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Introduction to Community Prosecution within the NPA

This document is intended for the identified community prosecutors that are participating in the community prosecution strategic initiative of the NPA. It is a reference tool which is meant to help the community prosecutors by, *amongst other things*:

- i. Providing definitions and broad principles to community prosecution.
- ii. Providing a toolkit to help initiate community prosecution pilot projects.
- iii. Providing monitoring and reviewing mechanisms for community prosecution pilot projects.

Community prosecution is regarded as a new approach to prosecution, a shift from case processing to community mending. This approach entails a long-term, proactive partnership between the prosecution, law enforcement, the community, and public and private organisations with a view to solving particular community crime problems, improving public safety and enhancing the quality of life of community members.

Martin Schönteich, in his discussion paper entitled '*Developing a South African community-orientated prosecution model*', 2004¹, argues that prosecutors potentially have a huge influence over the administration of justice in a community. Prosecutors (we) have a unique perspective in that we represent the only part of the Criminal Justice System that comes into contact with every other part. The NPA is the link between the South African Police Service (the first port of call for victims of crime) and the Department of Correctional Supervision (as the final holding place for offenders). Our main focus, however, is on traditional case processing which has inhibited us from 'pursuing larger social goals' such as crime prevention.

The National Prosecuting Authority of South Africa (NPA), through its new strategy 2020, seeks to transform this traditional approach to prosecution, by introducing 'a *shift from a reactive to a proactive approach with a focus on enhancing community participation in setting criminal justice priorities*'.

Community prosecution is one of the delivery strategies identified in the NPA strategy under the sub-heading, "Crime prevention and community justice". This delivery strategy is aimed at finding methods of dealing with the demand for NPA products and services (reducing case load) by preventing victimisation through building civic morality and driving community justice solutions (NPA Strategy 2020, p. 59, 2005).

1 This discussion paper was prepared for the National Prosecuting Authority/Open Society Justice workshop on Community Prosecution, held in Pretoria, 26th April 2004.





Nine pilot sites -have been identified - one in each region. The sites and the community prosecutor in each site are set out below:

DIVISION	SITE	APPOINTED PROSECUTORS	TYPE OF AREA
PRETORIA	Mamelodi: <i>Mandela Extension</i>	Ron Mncwabe	Peri-urban
WLD	Randburg: <i>Windsor East/Cresta</i>	Raymond Mathenjwa	Urban
EASTERN CAPE	Mdantsane: <i>NU1</i>	Gugulethu Mampofu	Peri-urban
EASTERN CAPE	Umtata: <i>Ngangalizwe</i>	Jongikaya Busakwe	Peri-urban
FREE STATE	Bethlehem: <i>Bohlokong</i>	Ishmael T Motaung	Peri-urban
NORTHERN CAPE	Galeshewe: <i>Phutaneng</i>	Louis Heunis	Per-urban
NORTHWEST	Kuruman: <i>Kudumane</i>	Thaxx Matolong	Rural
KWAZULU-NATAL	Durban: <i>Point</i>	Sunil Prithipal	Urban
CAPE	Cape Town: <i>Siyahlala</i> (Part of Brown's Farm, Nyanga)	Fiona Cloete Machell Jacobs	Peri-urban

Each Director of Public Prosecutions (DPP) identified a pilot site which complied with the following requirements:

- where high or persistent levels of minor and less serious crime is affecting a particular community, with a focus on crime prevention;
- where there is easy accessibility to the identified community. This may, for eg, take the form of civic or community structures / organizations / community policing forum or other Community meetings;
- there is the potential to impact on the reduction of crime;
- the availability of court infrastructure where prosecutions that flow from the pilot can be speedily finalized;
- the availability of support structures/ services (SAPS, NGO's Social Development, other relevant Departments) and where good working relationships exists with our key partners;
- where there is potential for social and economic development; opportunities for synergy with LDP's, Urban Renewal and Rural Development Programmes
- clearly defined geographical lines, i.e the area should be small enough to enable the Community Prosecutor to become familiar with the people and the problems that exists in the community;
- justifies the costs and resources that will have to be injected in order to make the Pilot a success.
- Where possible these sites should be in an SAPS High Priority Area



Key Concepts:

In order to understand the role of the community prosecutor some key concepts need to be defined and understood:

Crime prevention is the process of reducing, deterring or preventing the occurrence of specific crimes, firstly by altering the environment in which they occur, secondly by changing the conditions which allegedly cause them, and thirdly by providing a strong deterrent in the form of an effective Justice System (White Paper on Safety and Security, 1998).

Developmental prevention is the process of designing interventions to inhibit the development of criminal potential in individuals (White Paper on Safety and Security, 1998).

Social crime prevention is the process of reducing the social, economic and environmental factors that is conducive to particular types of crime (White Paper on Safety and Security, 1998).

A **community crime prevention strategy** is a framework for the crime prevention activities that will make communities safer (Landman & Liebermann, 2000).

A **community** is a set of people with some shared element-in particular a group of people who live in the same area is a community. The substance of shared element varies widely, from a situation to interest to lives and values. The term is widely used to evoke sense of collectivism.

