australia, Denmark, England and Wales, France, South Africa, Ireland, Netherlands and the United States.
- As a former Federal Justice Minister commented:
 - o “The role of the prosecutor in the 21st century is not simple and your work is going to become even more complex, challenging and multifaceted. The work of a prosecutor in the 21st century is very different from the role of the prosecutor before the Charter, and before the burgeoning of the communications revolution. A federal prosecutor in the 21st century cannot function as a lone wolf, but rather as a team player on a multidisciplinary squad, more and more working with provincial and international colleagues.”
- As a recent history of the Federal Department of Justice's Criminal Law Branch noted: “Prosecutors today are facing challenges they never faced before, prosecuting crimes they never prosecuted before, and working under pressures and tensions they never worked under before.”
- Among the many other new opportunities and challenges identified, the following are noteworthy:
 - o **Alternative justice programs**, such as restorative justice, alternative measures, conditional sentencing, diversion programs and drug treatment courts, offer new opportunities to deal with the root causes of crime but put prosecutors in non-traditional roles. They are often also called upon to take part in the policy development of such programs.
 - o Changes in legislation and societal expectations require prosecutors to be more attuned to the needs of **victims of crime**, and to keep them more informed throughout the entire

⁸ Stephen Bindman, *Role of the Prosecutor in the 21st Century*, Justice Canada, Vol. 1. No. 2, <http://canada.justice.gc.ca/en/dept/pub/jc/vol1/no2/>

court process. The role of victims is particularly pertinent to prosecutors in the North, the bulk of whose caseload is made up of crimes of violence and property offences.

- It is both the legal reality and the reality of Canadian society that prosecutors need to be increasingly responsive to **Aboriginal concerns** and the growing **diversity** of Canadian society.
 - As Deputy Minister Morris Rosenberg explained: “Carrying out the duties of a prosecutor is difficult...there is no recipe that guarantees the right answer in every case, and in many cases reasonable persons may differ. A prosecutor who expects certainty and absolute truth is in the wrong business.”
-

5.2. Crown Prosecutor’s Perspective - ⁹

- A properly functioning youth justice committee can demonstrate to young offenders that they are members of the community and that their behaviour has offended the community to which they belong.
 - By showing a concern for youth, while demanding accountability, youth justice committees reinforce the idea that the courts are part of the greater community, not remote institutions.
 - Youth justice committees help in the struggle against youth crime by involving the citizens of the communities affected.
 - They are "not-so-subtle" recognition that police, prosecutors, probation officers and judges cannot stop criminal behaviour among our youth without the help of the community.
 - The justice system cannot expect to maximize community support unless it allows for the meaningful participation of the citizenry.
 - Those involved in youth justice committees bring with them valuable insight into why a particular youth is misbehaving and what might usefully be done to correct this behaviour.
 - This information can be of great assistance to the judge when crafting an appropriate disposition.
 - As a Crown counsel making sentencing submissions in youth court, one must always be aware of the emphasis in the Young Offenders Act on the special needs of young offenders.
 - While this emphasis certainly isn't to the exclusion or diminishment of other factors, it is of great importance.
 - In this regard, recommendations from a youth justice committee can be most helpful.
 - Perhaps the single most important factor in determining whether to proceed with a charge when a young offender has failed to comply with an alternative measures agreement is the attitude of the offender.
 - Again, the views of the youth justice committee will be of significant value in coming to this decision.
 - Perhaps the most effective way to deter young persons from committing other crimes is to make them believe that they need to change their behaviours and attitudes.
 - This can only be achieved by bringing to bear upon them a combination of influences.
 - They need to understand that they are valued as human beings, that they are part of the community and that they have responsibilities both to themselves and their fellow citizens.
 - Bringing about this understanding requires time, resources and patience.
 - Youth justice committee members can be an important, positive influence in this process.
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⁹ Alberta Solicitor General, Youth Justice Committees, “A Crown Prosecutor's Perspective”
http://www4.gov.ab.ca/just/yjc/perspectives.cfm?p_id=1729

5.3. Alternative Measures in Canada – 1998 ¹⁰

The Role of the Crown Attorney

National Overview

Generally, the role of the Crown Attorney in the alternative measures process is to review the case to determine appropriateness for alternative measures, to ensure there is sufficient evidence to proceed with prosecution of the offence, and to ensure that prosecution is not in any way barred at law.

When the Crown Attorney is satisfied that the person should be referred to alternative measures he/she will proceed with a referral to the appropriate person/organization responsible for delivering alternative measures.

If the referral from the Crown Attorney is at the post-charge stage, such as is always the case in Ontario and is an option in other jurisdictions, the Crown Attorney will usually enter a stay of proceedings until the process is completed.

In jurisdictions where the police are authorized to make referrals directly to alternative measures, the Crown may be consulted at the pre-charge stage prior to a referral being made.

In New Brunswick, the Alternative Measures program was modified changing significantly the role of the Crown Prosecutor in the alternative measures process.

At the local level, the responsibilities of the Crown Prosecutor include dealing with the designated Attorney General's Agent (Senior Police Officer) on any alternative measures cases where there is a need for discussion or follow-up, and providing advice as requested. In the event a case is referred to the Crown Prosecutor for pre-charge screening and the Crown Prosecutor considers it to be a good candidate for the Alternative Measures Program, the Crown will discuss and refer it back for further consideration with the Attorney General's Agent (Senior Police Officer). If no consensus is reached, the matter will be resolved by the Regional Crown Prosecutor.

Youth: In Quebec, if the alleged offence committed by the youth is listed in section IV of the *Program of Alternative Measures (Quebec)* (see Chapter 6, s.6.19 for a Complete list of offences), the Crown Attorney may refer the case to the Provincial Director to consider the appropriateness of using alternative measures or may authorize prosecution. If the offence is not listed in section IV (e.g., theft under), the Crown must refer the case to the Provincial Director for consideration of alternative measures.

¹⁰ Statistics Canada, Barry Mackillop, Correctional Services Program, Canadian Centre For Justice Statistic Alternative Measures in Canada – 1998, Feb 1999 <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-545-XIE/85-545-XIE.html>

6. Relevant Documents, Studies and Practices – USA

6.1. National Institute of Justice¹¹

Restorative Justice: What's in it for Prosecution

1. Minor cases from problem addresses (multiple calls in previous year) are more effectively handled by referral to a community dispute resolution center than by criminal justice processing (Harrisburg, PA). Subsequent court time is not required.
2. A number of studies of restorative practices (restitution, mediation, family group conferences, victim impact panels) indicate that recidivism decreases.
3. Giving victims choices at all stages returns a sense of control to them, and decreases fear.
4. In some research studies (at least one county in N. Carolina) a reduction in court caseload can be measured when victim offender mediation is offered. (CAUTION: care should be taken to insure several points of referral exist, so most or all eligible cases are referred. Often, this is not so).
5. More options generally will enhance the plea negotiation process.
6. Victims are demanding a fuller role; restorative approaches provide it, and leave victims more satisfied.
7. The politically powerful victim movement can be allies for positive system change.
8. All justice professionals have some responsibility to improve the system, and RJ offers a common umbrella under which many disciplines and the community can work together.
9. Restitution agreements are reached and met more fully with RJ approaches.