A community is characterized by the following:

- A group of people living in a particular local area
- A group of people having ethnic or cultural or religious characteristics in common; ie the Christian community of the apostolic age
- Common ownership.
- Residential district.

Community prosecution is defined as “a pro-active approach to addressing crime and quality of life issues that brings prosecutors together with residents to identify problems and solutions”.²

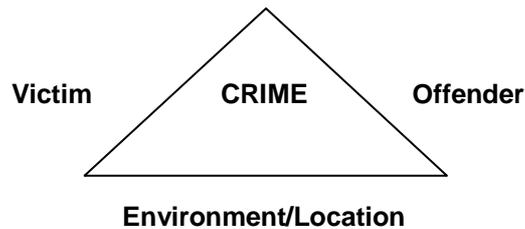
² See American Prosecutors Research Institute. Published under Award No.2000-PP-CX-K001 from Bureau of Assistance Programs. US Department of Justice 2004 February.



Understanding crime prevention

South African Crime Prevention Model: The crime prevention model that is used by practitioners in South Africa to analyse a variety of crime problems that will enable them to identify possible crime prevention interventions is based on the problem analysis triangle. This triangle portrays that crime requires victims, offenders and specific locations (see figure 1 below). Interventions in any one of these three elements can prevent crime from occurring.

Figure 1: Problem Analysis Triangle



Environment and Victim: Primary Prevention involves altering the environment in such a way that the root causes, or at least the facilitators, of crime are eliminated. Programmes can be aimed at schools, workplaces, neighbourhoods and communities. It is imperative that communities are more involved in developing primary prevention programmes. Examples of primary prevention initiatives are simple target hardening (e.g. the use of steering locks to prevent car theft) and changing the environmental design (e.g. thoughtful street lighting and housing plans that reduced crime by up to 30%) (Lab, 1997).

Example of a Primary Crime Prevention Initiative:

Destroying the market for stolen goods

A detailed crime analysis was carried out in Mabopane during 2001 by the Community Policing Forum (CPF) together with the Crime Prevention Unit of the South African Police Services. A high number of property-related crimes, i.e. theft, burglary, car hijacking, robbery and housebreaking were recorded. During visits to schools by the CPF it was revealed that the *modus operandi* of the offenders were to recruit school children and adolescents to sell and deliver stolen merchandise from other residents in Mabopane. A programme was developed with the focus on changing this pattern. An interactive presentation was given at all the schools in Mabopane to make school children aware of the problems that were associated with criminality.

Offender: Secondary Prevention involves the early identification of potential offenders and victims of crime. Intervention programmes that prevent potential offenders from committing crime and the victimisation of people are also developed, e.g. parent education (in the context of home visiting), parent management training, child skills training and pre-school intellectual enrichment (Lab, 1997).

Example of a Secondary Crime Prevention Initiative:

Youth Connection Project

The Youth Connection Project identified some regions that were experiencing high crime rates due to unemployment, alcohol abuse, drug abuse and school dropouts. Since most of these children were at risk of becoming involved in criminal activity, it was deemed imperative that the Youth Connection had to aim to minimise the school dropout rate, as well as decrease youth involvement in dominant gang culture.

This project provided access to appropriate social services at the school site in order to detect behavioural and learning problems at an early stage, supported intervention programmes and promoted recreational and cultural activities as alternatives to the dominant gang, drug and sex culture. It aimed at providing young people with positive alternatives and to motivate them to live their lives to the fullest by improving their knowledge, attitudes, beliefs and skills.

Offender: Tertiary Prevention focuses on those who have already committed crime or have embarked on a criminal career. It involves interventions, usually in prison, to prevent actual offenders from re-offending. These programmes have had more moderate successes than the initiatives undertaken as part of primary and secondary approaches (Lab, 1997).

Tertiary Crime Prevention Initiative:

Khulisa's Destinations

This project re-integrates offenders into the community after they have been released from prison. It connects offenders to jobs and self-sustaining opportunities. This programme contributes significantly to the reduction of crime by supporting the offenders in such a way that it will minimise the recidivism³ rate.

Strategic Crime Prevention Focus Areas

In the mission statement of the White Paper on Safety and Security (1998) it was stated that actual reduction of crime will be attained through a more effective Criminal Justice System and a better ability to prevent crime. In order to attain a safer society, intervention is required in two key areas:

- Crime prevention through effective justice; and
- Social crime prevention.

Social crime prevention

The NCPS (1996) categorises social crime prevention as follows:

- **Developmental crime prevention** addresses economic deprivation, marginalisation, fragmented communities and families, which lead to delinquency and violent offending.

³ Repeat Offending



Social development programmes, i.e. school and family programmes, that can be applied here, assist to deal with delinquency.

- **Situational crime prevention** reduces the opportunities for crime to be committed by modifying the circumstances in which offending occur. This includes crime prevention through environmental design, e.g. installation of streetlights in dark areas in order to reduce the incidence of crime.
- **Community crime prevention** where communities take responsibility for crime prevention within their own neighbourhoods, e.g. upgrading the role of local communities in preventing domestic violence and child abuse.

The National Crime Prevention Strategy (NCPS) recognises that every department needs to play a role in crime prevention. This does not mean that the role of the SAPS is undermined, but rather that each department needs to explore the areas in which it can contribute to crime prevention. The crime triangle recognised that crime can only occur when there is a convergence (overlap) of the willing offender, the environment and the victim. Each department can thus explore each of these areas and see where they can contribute: thus by either educating the public (the victim-warning on high crime areas and handy hints to safeguard yourself against crime), cleaning up the environment (fixing streetlights, addressing derelict buildings etc.) or by making the offender less willing (educating the youth, diversion programmes etc.). This project is intended as an exploration of the role of the NPA with the purpose of defining it. The project has been scoped for the period ending 31 March 2007 but is intended to inform strategic decisions in regard to the final implementation and roll out of best practices identified in this project.



Comparing Traditional Prosecution Models and Community Prosecution Models – International Lessons Learnt

While community prosecution is a new concept in South Africa many other countries have also begun to shift from purely traditional methods of prosecution towards a more integrated, solutions-based approach to get rid of the increasingly endemic problem of crime. Today most of the literature and experience around community prosecution comes from the United States where community prosecution has been practised in various forms over the last 10 years. Internationally it is generally accepted that community prosecution involves a paradigm shift as community members and prosecutors move from pure case processing to using tools beyond the traditional responses of the Criminal Justice System. Community prosecutors and community members work together to identify quality-of-life issues, i.e. graffiti, vandalism, drug solicitation, prostitution, etc., and begin to develop home grown solutions in an effort to implement long-term strategies to address community concerns.

In various environments where community prosecution has been implemented a number of basic elements have been identified, namely:

- A focus on problem-solving, public safety and quality-of-life issues;
- Inclusion of the community's input into the criminal justice system, e.g. community impact statements that are considered during sentencing;
- Partnerships with the prosecutor, law enforcement, public and private agencies, and the community;
- Various methods of prevention, intervention and enforcement other than criminal prosecution to address problems;
- A clearly defined targeted geographical area; and
- An integrated approach involving both reactive and proactive strategies.

It has been suggested that both traditional and community prosecutors consider that their primary function is to prosecute crime and that there are three overarching goals for both traditional and community prosecutors:

- To promote the fair, impartial and expeditious pursuit of justice;
- To ensure safer communities; and
- To promote integrity in the prosecution profession and coordination in the criminal justice system.

However, in addition to this, community prosecutors tend to rate crime prevention and assisting victims to feel safe and less apprehensive about future crime more highly than traditional prosecutors. They also tend to have a greater concern about enhancing



community relations, public safety and overall quality of life for residents than traditional prosecutors.

Figure 1: Evolving Roles and Responsibilities of the prosecutor

Traditional Roles	Community Prosecution Roles
<ul style="list-style-type: none"> ○ Representing the state in criminal matters ○ Seeking justice ○ Holding offenders accountable ○ Imposing the appropriate penal sanctions ○ Ensuring social control 	<ul style="list-style-type: none"> ○ Increasing the use of non-traditional civil remedies. ○ Adopting innovative approaches to prosecution ○ Expanding discretionary powers. ○ Deterring future crime ○ Reducing crime ○ Rehabilitating offenders

Partnerships and Varied Enforcement Methods

Community prosecution involves forming partnerships with a larger and more diverse group of role players than traditional prosecution where the tendency is to focus only on partnerships with local law enforcement agencies.

Whilst addressing quality-of-life crime problems in the community it is often necessary to meet with residents to discuss the specific problems and which initiatives could address it. This means that community prosecution involves varying levels of community involvement in prosecution, i.e. as recipients of prosecution services, as advisors, as stakeholders in the community and as partners in the implementation and development of appropriate solutions.

While traditional prosecutors and community prosecutors are equally motivated by punishing offenders, reducing crime and rehabilitating offenders, traditional prosecutors are more likely to use a reactive approach by waiting for the police to arrest the offender before they become involved in the process. Contrary to this, community prosecutors are more likely to become involved much earlier in the process. Having met with community members to identify crime problems they will then work with role players to develop a plan to address the specific crime problem. These plans will also often employ a greater range of strategies than those most often used by traditional prosecutors. For example they may;

- Assign non-justice personnel to focus on a specific area;
- Handle the situation through the community court;
- Encourage the use of alternative dispute resolution;
- Work with local government to address aggravating factors such as poor street lighting or vacant lots
- Involve communities in education and other supporting roles

It is worth noting that although traditional prosecutors and community prosecutors may differ in their view and approach to addressing crime and quality-of-life issues, the ultimate

outcomes of improved community relations and increased community self reliance are perceived as being important to both (APRI, 2004).



Comparing Community Prosecution and Community Courts

Community Courts and community prosecution are two initiatives currently being implemented in South Africa in response to the need to both increase community involvement in the Criminal Justice System and to more effectively address the endemic crime rate within the country. A goal of both is that they seek to narrow the gap between the justice system and the community by taking full account of the community's needs.