¹¹ http://www.ojp.usdoj.gov/nij/rest-just/CH5/3_sntcir.htm

6.2. Community Prosecution Strategies - 2001

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

Community Prosecution Strategies: Measuring Impact

By
John S. Goldkamp
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EXECUTIVE SUMMARY

Introduction

Taken at their most challenging, community prosecution strategies may signal a major milestone in changing the “culture” and role of the prosecutor through the development of partnerships and collaborative, problem-solving approaches with the community aimed at improving the quality of life and safety of citizens in neighborhoods. The most innovative community prosecution initiatives pose fundamental questions about the function of the prosecutor, the ways in which the prosecutor seeks justice, and about the organization and operation of the prosecutor’s office. These strategies suggest a potentially important shift in traditional prosecutorial philosophy, as prosecutors emphasize community-focused crime strategies and adapt values and methods of other community justice innovations, particularly those relating to community policing, court, corrections, and restorative justice initiatives.

This report describes the emergence of community prosecution strategies and identifies some of their common elements in a working typology based on features of innovations now in operation in diverse settings in the United States. Discussion of community prosecution strategies is illustrated by drawing on examples from 27 sites across the nation. The report concludes by proposing a conceptual framework for evaluation and describing some of the challenges posed by community prosecution strategies for assessing impact and measuring performance.

Prosecution and the Community

Since the 1960s, the concept of the “community,” variously defined, has continued to surface as an important criminal justice focus. For example, “community corrections,” a concept with origins dating back more than a century, was an active area of correctional innovation during the 1960s, 70s, and 80s (Harris, 1995). In the War on Poverty during the 1960s, empowering the poor in the United States was a principal focus of community organization strategies that dealt with fundamental societal and community justice issues (Brager and Purcell, 1967; Kramer and Specht, 1969). As the result of the civil disorder and urban riots of the late 1960s that manifested the alienation and feelings of disenfranchisement of poor and minority communities, the relationship between the “community” and the police became a primary focus of justice reform strategies (President’s Commission on Law Enforcement and the Administration of Justice, 1967; U.S. National Commission on the Causes and Prevention of Violence, 1970). Problem-oriented and community policing initiatives of the 1980s and 1990s were developed to better ensure that community concerns were fully addressed by police agencies (Davis, 1975; Goldstein, 1990; Rosenbaum, 1994).

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

More recently, the traditional posture of the courts, purposefully aloof from the problems of the community, was fundamentally challenged with the establishment of the Midtown Community Court in 1993. The Midtown Community Court sought a much closer working relationship with the community and served as a catalyst for increasingly diverse community-oriented justice initiatives. All of these and other community-oriented crime and justice foci form the background against which current community prosecution strategies have emerged and can be understood.

The Emergence of Community Prosecution

Community prosecution has been described as a “grassroots approach to law enforcement involving both traditional and nontraditional prosecutorial initiatives” (Weinstein, 1998:19). In a number of jurisdictions, community prosecution initiatives were sparked by the implementation of community policing and were logical, complementary extensions of the focus on community issues to the prosecutor’s function (Hankins and Weinstein, 1996). In locations without community policing programs, community prosecution strategies were developed to respond to community crime and public safety issues that the police were not sufficiently addressing. In a number of locations, community prosecution strategies are linked to community court initiatives.

In many instances, community prosecution involves deploying prosecutors, or in some locations non-legal staff, in the community to better identify the concerns of the residents and to invite their participation in developing strategies for addressing problems of crime and social disorder that are of highest priority. Prosecutors involved in these “outreach” efforts often find that community residents do not share the traditional prosecutor’s concern with the prosecution of serious crimes. Although the community may assume that such matters will always be a priority, their immediate concerns more often focus on the nuisance or “quality of life” crimes that make life in the neighborhood difficult, unsafe, or unpleasant. In short, prosecutors have discovered—like policing and community court leaders—that problems identified by the community as most important to them in their daily lives are generally not of the serious-crime type that the criminal justice system appears most ready to handle.

The emergence and diffusion of community prosecution as an innovation is difficult to reconstruct with accuracy because many prosecutors across the nation have been dealing with community issues in a variety of ways for some time. A good historical case can be made that community prosecution preceded rather than followed from community policing reforms, drawing its substance instead from the community organization innovations of the 1960s. The establishment of Cook County State Attorney Bernard Carey’s community prosecution program in Chicago in 1973 predates the first community policing program and was clearly influenced by the active community organization initiatives in Chicago in the 1960s.

Current estimates vary as to the number of prosecutors’ offices in the United States that have adopted some version of a community prosecution strategy. Certainly, the problems thrust on the criminal justice system by drug crimes and drug enforcement during the 1980s and 1990s forced prosecutors and other officials to create new strategies to cope with the overwhelming numbers of the criminal caseload, including ways to free neighborhoods of problems related to

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

drug crime, dealing, and use. In 1985, for example, Manhattan District Attorney Robert Morgenthau instituted a community-focused approach through a Community Affairs Unit in response to the advent of crack cocaine in New York, sending an experienced non-attorney employee out into the community to improve community relations and gather intelligence to better prosecute drug crimes.

The origins of the contemporary community prosecution movement in the United States are most often traced to the pioneering efforts of Multnomah County District Attorney Michael Schruck, who established the “Neighborhood DA Unit” in Portland, Oregon in 1990 in response to the concerns of business leaders that quality of life crimes would impede development of a central business district (Boland, 1998a). Other community-oriented prosecution innovations followed in 1991 in King’s County (Brooklyn, New York) under District Attorney Charles J. Hynes and in Montgomery County, Maryland under then State Attorney Andrew Sonner. Both of these initiatives involved major reorganization of the prosecutor’s offices along geographic lines and established new working links with the communities in each area. Also in 1991, the Community-Based Justice Program began operation in Middlesex County, Massachusetts and in 1993 the Street Level Advocacy Program was instituted in Marion County (Indianapolis), Indiana. After the early 1990s the innovation was adapted in additional jurisdictions, spreading more rapidly.

Chronological Community Prosecution Chart

Manhattan, New York	October 1985
Multnomah County (Portland), Oregon	November 1990
Kings County (Brooklyn), New York	September 1991
Montgomery County, Maryland	1991
Middlesex County, Massachusetts	1991
Philadelphia, Pennsylvania	1991
Marion County (Indianapolis), Indiana	1993
Suffolk County (Boston), Massachusetts	February 1993
Los Angeles, California (SAGE)	1993
Los Angeles, California (CLEAR)	1996
Howard County, Maryland	February 1996
Plymouth County (Brockton), Massachusetts	February 1996
Washington, D.C.	June 1996
Denver, Colorado	August 1996
Santa Clara County, California	1996-97
Pima County (Tucson), Arizona	July 1997
Honolulu, Hawaii	October 1997
Jackson County (Kansas City), Missouri	August 1997
Kalamazoo County, Michigan	May 1998
Cook County (Chicago), Illinois	October 1998
Nassau County, New York	1998
Travis County (Austin), Texas	1999
West Palm Beach, Florida	October 1999
Hennepin County (Minneapolis), Minnesota	1999
St. Joseph’s County (South Bend), Indiana	2000
Placer County, California	2000
Westchester County, New York	2000
Oakland, California	2000

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

A Typology of Community Prosecution Strategies

In considering the forms that community prosecution has taken across the United States, it is evident that there is no community prosecution “one-size-fits-all” model that has been uniformly adopted. Like other community justice innovations, community prosecution strategies have taken different forms in response to the needs and circumstances of specific localities, tailored to the problems of neighborhoods, commercial districts, or other specific geographic locations within cities and rural areas. In their diversity of approach, however, community prosecution strategies share some underlying dimensions.

This report proposes seven critical dimensions focusing on common features that appear to define community prosecution strategies and to provide an organizing framework or working typology of community prosecution strategies. They include the following:

- The target problem bringing about the need for the community prosecution strategy;
- The geographic target area addressed by the initiative;
- The role of the “community” in the community prosecution strategy;
- The content of the community prosecution approach to the community problems addressed;
- The organizational adaptations made by the prosecutor’s office for community prosecution;
- Case processing adaptations; and
- Interagency collaboration or partnerships relating to community prosecution initiatives.

By focusing on the core ingredients of community prosecution strategies across the United States, this framework can help illustrate not only the shared structural elements of these initiatives but highlight significant variations or differences as common elements are adapted to meet the needs of localities.

Summary Description of 27 Community Prosecution Sites

At the end of the year 2000, the Crime and Justice Research Institute had identified and made contact with 27 prosecutor’s offices that appeared to have community prosecution or community-oriented strategies in operation. In the full report, we briefly describe the features of these programs. The descriptive overview provides an illustration of the differences among community prosecution strategies on dimensions identified as critical in the working typology of community prosecution sites. The description of community prosecution initiatives in this report is very inclusive. We defer, for now, discussion of the important question of whether community prosecution is an umbrella concept for any and all prosecutorial activities directed at crimes located in the community or whether it has a narrower meaning tied to a new, collaborative, and problem-solving relationship with the community.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

Critical Dimensions Defining Community Prosecution Strategies

1. **Target Problem(s)**
 - a. Quality of life offenses
 - b. Drug crime
 - c. Gang violence
 - d. Violent crime
 - e. Juvenile crime
 - f. Truancy
 - g. Prostitution
 - h. Housing and environmental issues
 - i. Landlord/tenant issues
 - j. Failure of justice system to address community needs
 - k. Community alienation from prosecutor and other justice agencies
 - l. Improving community relations for better cooperation of victims/witnesses
 - m. Improving intelligence gathering for traditional prosecution of serious cases
2. **Target Area**
 - a. Urban/inner city
 - b. Rural/suburban
 - c. Business districts
 - d. Residential neighborhoods
3. **Role of the Community**
 - a. Recipient of prosecutor services
 - b. Advisory role
 - c. Core participants in problem solving
 - d. Core participants in implementation
 - e. Community justice panels
 - f. Sanctioning panels
 - g. Ad hoc
 - h. Targeted
4. **Content of Response to Community Problems**
 - a. Facilitating community self-help
 - b. Crime prevention efforts
 - c. Prosecution of cases of interest to the community
 - d. Receiving non-criminal as well as criminal complaints
5. **Organizational Adaptation(s)/Emphasis in Prosecutor's Office**
 - a. Field offices staffed by attorney(s)
 - b. Field offices staffed by non-attorney(s)
 - c. Attorneys assigned to neighborhoods
 - d. Special unit or units
 - e. Office wide organization around community prosecution model
6. **Case Processing Adaptations**
 - a. Vertical prosecution
 - b. Horizontal prosecution
 - c. Geographic prosecution
 - d. Community prosecutors do not prosecute cases
7. **Interagency and Collaborative Partnerships in Community Prosecution**
 - a. Police
 - b. City attorney
 - c. Housing authority
 - d. Community court/other court
 - e. Other justice agencies (probation, pretrial services)
 - f. Other social service agencies
 - g. Other regulatory agencies

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

The summary provided in the full report is illustrative and descriptive rather than “complete.” We identified prosecutors’ offices known to be involved in what appeared to be community prosecution strategies, from lists of grants awarded, from the available literature, from participants and presentations at various conferences, and from word of mouth among prosecutors involved in community-oriented innovation. Once candidate programs were identified, we made contact and interviewed representatives to determine what sorts of community prosecution initiatives were underway, if any. The descriptions presented in this report rely on self-reported interview information provided by representatives of each site.

We describe the highlighted 27 community prosecution sites for two principal reasons. First, we believe the summaries illustrate common key ingredients of diverse community prosecution strategies and provide the fundamentals of a community prosecution “model.” Second, we offer this description as a “draft” accounting to the field of current community prosecution programs for the purpose of soliciting feedback and additional information from sites that have been included and others that have not. In short, we expect to develop more complete descriptive summaries with supplemental and critical input from community prosecution sites, whether they are in planning or operational stages.

Measuring Impact: The Challenges Posed by Community Prosecution Strategies

The problem of measuring the impact of community prosecution—particularly given its diverse adaptations—begins with an understanding of what that innovation is (and what it is not) and what it proposes to accomplish in its own terms. The community prosecution “model” represents a philosophy as well as an innovation. The shared philosophy seeks to connect the prosecution function more directly with the community, to develop a new and more collaborative working relationship, and to be more responsive to crime-related concerns of communities. The form this idea takes varies considerably from location to location and from prosecutor to prosecutor along the dimensions we have outlined in the working typology of community prosecution strategies.

Many of the elements of community prosecution—dispersion of attorneys to different geographic locations, vertical prosecution, organization of case assignment to reflect the geographics of the community, considerably more time spent interacting with the community—represent notable departures from traditional modes of functioning, depending on the level of commitment a prosecutor’s office makes to the philosophy, and raises difficult questions about impact and resource allocation. Prosecutors who lead such efforts as well as their funding sources have begun to demand evaluation of whether and how community prosecution “works.” The challenges for research in measuring the effects of community prosecution, its strengths and weakness, are commensurate with the challenges posed by community-oriented strategies to traditional prosecution functions.

This report proposes a multi-dimensional framework for conceptualizing community prosecution evaluation measures that recognizes the distinct and joint roles played by the prosecution and the community and, in addition, defines areas of impact based on key dimensions in the typology shared by community prosecution initiatives across the nation. In addition, the framework differentiates between measures appropriate for assessing the

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

implementation of community prosecution and measures reflecting “outcomes” or impact of community prosecution programs, once they have been effectively implemented.

Conceptualizing Measures of Community Prosecution Impact

<u><i>Key Dimensions</i></u>	Elements of Community Prosecution Innovation		
	Prosecution Function	Community Role	Interaction of Both
Target Problems			
<i>Implementation</i>	Types/number of problems identified	Input in defining problems and designing strategies	Collaboration in identifying and addressing problems
	Strategies implemented to address	Participation in implementing strategies	
<i>Outcomes</i>	Outcomes per problem area	Community improvement Accountability Community satisfaction/ownership with outcomes	Problems successfully addressed
Target Area			
<i>Implementation</i>	Services, actions added per geographic areas	Cooperation, assistance	Defining, agreeing to area
<i>Outcomes</i>	Improved measures of targeted problems in geographic areas	Improved working relationship	
Role of Community			
<i>Implementation</i>	Types/methods/frequency of involvement Problems identified Suggested strategies	Types/method/frequency of involvement Community access Suggested strategies	Access to government and policy formulation
<i>Outcomes</i>	Improved community links Improved satisfaction Better impact on targeted problems	Improved community access/participation Improved satisfaction Impact on targeted areas Improved accountability	More effective communication on crime and related problems Ownership
Content of CP Strategy			
<i>Implementation</i>	Specific programs, components, services instituted	Specific role, cooperation, participant, recipient of services	Project-specific functions
<i>Outcomes</i>	Impact of specific programs (youths, drugs, graffiti, nuisance, prostitution, etc.)	Community view of impact, success	Measure of success, impact

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

Conceptualizing Measures of Community Prosecution Impact (Cont.)