The primary difference between the two is that a community court is a structural and systemic response by the broader criminal justice departments to provide a court at a geographic site which is accessible to the community and which focuses on quality of life cases. At present a working definition of community courts is being used by the Department of Justice which states that it is "an ordinary district magistrates court, based either in or close to a community, which deals speedily and effectively with all cases referred to it, and where a range of innovative strategies are employed to resolve and prevent crime from recurring."

Community prosecution on the other hand is the response of the National Prosecuting Authority to providing a service which is more responsive to community needs by situating a prosecutor "on the ground" at a particular geographic site. This prosecutor may be assigned to an area which has an established community court, but may equally work in a jurisdiction which does not have one.

In its ideal form community courts and community prosecution provide a symbiotic relationship in which all parties benefit. In the absence of a community prosecutor, community courts are less likely to function optimally. It is the community prosecutor who has the necessary time and authority to establish the contacts and relationships so necessary for realising that which community courts wish to achieve. In the absence of a community court the community prosecutor will have to liaise very closely with the available courts, thus creating the necessary link between the partnerships formed and the courts.

Operations

Community Prosecution

A universal ingredient of community prosecution is the addition of crime prevention to the prosecutor's mission. They are seen as members of the community who have the power to stop crime before it has occurred, thus reducing the number of arrests and prosecutions. Community prosecutors, together with the community, identify the most troublesome quality-of-life offences and determine solutions to the crime.



Community Courts

The emphasis of community courts is on the principle of immediacy. Cases are ideally dealt with within 36 hours of the arrest being made with offenders starting to serve their sentences within 24 hours of their court appearances. Community probation officers are assigned to the court to supervise the convicted offenders. They also develop links with community organisations for the development of relevant community service projects that can improve the quality of life in the neighbourhood.

Objectives

While both community courts and community prosecution are in their infancy in South Africa, there are a number of objectives having been developed in the international arena, which might have some relevance to our environment.

Common Objectives of Community Prosecution

- To implement a pro-active, problem-solving approach to crime;
- To work with local communities, businesses and schools to reshape community conditions specific to local needs and to enhance the quality of life within these communities;
- To work together with the community to develop a mechanism for community participation;
- To improve their relationship and partnership with law enforcement and public and private agencies; and
- To enhance the prosecutorial function.

Common Objectives of Community Courts

- To focus on quality of life crimes and on cleaning up neighbourhoods that have deteriorated due to crime and neglect.
- To improve efficiency in judicial proceedings, match sanctions and services to offenders and build bridges between public and private agencies that serve offenders.
- To decentralise the Criminal Justice System and to bring community justice back to the community.
- To eliminate petty crime cases in the formal courts to enable these courts to focus more on serious crimes which require their time and expertise.
- To empower community members to have a true voice in the Criminal Justice System.
- To ensure that offenders are convicted, sentenced and serve their sentence as swiftly as possible.
- To provide offenders opportunities for self-evaluation, counselling, involvement in programs and community services as to better understand and control their behaviour (BJA, 2000).



Setting Up a Community Prosecution Project

There are various ways in which this initiative can be initiated. However, experience has taught us that the following useful steps can be fruitfully followed. The outcome of this initiative is to test and try this approach and develop a blueprint for future community prosecutors.

Step 1: Identification of the Community as a Client

The first step in establishing the programme is to identify the relevant community.

The community may be identified along geographical lines (for instance this may include central/business districts, urban/inner city communities, rural/traditional communities, and sub-urban neighborhoods); or one which experiences a specific problem (which may present itself in a certain area and which may or may not be in one or more magisterial jurisdictions) or along specific interests (for instance a business community).

However, regardless of how one chooses the target area and community it is imperative to have a thorough knowledge and understanding of the relevant community - its people, problems and resources.

Step 2: Identification of the Relevant Role-Players

The next step is to identify all the relevant role-players in the community since partnership and collaboration with other role-players is the key to successful community prosecution.

The NPA is not an island and cannot succeed in this initiative without the community prosecutor working closely with other governmental agencies and NGOs or civil society groups. The Community prosecutor needs to build a relationship with these partners and agencies and joint recognition of success will go a long way in building trust

Questions you might want to ask could include:

- Who will have a stake in this programme?
- Who needs to be involved in the planning stages?
- What community members are willing to assist?
- Who holds decision-making powers?

Finding allies who share the community prosecutor's vision can give the project the necessary impetus while the creation of effective partnerships can facilitate joint problem-solving resulting in creative and sustainable solutions. Once these partners have been identified a database of stake-holders should be compiled and maintained. This will facilitate the convening of subsequent meetings and the development of a strategy.



While members of the target community can be considered as being primary stake-holders the involvement of the following stake holders should be considered:

- The South African Police Service (SAPS); Metro Police; Metrorail.
- Other Government Departments such as Correctional Services, Social Services, Education, Housing, and Health.
- Local government and municipalities including Licensing Departments, Liquor Boards, Parks and Recreation as well as town planning units.
- Community structures such as Community Police Forums, Neighborhood Watches, Civic organisations and Ward committees.
- Traditional and Community leaders.
- Non-governmental organisations such as the SPCA.
- Schools.
- Media.
- Business sector.