<i>Key Dimensions</i>	Elements of Community Prosecution Innovation		
	Prosecution Function	Community Role	Interaction of Both
Organization of Prosecution <i>Implementation</i>	Geographic assignment	Organization, representation	New partnerships
	Reorganization	Areas/neighborhoods	Improved prosecution
	New procedures/staff assessment/values	Access to prosecutor/other agencies/resources	
<i>Outcomes</i>	New programs		
	Office effectiveness, efficiency	Effectiveness of procedures for participation	New procedures for collaboration
	Relative costs		
	Culture change/acceptance		
	Impact of new procedures		
	Improved reputation		
Prosecutor Workload <i>Implementation</i>	Content of workday/lawyer		
	Contact with community/outreach		
	Identification of problem areas		
	Litigation/vertical		
<i>Outcomes</i>	Community contacts		
	Problems identified		
	Strategies decided		
	Matters addressed/type		
	Resolutions/cases/types		
	Staff satisfaction		
Collaboration/Partnerships <i>Implementation</i>	New working relations with agencies, organizations	New overall working relationship	New planning, problem solving role
	Expanded planning		
	Added multi-agency services		
<i>Outcomes</i>	Impact of collaboration on services and outcomes/problems		Routinization, growth of relationship

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

Community Prosecution Strategies: Measuring Impact

Introduction

With increasing frequency over the last decade, prosecutors across the United States have been developing community-focused strategies to address crime problems, using methods that depart dramatically from their traditional roles. Taken at their most challenging, community prosecution strategies may signal a major milestone in changing the “culture” and role of the prosecutor through the development of partnerships and collaborative, problem-solving approaches with the community, aimed at improving the quality of life and safety of citizens in neighborhoods. The most innovative community prosecution initiatives pose fundamental questions about the function of the prosecutor and the ways in which the prosecutor seeks justice, as well as about the organization and operation of the prosecutor’s office. These strategies suggest a potentially important shift in traditional prosecutorial philosophy, as prosecutors emphasize community-focused crime strategies and adapt some of the values and methods of other community justice innovations, relating to community policing, court, corrections, and restorative justice initiatives.

This report describes the emergence of community prosecution strategies and identifies some of their common elements in a working typology based on features of innovations now in operation in diverse settings across the United States. Discussion of community prosecution strategies is illustrated by drawing on examples from numerous sites across the nation.¹ The

¹ Officials in the following 27 locations were interviewed about community prosecution programs: Manhattan, New York; Portland, Oregon; Kings County, Brooklyn, New York; Montgomery County, Maryland; Middlesex County, Massachusetts; Philadelphia, Pennsylvania; Marion County, Indiana; Suffolk County, Massachusetts; Los Angeles, California; Howard County, Maryland; Plymouth County, Massachusetts; Washington, DC; Denver, Colorado; Santa Clara, California; Pima County, Arizona; Honolulu, Hawaii; Kansas City, Missouri; Cook County, Chicago, Illinois; Kalamazoo, Michigan; Nassau County, New York; Bronx, New York; West Palm Beach, Florida; Hennepin County, Minnesota; Providence, Rhode Island; St Joseph’s County, Indiana; Placer County, California; Westchester County, New York; Oakland, California. Additional sites are included in this report based on written materials and/or information provided at conferences or workshops.

report concludes by describing some of the challenges posed by community prosecution strategies for assessing impact and measuring performance.

I. Prosecution, the Community, and Community Justice

The Prosecutor and the Community

Traditionally, a local prosecutor's office would have little direct contact with the public, its work focusing instead on preparing criminal cases generated by arrests for formal adjudication in court. Neighborhood-level crime problems were not an immediate focus of the work of the prosecutor's staff. The family, the neighborhood, and institutions such as churches and schools normally exerted effective social control over nuisance crime problems. Law enforcement was called on primarily to deal with the more serious matters (Pound, 1930). A substantial body of literature on American cities documents that for a wide variety of reasons, neighborhoods changed as a result of larger social changes in family structures and institutions, gradually exercising less informal constraint on the behavior of their residents. As early as 1930, Roscoe Pound described a theme that has pervaded criminal justice thinking until recently, the unreasonable expectation that formal criminal justice agencies should somehow be responsible for social order and replace the informal mechanisms (of family, church, school, etc.) that had become less effective:

This complete change in the background of social control involves much that may easily be attributed to ineffectiveness of criminal justice, and yet means only that it is called on to do the whole work, where once it shared its task with other agencies and was invoked, not for every occasion, but exceptionally (Pound, 1930:14-15).

Over more than two centuries, the role of the prosecutor in the United States has been dramatically transformed from a rather unimportant one, as a judicial adjunct presenting cases to the grand jury, filing information, dismissing cases filed by the police, plea bargaining, and prosecuting cases at trial (McDonald, 1979; Gottfredson and Gottfredson, 1987; Jacoby, 1980) to a powerful executive branch function with considerable discretion in the contemporary justice

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

system. Although police have traditionally taken criminal complaints from victims, investigated crimes, and interacted with the community, the prosecutor's role grew to include the power to investigate, particularly during the early twentieth century (Pound, 1930:182; National Commission on Law Observance and Enforcement, 1931:12), with a rationale dating back to a 1704 statute in Connecticut, the first state to codify the office of the prosecutor. That statute provided that the county attorney should prosecute criminal offenders as well as doing "all other things necessary or convenient...to suppress vice and immorality" (Wickersham, 1931:7). Whether through an historical interpretation of the evolution of the powers of the prosecutor or based on the broad discretion of prosecutors to pursue justice (rather than to merely seek convictions), the rationale for a community prosecution function can be traced to an interpretation of the role of the prosecutor to include responsibilities to "suppress" or prevent crime.

"Community" and Criminal Justice

The topic of "community" has long been at the core of crime theory and criminal justice policy, variously defined in a substantial body of literature in terms of location, physical environment, land use (residential or commercial), class, race, and ethnicity (Massey, 1985; Anderson, 1990; Squires, 1994; Taylor and Covington, 1988). From the earliest days of criminology, such as Ferri's (1896) discussion of "telluric" and environmental causes of crime before the turn of the century, through the work of the Chicago School in considering aspects of the urban environment (and areas within the city) related to crime (Park et al., 1925; Burgess, 1926; Shaw and McKay, 1969 [1942]), to current discussions of the relationships between crime, social organization, and physical attributes of communities ("neighborhoods") (Newman, 1980;

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

Sampson and Grove, 1989; Bursik, 1986; Taylor, 1995; Taylor, 2000), the connection between “community” and crime has been an important theme.

Emphasis on “community” in discussions of criminal justice administration and policy also has a long history. In the early part of the century, for example, Pound argued that one of the most important problems of criminal justice in the United States was:

[T]o apply and enforce law in a heterogeneous community, divided into classes with divergent interests, which understand each other none too well, containing elements hostile to government and order, containing elements ignorant of our institutions...where conditions of crowded urban life and economic pressure threaten the security of social institutions. (Pound, 1913:311)

Pound argued that the administration of justice should be based on “thorough knowledge of the social conditions...for which law must be devised and to which it must be applied” (1913:327).

Since the 1960s, the concept of “community,” variously defined, has continued to surface as an important criminal justice focus. For example, “community corrections,” a concept with origins dating back more than a century, was an active area of correctional innovation during the 1960s, 70s, and 80s (Harris, 1995). In the War on Poverty during the 1960s, empowering the poor in the United States was a principal focus of community organization strategies that dealt with fundamental societal and community justice issues (Brager and Purcell, 1967; Kramer and Specht, 1969). As the result of civil disorder and urban riots of the late 1960s that manifested the alienation and feelings of disenfranchisement of poor and minority communities, the relationship between the “community” and the police became a primary focus of justice reform strategies (President’s Commission on Law Enforcement and the Administration of Justice, 1967; U.S. National Commission on the Causes and Prevention of Violence, 1970). Problem-oriented and community policing initiatives of the 1980s and 1990s were developed to better ensure that

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

community concerns were fully addressed by police agencies (Davis, 1975; Goldstein, 1990; Rosenbaum, 1994). More recently, the traditional posture of the courts, purposefully aloof from the problems of the community, was fundamentally challenged with the establishment of the Midtown Community Court in 1993, which sought a much closer working relationship with the community and served as a catalyst for increasingly diverse community-oriented justice initiatives.