Step 3: Conducting a Needs Assessment within the Specific Community

Once an area has been identified in which to initiate a community prosecution project there will be a need to identify the actual needs or problems in the community. A needs assessment addresses questions such as: What specific geographic areas should the project focus on? What specific problems are residents and local organisations concerned about? What resources are available for problem solving?

Various tools are available in order to conduct the assessment, for instance:

- Attending civic meetings;
- Meeting with role players;
- Conducting neighbourhood surveys;
- Going door to door, accompanied by member of the SAPS;
- The use of consultants to perform the assessment; and
- The use of the media in order to prepare the community to have inputs in the assessment.

The results of the assessment should be discussed with the various role-players and a proper database should also be maintained. This also forms the first step of the monitoring and evaluation process.

Examples of problem-areas, which may be encountered in a specific community that may call for pro-active preventative measures can, for instance, include:

- Substance abuse/drugs;



- Vandalism (e.g. Graffiti on items of commercial value);
- Domestic violence;
- Loitering;
- Gang violence;
- Juvenile crime; and
- Prostitution.

It is important that the community identifies the so-called “irritants” or priorities relating to issues of safety and security. Police and prosecutors must step back and not be tempted to impose their own perception of what the community needs and deciding for the community.

CMPs (Community Prosecutors) beginning to engage with communities must guard against creating the impression that they are there to solve all the communities’ problems. From the very outset it must be clear that CMPs are there only to assist the community to deal with their problems relating to safety and security. The community must understand the need to be involved in the development and implementation of solutions. Be aware that prominent members of the community could be driving specific agendas that might not be aligned to the real concerns of the broader community. Be wary of community activists trying to use the CMP role to support their own agendas and of councillors having political agendas.

Step 4: Building Support for the Concept of Community Prosecutions

Since the success of community prosecution depends to a large extent on the support and participation of community members. It is important that the community is made aware of the existence of the community prosecutor as well as of the functions and role of the said prosecutor. This should be achieved by setting up meetings with the important role-players and by making full use of the media. The prosecutor must, however, be careful not to make promises on which he/she might not be able to deliver. There may also be a need to allay concerns that community prosecution is a “soft option” and reassure community members that serious offences will still bear the full brunt of the law.

The prosecutor is also expected to encourage a spirit of volunteerism in the community it is important that the community actually believes in the merits of the programme. The prosecutor must therefore be able to explain the potential benefits of community prosecution in order to ensure their buy in of the concept.

Step 5: The Establishment of an Infrastructure

The next step is to establish an office within the specific community. Since it is important that this office should be accessible to the members of the community a location should be sought within easy reach of the members of the said community. Further consideration should also be given to the possibility of operating the office outside normal work-hours in order to provide access to those members of the community who are at work during the



day. In some jurisdictions it may be plausible to operate the said office only on certain days, for instance on Saturdays at the local school when no educational activities are taking place.

Important considerations which need to be taken into account are possible budgetary constraints and the use of donors within that community.

The Role of the Community Prosecutor

Apart from the traditional role of a prosecutor, the community prosecutor is expected to implement crime prevention- and reduction strategies, to address quality of life concerns that directly affect the public safety of the community and to be an active problem-solver in the community.

Part of this role is to identify certain low level offences in order to prevent more serious crimes in future. The community prosecutor is furthermore required to ensure that all the initiatives that he or she is involved in, is conducted in a lawful and fair manner. All actions must be consistent with the provisions of the Constitution, Act106 of 1996.

The office of the community prosecutor also fulfills the role as a link between the community and the relevant agencies involved in the investigation and prosecution of crimes. He or she must therefore be willing and able to attend to complaints received from the public regarding police investigations and the prosecution (or lack thereof) of offenders.

In general, the successful community prosecutor must ensure that:

- His or her conduct and approach is impartial and fair.
- The equal treatment of both the accused role-player and interested party.
- There is no abuse of any of the community prosecutorial resources.
- The role of community prosecutor is immune to any political pandering.
- The problem is not simply moved to another jurisdiction (“displacement”).

Community Involvement

This initiative requires of the NPA to seek solutions to crime through community involvement. This requires that a relationship of trust and mutual respect and understanding be developed. In many of countries where similar initiatives were tried it was found that it could take years to build this relationship. The community prosecutor must be prepared to take small steps on the way to building this relationship and be willing to work hard at it. Trust will develop on the results of the initiative-doing what we say (delivering on what we promise), being honest and sincere in our efforts and open about what we can and cannot do. Spend time building the trust of the communities. Be honest and realistic. Take time to deal with unrealistic expectations of the community, ensuring that they understand the limitations.



It must be stressed that without community involvement, the programme is doomed for failure. The relevant prosecutor must therefore pro-actively find ways to involve the community.

This can be done in a number of ways:

- *In-reach*: by inviting members of the public and the relevant role-players to visit the office on a regular basis and by the availability of the prosecutor after work-hours.
- *Out-reach*: Addressing schools, attending civic meetings and meetings held by role-players and the general public where the opportunity arises. Also by making effective use of the media to ensure communication with the broader community.

Liaison with Role-Players

Once problem areas have been identified, the focus should be on developing effective solutions for these problems and at this point it is imperative that any person or entity that could have any input in the solution of the problem are kept involved. This means that regular meetings should be held with the relevant role-players and proper minutes of those meetings should be kept and thereafter distributed to the members who attended the said meeting. These minutes should also be safely filed and open for inspection.

Specific time-frames should be set in respect of actions to be undertaken by the prosecutor and/or the role-players. These time-frames should be strictly adhered to, especially by the prosecutor in order to maintain his image as a trustworthy and reliable partner in crime prevention.

Involvement of Other Law Enforcement Agencies

The community prosecutor's role is primarily that of a problem solving facilitator instead of a traditional prosecutor. It is generally preferred that the prosecutor is not physically involved in the prosecution of any cases that seek to redress the situation flowing from one of the problem areas identified in the community.

The prosecutor is, however, expected, in circumstances where criminal prosecution is one of the tools to effectively address the problem, to guide the prosecution through the court and to stay informed of all developments as the matter progresses.

In certain cases the involvement of other agencies such as the Asset Forfeiture Unit might prove to be effective in shutting down the illegal activities taking place within a certain community.



Focus of Community Prosecutions in Finding Solutions to the Problems Identified

It must be stressed that the focus of community prosecutions should be on crime prevention, restoring confidence in the legal system and reducing fear of crime within that community.

In finding the proper solution the community prosecutor has to rely on the inputs by the other role-players and must be mindful of the fact that he or she mainly facilitates the identification and solution to the problems. A one-sided or autocratic approach will have disastrous results. Often the prosecutor will have to be creative in finding a solution to the problem, for example:

- In dealing with youth related problems the involvement of the local community may be formalized by establishing a system akin to the American “Youth Accountability Boards” whereby upstanding members of the community may be recruited to take part on a voluntary basis in the programme. These volunteers then meet with the offender in the presence of his or her parent or guardian. The victim may also be present or may take part in the proceedings through a written letter. The offender then gets the opportunity to explain his behaviour so that the root of the cause could be identified. The community members can then explain the impact of the youth’s behaviour on the community.

The result of the meeting is a contract or agreement in terms of which the youth agrees to meet certain conditions. These conditions are dependant on the nature of the offence or behaviour and can include:

- *A letter of apology to the victim;*
 - *Restitution;*
 - *Community service; and/or*
 - *A willingness to take part in a variety of programmes, including programmes of an educational nature, etc.*
- In solving some problems the solution might be simple, for instance by the provision of sufficient lighting in an area riddled with burglary into vehicles. By educating the community not to leave valuables in vehicles in view of the potential burglar this type of crime might be further reduced.
 - The prosecutor must as far as possible familiarize him- or herself with the latest technological advances in the field of crime prevention as a tool in the fight against crime. In some instances surveillance cameras can have a substantial effect in reducing crime in a specific area.



- In areas where certain minor contraventions is allowed to continue, which are sometimes more in the nature of nuisances, a state of affairs can easily develop where a breeding ground for more serious crimes is created. For example, dilapidated buildings can become a hiding place for criminals. By working in close partnership with the relevant local authority and/or persons responsible for the enforcement of the area's by-laws and ordinances this can be avoided. Other nuisances such as illegal dumping, weeded stands, graffiti etc can also be addressed if the community prosecutor is familiar with the relevant local laws and works together with the role-players concerned.

The community prosecutor should never turn complainants away merely because the conduct complained of is of a trivial nature or is not a crime or offence. His or her approach should rather be focusing on a solution to the problem.

- There might be specific drives required to educate the general public. A matter that comes to mind is the ill-treatment of animals. Members of the public may not report such behaviour as it does not directly affect them. As part of the prosecutor's duties it is, however, incumbent on him to address such a state of affairs. Once again, it is advisable to contact organisations such as the SPCA to assist in the education of the community in order to prevent harm to those who cannot speak for it selves.

Issues that Require Prior Authorisation and/or Input from the NPS Head Office

The following issues require prior authorization:

- The acceptance of private donations/sponsorships needs to be carefully considered. The CMP must forward all requests for the acceptance of donations/sponsorships to the Project Owner In-kind contribution. These are contributions which other agencies, the business community or the non-profit sector may contribute, and may include such things as: office space, volunteers, professional services, catering, etc. It is important to take into account ethical considerations and avoid creating the perception that the business community is, through its donations, hiring "its" community prosecutor. Never, under any circumstances, compromise your integrity and professionalism.
- All issues relating to the procurement and offers of donor assistance.
- Any issue that may have an impact on the way that community-or other prosecutions are conducted in jurisdictions outside that of the relevant Director of Public Prosecutions.
- Any situation where use of the provisions of the Proceeds of Organized Crime Act no 121 of 1998 is anticipated.

Any situation where the prosecutor is uncertain whether the offer of any benefit of whatsoever nature to or by the said prosecutor and/or the NPA might be in conflict with the NPA's policies in that regard.