All of these and other community-oriented crime and justice foci form the background against which current community prosecution strategies have emerged and can be understood. Attempts to characterize, analyze, or measure the impact of this emerging innovation will, among other questions, have to consider the specific meaning of “community” for community prosecution, including how the community is involved and how the prosecution focus on the community differs both from other approaches in criminal justice and from traditional prosecution.

The Relevance of the Community Justice Movement

“Community justice” innovation has taken many forms across the country, and is spreading across different governmental agencies, resulting in the development of innovative programs that include community policing, probation, courts, and prosecution, all sharing the goal of making the justice system more relevant and accessible to the community, and making better use of the community as a resource to address the crime problem. Starting with community policing, the criminal justice system has appeared slowly to reorient itself to seeking out contact with, and input from, neighborhood residents on issues of importance to them, and to attempting to address order maintenance issues. Foot patrol, which had been largely discredited by criminal justice officials beginning in the 1940s, (Wilson and Kelling, 1989) began to re-

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

emerge as a sound policing method when special units were created to solve community problems. Community policing has gained such popularity nationwide that a majority of America's police departments appear to have adopted some version of the approach (Karp, 1998:5). Many of these programs have garnered the favor of community members, reduced fear of crime, and purportedly contributed to reductions in crime (Wilson and Kelling, 1989).

Community justice issues began to be addressed by courts as an indirect result of the establishment of drug courts in the early 1990s, but they were the fundamental emphasis of the Midtown Community Court experiment when it began operation in Manhattan in 1993 (Sviridoff et al., 2000). The creative reforms and leadership demonstrated in the Midtown Community Court have since been adapted by numerous jurisdictions across the country as localities tailor community court approaches to focus on quality of life offenses and related issues identified by community members as being disruptive of their community. The collaboration between judicial leaders and the community that is at the core of the community court model have provided a demonstration of techniques and strategies valuable for a variety of community justice initiatives, including community prosecution.

Community Prosecution as a Community Justice Strategy

Community prosecution has been described as a "grassroots approach to law enforcement involving both traditional and nontraditional prosecutorial initiatives" (Weinstein, 1998:19). In a number of jurisdictions, community prosecution initiatives were sparked by the implementation of community policing and were logical, complementary extensions of the focus on community issues to the prosecutor's function (Hankins and Weinstein, 1996). In locations without community policing programs, community prosecution strategies were developed to respond to community crime and public safety issues that were not being addressed sufficiently by the

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

police. In a number of locations, community prosecution strategies are linked to community court initiatives.

In many instances, community prosecution involves deploying prosecutors, or in some locations non-legal staff, in the community to better identify the concerns of the residents and to invite their participation in developing strategies for addressing problems of crime and social disorder that are of highest priority. Prosecutors involved in these “outreach” efforts often find that community residents do not share the traditional prosecutor’s concern with the prosecution of serious crimes. Although the community may assume that such matters will always be a priority, their immediate concerns more often focus on the nuisance or quality of life crimes that make life in the neighborhood difficult, unsafe or unpleasant.

As other community justice initiatives have revealed, this community focus on crime issues differs strikingly from the general orientation of the justice system. Scarce resources and an increasing volume of serious criminal cases (particularly drug-related) have caused law enforcement agencies to try to handle the most serious matters, by default de-emphasizing the more minor (and more numerous) offenses in the community. With this focus on the punishment of serious crime, few deterrent measures have been available to address nuisance level offenses, for which jail sanctions are usually inappropriate and generally not imposed. In short, prosecutors have discovered—like policing and community court leaders—that problems identified by the community as most important to them in their daily lives are generally not of the serious-crime type that the criminal justice system appears most ready to handle.

As an example, even when community leaders are concerned with drug dealing in the neighborhood, prosecution of the dealers has little immediate impact on the neighborhood. As the rather slow process of adjudication of their cases is carried out, the dealers are often back on

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

the street, or new dealers quickly take their place. Even if prosecution is ultimately successful, community residents may be frustrated by the apparent inability of law enforcement to respond more immediately to their calls for help (Boland, 1998a:253-54). Community prosecution strategies have grown as the result of a need, partly political, to be more responsive to community issues and to expand the prosecutor's role beyond its traditional one of prosecuting cases.

As prosecutors' offices have attempted to devise strategies that are more responsive to community concerns, problem-solving has become a major focus of community prosecution programs. From developing plans to clean up and better maintain public parks to utilizing civil sanctions to attack nuisance issues, many prosecutor's offices have implemented procedures departing notably from their traditional focus on the prosecution of criminal cases to seeking ways of preventing and reducing crime. These community-oriented strategies have in common a new collaboration with community members in identifying problems and devising solutions. The value of such collaboration has been demonstrated in successful community prosecution sites, as it has in other community justice initiatives, empowering the community to define its problems, participate in solutions, and bring the informal social control mechanisms of the community into play in a way that complements the efforts of law enforcement and the justice system to address crime. Both prosecutors and police derive benefits from a collaborative partnership with the community. The community's respect for, and trust in, official agencies is enhanced; potential witnesses for trial may provide better cooperation; and residents may be more helpful in providing intelligence needed to address serious crime problems.

The collaboration characterizing community prosecution initiatives—like other community justice initiatives—is not limited to new working relationships with community

partners, however; it also extends to new working relationships with other government and social service agencies outside the criminal justice system with responsibilities in areas directly affecting community crime and quality of life problems. The resolution of problems identified in various jurisdictions has involved a wide range of agencies with responsibilities in such areas as street lighting and repair, licensing and regulation of bars, housing and building code enforcement, parks and recreational services, drug treatment, health care, mental health care, child care, services to families, and services to the indigent. In jurisdictions focusing on youth related issues, schools, juvenile justice agencies, and other organizations serving the needs of young people have also become involved.

II. The Emergence of “Community Prosecution” Strategies

The emergence and diffusion of community prosecution as an innovation is difficult to reconstruct with accuracy because many prosecutors across the nation have been dealing with community issues in a variety of ways for some time. A good historical case can be made that community prosecution preceded rather than followed from community policing reforms, drawing its substance instead from community organization innovations of the 1960s. The establishment of Cook County State Attorney Bernard Carey’s community prosecution program in Chicago in 1973 predates the first community policing program and was clearly influenced by the active community organization initiatives in Chicago in the 1960s.

More recently, although in many jurisdictions the prosecutor’s office took the lead in initiating community-oriented strategies, in others the success of local community police programs nearly demanded prosecutorial changes. Marion County, Indiana, District Attorney Scott Newman, for one, has indicated that the favorable relationship he saw growing between community police and the residents of Indianapolis challenged him to change the organization of his office, fearing that if he did not make direct and favorable contact with the community as well, they would focus on the prosecutors as the “bad guys” responsible for any system failures (Coles and Kelling, 1999:74). In discussions of his groundbreaking innovations in Portland, Oregon beginning in 1990, Multnomah County District Attorney Michael Schrunk has also stressed the importance of community policing reforms in catalyzing his community prosecution initiatives.

Although community prosecution strategies have adapted some of the same principals and techniques seen in community policing, the prosecution focus on community strategies certainly adds a distinctive dimension to community justice initiatives. Ronald Goldstock

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

(1992:3,49) argues that the prosecutor's office is best suited to take the lead in creating criminal justice policy based on problem-solving methods for a number of reasons. One is that the legal expertise possessed by the prosecutor is necessary to make use of civil methods such as forfeiture, injunctions, and civil damage actions, which can be very effective alternatives to criminal prosecution in addressing a wide range of neighborhood problems. Another, Goldstock suggests (1992:8-9), is that because the jurisdiction of most prosecutors' offices is often geographically much broader than that of individual police or other law enforcement agencies (sometimes encompassing many police precincts or districts), policy set by prosecutors is likely to have a more widespread impact. In addition, prosecutors have greater access to, and political influence on, judges and legislators, whose support is essential to creating and implementing policy changes, than do police. Finally, as elected officials, prosecutors have greater power to "sell" alternative, non-traditional responses to crime to the public (Gramckow, 1997).

Current estimates vary as to how many prosecutors' offices in the United States have adopted some version of a community prosecution strategy.² Certainly, the problems thrust on the criminal justice system by drug crimes and drug enforcement during the 1980s and 1990s forced prosecutors and other officials to begin to think of new strategies to cope with the overwhelming numbers of the criminal caseload, including ways to free neighborhoods of problems related to drug crime, dealing, and use. For example, in 1985, in response to the advent of crack cocaine in New York, Manhattan District Attorney Robert Morgenthau instituted a community-focused approach through a Community Affairs Unit that sent an experienced non-

² The American Prosecutors' Research Institute reports that about one-third of prosecutors responding to a national survey indicated that they were doing "community prosecution." APRI estimates that there are currently 80 sites across the United States operating some type of community prosecution program, 33 sites received targeted federal funding in 1999-2000, and 176 jurisdictions have pending applications for funding (see http://www.ndaa.org/apri/Community_Prosecution). These estimates do not include city attorneys' offices that are running such efforts in some jurisdictions. Some operating programs have gotten underway without federal funding specifically targeted toward community prosecution, using Local Law Enforcement Block Grants, open solicitation grants, or other sources that make them more difficult to identify.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

attorney employee out into the community to improve community relations and gather intelligence to better prosecute drug crimes.

The origins of the contemporary community prosecution movement in the United States are most often traced to the pioneering efforts of Multnomah County District Attorney Michael Schruck, who established the Neighborhood DA Unit in Portland, Oregon in 1990 in response to the concerns of business leaders that quality of life crimes would impede development of a central business district (Boland, 1998a). Other community-oriented prosecution innovations followed, in 1991 in King's County (Brooklyn, New York) under District Attorney Charles J. Hynes and in 1992 in Montgomery County, Maryland under then State Attorney Andrew Sonner. Both of these initiatives involved major reorganization of the prosecutor's offices along geographic lines and established new working links with the communities in each area. Also in 1991, the Community-Based Justice Program began operation in Middlesex County, Massachusetts, and in 1993, the Street Level Advocacy Program was instituted in Marion County (Indianapolis), Indiana. After the early 1990s the innovation was adapted in additional jurisdictions, spreading more rapidly (See Table 1).

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

However, recognition that the prosecutor's responsibilities should or could include a crime reduction or community crime prevention function is not new. Discussion of the importance of the prosecutor's responsibility to work to prevent crime and to address problems associated with minor crimes has been in evidence for much of the last century, considerably earlier than the "quality of life" emphases of recent community justice initiatives. In the National Commission on Law Observance and Enforcement Report on Prosecution of 1931, Alfred Bettman indicated that the more serious cases were not "...necessarily, from the point of view of crime reduction or crime prevention, the most significant" (Bettman, in Wickersham, 1931: 82-83). Bettman cited the 1922 report of the Cleveland Crime Commission, which noted:

[T]he general peace and security are more dependant on society's treatment of the regular flow of ordinary crimes than on the results of the few great murder cases which attract public attention and create public excitement. (Fosdick et al., 1922)

In the 1971 draft Standards for Criminal Justice, Standards Relating to the Prosecution Function and the Defense Function, the American Bar Association discussed the prosecutor's crime prevention function, as well as the prosecutor's accountability to the public in noting:

[T]he prosecutor is the leader of law enforcement in the community. He is expected to participate actively in marshalling society's resources against the threat of crime. (American Bar Association, 1971:18-21)

In the same year, Evelle Younger, then Attorney General of California, wrote of the prosecutor's responsibility as a community leader in directing and enlisting the community toward the goal of crime prevention and order maintenance:

A prosecutor worthy of the position must use the mantle which has been placed on his shoulders to assume a role of leadership in the entire community and help bring what has been characterized as a 'sick community' back to a condition where decent people can live peacefully in the enjoyment of their rights and property without the fear of molestation or attack from the criminal element...The

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

prosecutor must encourage citizen participation by convincing the people in his community that the war on crime cannot be won until all responsible persons become involved...There is a great untapped resource of public activity which, if properly guided by a prosecutor who is a true leader, can accomplish much more in suppressing crime than a series of arrests and successful prosecutions...The district attorney...is challenged by that responsibility to take affirmative steps to marshal the community resources and actively work at crime prevention. (Healy and Manak, 1971:4-6)

Younger also believed that the prosecutor must be willing to innovate and experiment and “must constantly be on the lookout outside the traditional scope of the prosecutor’s office for new ways to improve the system and to suppress crime” (Healy and Manak, 1971:4-5).

The use of civil remedies as a crime prevention weapon seen in some contemporary community prosecution strategies also has earlier origins. The report of the American Bar Foundation (Miller, 1969:241-252) devotes a chapter to the use of civil sanctions as a more effective tool for addressing certain types of crime. That report discusses the civil procedure of padlocking premises, combined with securing injunctions to prevent property owners from performing similar illegal actions in the future, as a method for nuisance abatement:

Law enforcement officers have pointed out that prostitution, gambling and liquor violations are not controllable if the only control device used is arrest of the violators followed by prosecution, even if convictions are relatively easy to obtain. The sentences are so light that the violators are not deterred from returning to the same type of illegal conduct...To prevent the necessity for those arrests and prosecutions in the future, the alternative of padlocking the premises is utilized. (Miller, 1969:242)

Other civil sanctions long in use by prosecutors as alternatives to prosecution are forfeiture of vehicles used in crime and revocation of liquor licenses to prevent future illegal conduct in establishments where alcohol is sold.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

Like many police agencies in the aftermath of the 1960s, some prosecutors specifically incorporated “community relations” sections into their offices during the 1970s. In 1977, Harris County, Texas, District Attorney Carol Vance, who also served as president of the National District Attorneys Association, wrote an article discussing the importance of the relationship between the prosecutor’s office and the community (Vance, 1977:131-43). Vance stressed the importance of positive community relations as an office-wide aim, particularly emphasizing the need to educate the community about what the prosecutor’s office does.

Prosecutor Vance’s office implemented a variety of community-oriented educational programs in Harris County targeting adults as well as middle and high school aged children, and including speakers’ bureaus through which prosecutors were sent to give talks at schools on criminal justice issues. Vance also used the press to encourage public participation in anti-crime programs. In addition, a citizen advisory committee was formed in his community, composed of former grand jurors, minority community leaders, the Board of the Chamber of Commerce, criminal justice professionals, church leaders, and other concerned citizens who were representative of the community. The committee was kept informed of office activities through a semi-annual report describing major accomplishments and the operations of each division in the office and was used as a sounding board for office priorities. For example, Vance writes, “the reaction of the Committee to pornography indicated the vast majority wanted our office to aggressively prosecute in this area” (Vance, 1977:140). Vance stressed the value of interagency collaboration as part of a community focus and noted the importance of coordinating the operations of law enforcement agencies to achieve mutual goals, for the purpose of effective interagency operations as well as to enhance public confidence in the entire law enforcement community. Specifically, his assistant prosecutors provided training to the police on issues of

Crime and Justice Research Institute
17

law and procedure. Vance also discussed the importance of positive relations with the governor’s office and the legislators, in the interest of promoting anti-crime legislation.