Reporting Structures

Community prosecutors need to understand that the community will require of them to be flexible in their approach and thus be available to meet with them when it suits them. This is unlikely to during office hours. The Community prosecutor needs be must make 'flexible' time arrangements with their supervisors to enable them to attend community meetings after-hours or on weekends. That is, they can take time off in lieu for the time they work outside of official hours, or they can start working late if they have to attend a meeting in the evenings. In this way, there are no cost implications for the organisation in terms of overtime payment.

Although accountable to the Project Manager and Owner, Community prosecutors are required to maintain their usual reporting lines in each division. Thus the prosecutor has a dual reporting line.

A community prosecutor's role needs to be institutionalised. So, if a community prosecutor is leaving, s/he needs to brief the successor and introduce her/him to the community. The community needs to develop trust not only in the individual prosecutor, but also the institution of the community prosecutor. CMPs must make 'flexible' time arrangements with their supervisors to enable them to attend community meetings after-hours or on weekends. That is, they can take time off in lieu for the time they work outside of official hours, or they can start working late if they have to attend a meeting in the evenings. In this way, there are no cost implications for the organisation.

Long Term Vision

In the long term the role of the community prosecutor is envisaged to be:

- Serving as a community leader.
- Becoming a policy maker.
- Continuing to make use of new technology and research to prevent and investigate crime or delinquent behaviour.
- Continuing to expand knowledge of current issues that have an impact on the relevant community.



Monitoring and Reviewing Community Prosecution

Why is it important to monitor and evaluate a community prosecution project? Well the main reason is that this is the only way to identify project strengths and weaknesses, to learn what works and what doesn't and to document the successes. This is especially important since community prosecution is a new concept and monitoring and evaluation will provide us with important information that allows us to learn and improve the ways try to achieve our vision of "justice in our society so that people may live in freedom and security"

We have made a number of assumptions regarding the role, nature and value of community prosecution and we now need to find ways to measure the actual outcomes of a mechanism that uses approaches so dissimilar to that of conventional prosecution, and yet, is striving towards the same end: security in our society.

When we evaluate community prosecution there are a number of questions that we want to answer;

- How is the project being implemented?
- Are we accomplishing our goals and objectives;
- Are the results what we imagined they would be?
- Are there any new problems that have been caused by the programme?

What is Monitoring and Evaluation? ⁴

Evaluation is a tool for making sure that your efforts are on track and to make sure that these efforts are having an impact.

We are interested in two types of evaluation; one which looks at what's happening in the project on a day-to-day or week-to-week basis. This is known as *process* evaluation, and it examines whether community prosecution is being implemented as planned. The other evaluation looks at what happens after the project has been running for some time. This is an *outcome* or *impact evaluation*, which answers the question of whether community prosecution has made an impact or achieved its objectives.

The key to a successful evaluation is to include it during the planning phase, before you actually embark on a community prosecution initiative. There are three key steps in this process

⁴ M. Elaine Nugent adapted from – "Counting What Counts" Building Bridges - Volume III, Number 1, 2003 Office of Research and Evaluation American Prosecutors Research Institute



- The first step is to try and identify what might be needed in the community in order to achieve a decrease in crime and violence and increase feelings of safety and security. Talk to people about what issues are contributing to or causing the problems in the community. Once you have identified some of the causal factors you can begin to develop a specific plan to address these factors. For example if drugs are an issue in the community, changes must be made to the areas where drugs are sold or distributed i.e. if drug dealers are using deserted buildings the community prosecutor could involve the municipality in utilising local safety and by-laws to condemn these buildings. If unlicensed shebeens are sites of criminal activity the community prosecutor could work with municipality licensing and health departments to close these down. This first step provides you with a base line (what the situation was like at the beginning) against which you can measure any change.
- The second step is to ask yourself what you want to achieve and to decide what information you will need to measure that you have achieved your objectives. For example if your goal is to improve the quality of life within the community, measurements could include an improvement in the community's perception of safety or greater use of community facilities. On the other hand if the objective is to decrease certain forms of criminality in the specific geographic location then police statistics might be used to measure impact.
- Finally you should decide what a reasonable amount of change is to expect over an agreed period of time. For example it might be reasonable to reduce the number of offences at a particular site within a year but it would be unreasonable to expect the community to feel completely safe within that time. Most evaluations are run over a year although long term impact can be measured in 5 or 10 year periods.

Identify Implementation Milestones

An important step in planning your intervention focuses on the "process" side of evaluation. You need to identify the key activities or actions that need to happen on route to achieving your objective. For example if one objective is to increase community participation in problem solving, one milestone might be the number of community meetings held around a specific issue.

Basically milestones allow you to tell a story about "This is what we're doing, how we're doing it, and how well we're doing it."