VI. Measuring the Impact of Community Prosecution: Challenges for Evaluation

The problem of measuring the impact of community prosecution—particularly given its diverse adaptations—begins with an understanding of what that innovation is (and what it is not) and what it proposes to accomplish in its own terms. In the earlier sections of this report, we have traced the origins of community prosecution strategies, identified key dimensions in a working typology that permits classification of diverse approaches, and highlighted the attributes of existing community prosecution initiatives to illustrate the scope and breadth of the movement to date. It is clear from these discussions that the community prosecution “model” represents a philosophy as well as an innovation. The shared philosophy seeks to connect the prosecution function more directly with the community, to develop a new and more collaborative working relationship, and to be more responsive to crime-related concerns of communities. The form this idea takes varies considerably from location to location and from prosecutor to prosecutor along the dimensions we have outlined in the working typology of community prosecution strategies.

Many of the elements of community prosecution—dispersion of attorneys to different geographic locations, vertical prosecution, organization of case assignment to reflect the geographics of the community, considerably more time spent interacting with the community—represent notable departures from traditional modes of functioning, depending on the level at which a prosecutor’s office commits to the philosophy, and raises difficult questions about impact and resource allocation. Prosecutors who lead such efforts as well as their funding sources have begun to demand evaluation of whether and how community prosecution “works.” The challenges for research in measuring the effects of community prosecution, its strengths and weakness, are commensurate with the challenges posed by community-oriented strategies to traditional prosecution functions.

A Conceptual Framework for Evaluation of Community Prosecution

Table 4 proposes a multi-dimensional framework for conceptualizing community prosecution evaluation measures that recognizes the distinct and joint roles played by the prosecution and the community and, in addition, defines areas of impact based on the key dimensions in the typology shared by community prosecution initiatives across the nation. In addition, the framework differentiates between measures appropriate for assessing the implementation of community prosecution and measures reflecting “outcomes” or impact of community prosecution programs, once they have been effectively implemented.

Identifying the Roles of the Prosecutor and the Community

The evaluation framework incorporates separate as well as joint consideration for the roles of the prosecutor and the community because, as we have understood the movement, community prosecution cannot be grasped as an in-house reorganization plan, for example, that is strictly limited to what the prosecutor “does” to or for the community. Instead, the concept suggests a new working relationship between prosecutor and community that takes many forms in the different sites, but does not merely amount to better prosecutor-public relations. Because the community prosecution concept itself suggests new goals, roles, and desired outcomes for both prosecutor and community, measurement of the impact of community prosecution needs to take both critical components into account. One of the challenges for evaluation is that the community and prosecution roles in community prosecution strategies are viewed both as agents of change (amounting to the community prosecution innovation being implemented) and the targets of change (as they are transformed by the innovation into a new justice function).

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

Table 4 Conceptualizing Measures of Community Prosecution Impact

<u>Key Dimensions</u>	Elements of Community Prosecution Innovation		
	Prosecution Function	Community Role	Interaction of Both
Target Problems			
<i>Implementation</i>	Types/number of problems identified	Input in defining problems and designing strategies	Collaboration in identifying and addressing problems
<i>Outcomes</i>	Strategies implemented to address Outcomes per problem area	Participation in implementing strategies Community improvement Accountability Community satisfaction/ownership with outcomes	Problems successfully addressed
Target Area			
<i>Implementation</i>	Services, actions added per geographic areas	Cooperation, assistance	Defining, agreeing to area
<i>Outcomes</i>	Improved measures of targeted problems in geographic areas	Improved working relationship	
Role of Community			
<i>Implementation</i>	Types/methods/frequency of involvement Problems identified Suggested strategies	Types/method/frequency of involvement Community access Suggested strategies	Access to government and policy formulation
<i>Outcomes</i>	Improved community links Improved satisfaction Better impact on targeted problems	Improved community access/participation Improved satisfaction Impact on targeted areas Improved accountability	More effective communication on crime and related problems Ownership
Content of CP Strategy			
<i>Implementation</i>	Specific programs, components, services instituted	Specific role, cooperation, participant, recipient of services	Project-specific functions
<i>Outcomes</i>	Impact of specific programs (youths, drugs, graffiti, nuisance, prostitution, etc.)	Community view of impact, success	Measure of success, impact

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

Table 4 Conceptualizing Measures of Community Prosecution Impact (Cont.)

<u>Key Dimensions</u>	Elements of Community Prosecution Innovation		
	Prosecution Function	Community Role	Interaction of Both
Organization of Prosecution			
<i>Implementation</i>	Geographic assignment	Organization, representation	New partnerships
	Reorganization	Areas/neighborhoods	Improved prosecution
	New procedures/staff assessment/values	Access to prosecutor/other agencies/resources	
<i>Outcomes</i>	New programs		
	Office effectiveness, efficiency	Effectiveness of procedures for participation	New procedures for collaboration
	Relative costs		
	Culture change/acceptance		
	Impact of new procedures		
	Improved reputation		
Prosecutor Workload			
<i>Implementation</i>	Content of workday/lawyer		
	Contact with community/outreach		
	Identification of problem areas		
<i>Outcomes</i>	Litigation/vertical		
	Community contacts		
	Problems identified		
	Strategies decided		
	Matters addressed/type		
	Resolutions/cases/types		
	Staff satisfaction		
Collaboration/Partnerships			
<i>Implementation</i>	New working relations with agencies, organizations	New overall working relationship	New planning, problem solving role
	Expanded planning		
	Added multi-agency services		
<i>Outcomes</i>	Impact of collaboration on services and outcomes/problems		Routinization, growth of relationship

Using the Typology to Organize Evaluation Questions

The separate and joint roles of prosecutor and community are examined in this evaluation framework on each of the key dimensions of community prosecution strategies outlined in Table 2 above. In the earlier discussion of the key ingredients of community prosecution strategies, the purpose of the typology was descriptive, to characterize diverse initiatives according to common themes or functional components. In Table 4, the purpose is different. The descriptive elements of the typology help establish categories of presumed impact that measures of community prosecution should tap, taking into account the parts played by prosecutor and community.

Distinguishing between (Early-Stage) Implementation and Outcome Questions

The evaluation framework illustrated in Table 4 builds in one other important dimension, differentiation of impact measures into implementation and outcome categories. The distinction is important for at least two reasons. First, it is difficult to gauge the impact of an innovation if it is not implemented. Thus, the first type of evaluation measure we propose measures the extent of implementation. By this we mean that, when a community prosecution initiative promises to introduce certain services or procedures in certain areas to accomplish certain effects (crime reduction, fear reduction, improved civility), a first task of evaluation is to measure the extent to which these services or procedures were put into place.

It is useful to distinguish implementation from outcome measures for a second reason. Many, if not all, community prosecution programs are young and evolving. Evaluation should take into consideration a program's maturity or stage of development. A program in its first year would not expect to produce the same measurable results as a program completing its third year of operation. In the younger program, evaluation questions would logically focus more on measuring the extent to which the promised innovation has indeed been implemented, services

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

delivered, and changes made. In the older program, once implementation of the innovation elements is confirmed, evaluation could more reasonably examine the impact of new actions, services, procedures or changes. In short, evaluation of community prosecution needs to examine its “success” in implementation as well as the results the program produces once effectively implemented. Stated another way, it is not possible to assess the impact of community prosecution, if it has not been well operationalized.

Target Problems

By way of illustration, Table 4 suggests that an assessment of community prosecution focusing on the role of the prosecutor would seek to identify the types of problems targeted by the initiative and the strategies that are formulated to address them. The prosecutor would want to be able to measure impact in each of the target areas, particularly relating to the prosecution function. Implementation measures would also focus on the role of the community in defining target problems and measure the extent of participation or collaboration that produced agreements. Outcome measures would focus on community improvement, increased community satisfaction in specific areas and measures that would hold the community prosecution initiative accountable for the goals it promised.

Target Area

Because community prosecution initiatives target specific geographic areas, implementation measures related to the prosecution role would examine the extent to which new services, procedures or activities were set in place per target area. This would include the extent to which representatives of the community in specific areas participated in those strategies and became involved in a new way. Because community prosecution initiatives focus on particular parts of a jurisdiction, measures of program impact have to be organized by geographic area (in

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

an “impact per area” measurement). Thus, community prosecution aims such as reducing prostitution or disturbances associated with nuisance establishments would be measured per targeted geographic area. This geographic dimension calls for new measures and new uses of available data, such as police calls for service, arrests, frequency of patrol, graffiti, or other relevant observation measures that can help evaluation frame results by geographic area.

Role of the Community

The “community” role in community prosecution fits in as an agent of change and as a target of change, an impact to be measured. The innovation proposes to involve the community to bring about better community conditions, but also promises to change the role of the community as a result of the strategy—making measuring impact a little confusing. A measure of community prosecution implementation would examine how the community role was defined and brought into play, how the prosecution went about encouraging the new role and how the community responded. New procedures put into place might also be considered outcomes or accomplishments of the strategy. Thus, evaluation should characterize the new community-prosecutor problem-identification and problem-solving process as both an implementation and an outcome question, as the new working relationship becomes institutionalized and an “effect” as well as a cause. There should be measurable results experienced by the community (however defined in the innovation), ranging from increased satisfaction with the prosecution function to perceived positive results in targeted problem areas.

Content of Community Prosecution Strategy

Most sites include a variety of functions under the heading of their community prosecution initiative, depending on the type of problems the initiative seeks to address. The list of specific programs or activities sponsored by the sites is long and highly individualistic,

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

ranging from juvenile intervention programs, to targeting drug offenders, as well as eliminating nuisance establishments and addressing housing problems. An evaluation framework will need to examine the impact of these programmatic elements of site community prosecution strategies, again from both implementation and outcome perspectives. Assessment should measure how well the specific programs were put into operation (implementation) as well as the extent to which they brought about desired results (outcome)—both from a prosecution and community perspective. In this category as in others, measuring of successful prosecutions may or may not be relevant to the full scope of the activities put in place and the objectives pursued through the particular programs.

Organization of Prosecution

Depending on its form, community prosecution may involve significant changes in the way prosecutor's offices are organized. As an implementation measure, evaluation would examine the extent to which the strategy resulted in changes in office organization and function. Some offices have reorganized minimally, instituting a special unit to carry out community prosecution functions, while others have very substantially restructured their offices and workloads along geographic lines—some with offices in satellite locations, some covering geographic assignments from a central office. How well these changes are put into place represents an implementation question. How this is accomplished with community involvement—for example, linked with community councils or other organizations—is also an implementation stage concern. Once the new organization and procedures are in place, evaluation can address their impact in the targeted areas and their effects on the operation of the prosecutor's office and on its relationship with the community.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

Prosecutor Workload

Some advocates of community prosecution have argued that, taken at its most challenging, adoption of community prosecution represents a change in the “culture” of prosecution. Whether or not this proves to be so is, of course, one of the fundamental research questions about the impact of community prosecution—one faced by community policing and other community-oriented innovations as well. In their implementation stage, community prosecution initiatives change what prosecutors do. Depending on the model, the prosecutor may spend more time in the community meeting and problem-solving and less time in court. When in court, the prosecutor may specialize in certain types of cases (some even involving civil actions) or in a variety of cases selected because of their importance to the target location. In some locations, the community prosecutor may serve more as a legal facilitator than as the actual attorney in all cases.

The new or non-traditional workload of the community prosecutor, then, will require other measures than those normally employed to evaluate attorney performance in the office. In addition to producing successful outcomes in the cases that do go to court, measures of impact can include the number of community contacts made, and the number and type of matters addressed and resolved, many using other means than the criminal process. Evaluation research would also examine the impact on the prosecutors office of the institution of a community prosecution function, measuring the extent to which the overall office workload has been affected, and the use and allocation of overall resources. Adoption of a new prosecutor role also raises questions about professional satisfaction and career advancement for staff who accept such assignments. One of the chief difficulties confronted by community policing initiatives has been acceptance of the new function by other police officers. In a parallel way, a measure of the

Research Framework for a Review of Community Justice in Yukon
Community Justice – Crown Prosecutors

impact of community prosecution should include assessment of the perspectives of other prosecutors on the new specialty. To the extent that the community prosecutor is not viewed as a “real” prosecutor, good candidates will not pursue such assignments without concern for career advancement.

Collaboration and Partnerships in Identifying Problems and Effecting Solutions

In many of the community prosecution sites highlighted above, the prosecutor has worked with community organizations to address crime-related quality of life problems through approaches involving multi-agency collaboration and partnerships with such agencies as housing and licensing, streets, police, schools and others. The nature and type of partnerships brought about through community prosecution represent measures of an important dimension of the innovation. The results of those collaborative strategies, services or special actions are outcomes measures relating to problem resolution that would not have been possible without community prosecution.

VII. Conclusion: Measuring the Impact of Community Prosecution Strategies

This report has traced the origins of community prosecution as a component of the evolving role of the prosecutor and the prosecutor's need to deal more directly with the crime-related problems of specific communities. At the same time, community prosecution represents another element in the growing repertoire of community justice initiatives responding to the needs of communities not addressed by traditional criminal justice methods. The "new" philosophy has taken on different forms and adopted different emphases in varied settings across the United States. In this report, we have tried to discuss the implications of community prosecution strategies for evaluation, as the increasing number of programs across the nation underscores the need for rigorous assessment of impact.

The evaluation framework we have described begins with an attempt to identify the key ingredients of the community prosecution innovation or model, commonalities that are shared by diverse applications of the concept across different settings. The proposed schema is not intended to be authoritative or definitive, but rather serves as a working typology that can be refined and improved upon through feedback from community prosecution jurisdictions across the United States. Using the working typology of community prosecution strategies, we illustrate the model by briefly sketching programs in 27 sites. As we have noted, we are certain that this is an incomplete list, as efforts are ongoing and sites are identified through a variety of means.

With this community prosecution typology and site illustrations, we have also organized a conceptual framework for evaluation of the performance and impact of community prosecution initiatives that incorporates the multidimensional aspect of the goals and methods of the innovation. We propose this evaluative scheme to help identify the principal dimensions of

concern in measuring impact. We also hope to elicit feedback and comment from jurisdictions about how evaluation can be developed and carried out. We look to established sites to provide the necessary data to assess the relative strengths and weaknesses of different elements and approaches in a way that can contribute to the development of best practices and inform the growing number of jurisdictions participating in community prosecution undertakings across the nation.

** For entire document please refer to it online