Identifying and collecting information

You will be gathering information for the process and impact evaluation as part of your routine day-to-day activities. The following list provides a few examples:

- Meeting minutes that detail contacts with community members and the specifics of planned activities.
- Calendars that show the timeline of planned activities and meeting schedules.
- Activity logs completed by community prosecutors detailing number, nature, and substance of contacts with the community; number of problems identified and addressed; and types of activities performed by the community prosecutor, such as participating in community-based crime prevention events.
- Newspaper articles about crime or crime prevention activities within the target community.
- Crime statistics from SAPS, Court Statistics from DOJ etc.

In addition the DPPs have been requested to provide the following information to the project owner (Shamila Batohi) on a monthly basis in report form:

- Number and nature of problem areas identified.
- What specific steps have been taken to assess the need/problem area in those jurisdictions?
- Number of meetings held with role-players to address problem.
- Number of visits by members of public to the office of the community prosecutor.
- Number of visits (excluding pre-arranged meetings) by stake-holders to the office of the said community prosecutor.
- Number of outreach-type meetings attended to by the said prosecutor.
- Number of meetings/organisations/schools etc. addressed by the said prosecutor.
- Number of problems and nature of problem areas successfully solved in that community.
- Number of criminal cases instituted in order to address the problem.
- Number of criminal cases withdrawn and reasons for such.
- Number of criminal cases resulting in acquittals.
- Number of criminal cases resulting in convictions.
- No and type of Diversions.
- Cycle times and finalisation rates.

While the standard statistics that are already being collected, such as no of cases, no of diversions, criminal complaints, calls for service, arrest rates, and crime rates etc provide quantitative data, this is not the only method for measuring outcomes and impact. One easy mechanism for tracking changes, particularly environmental changes, is through observation. As you get to know the area and the individuals within it, changes will be noticeable; a previously unused park is now full of children, gangs of youth who used to hang around a certain corner shop are no longer visible, open drug dealing is less apparent. All of these are changes that can be used to demonstrate the impact of the community prosecution intervention.



Another mechanism is to take before and after pictures. (You may want to take "after" pictures periodically to demonstrate that the outcome has been sustained over time.)

Consider conducting an annual needs assessment. If a problem is identified as a priority in one year and subsequently diminishes in priority, it is possible that the problem has been appreciably resolved. This approach can help quantify problems that have been prevented or eliminated.

Informal surveys of community residents can be done at community meetings or by "man-on-the-street" interviews to determine whether they perceive a change in their neighborhood. More formal surveys might include an annual quality of life questionnaire distributed within the community, through a community police forum or placed in the local newspaper for residents to complete and drop off at central locations (e.g., a police station, local school or community hall). There are often NGO's who are also available to provide support and expertise around these sorts of processes.

Finally, never underestimate the power of the press. Over time, you can review media reports and determine whether coverage changes from negative to positive, if the reports drop off because the problem has diminished, or if the problem has changed for other reasons.

Interpreting the Information

In order to finally evaluate the impact of the community prosecution initiative you need to review the information you have gathered over the year and answer six questions:

1. What difference did your efforts make?
2. What changes have occurred?
3. To what can you attribute these changes?
4. What other factors could have caused these changes?
5. What other changes occurred that you didn't anticipate?
6. What are the implications of these changes?

To answer the first two questions, review the information you've collected and compare it to the "baseline" information collected as part of your planning process to determine if there has been a change. Then, examine your implementation milestones to determine if these interventions caused the changes. Milestones that were missed along the way may help to explain why certain intended changes were not achieved.

If there is an observable change, either positive or negative, examine other events/activities that were happening over the time period. Did any other significant socio-economic changes occur? For example, was there a surge in unemployment or a political event that impacted the community? Did another Government department implement



activities or programs that targeted the same issues as your community prosecution effort? These other events may have helped or interfered with the impact of your efforts.

Community prosecution initiatives may have unanticipated positive or negative impacts on related problems. For example, an effort to make playgrounds safer for parents and their children may drive drug dealers into abandoned houses or to another neighborhood. It is quite common for crime to be displaced to an adjacent area.

Also don't be discouraged if a problem appears to have increased. Rather ask yourself whether this may be a result of increased awareness and increased reporting of the problem? Early efforts to address domestic violence and child abuse created a tremendous amount of public knowledge, which resulted in more reports being made and subsequently more arrests. By tracking the same indicators over time, the evaluation will allow you to answer this question -- first by seeing an increase and then a slow but consistent decrease.

The NPA expectations of Community Prosecution?

As was noted earlier, there are a number of assumptions regarding the role, nature and value of community prosecution that have already been made within the NPA. As part of the evaluation of the pilot project several of these assumptions will be tested. This includes expectations that community prosecution can contribute towards:

- A decrease in the crime rate in targeted communities.
- Improving community perceptions of both the NPA and the broader Criminal Justice System.
- The use of multi agency solutions to community irritants.
- Improved co-operation and co ordination between law enforcement agencies and the NPA.
- Increased involvement of the community in crime prevention.

It is only through a thorough and well planned monitoring and evaluation process that we can confirm (or contradict) these assumptions.

In Conclusion

Finally don't keep your information hidden, share it with other units in the NPA, other law enforcement agencies, magistrates, local government and NGO's. By sharing information you will not only contribute to building knowledge within the criminal justice sector but can also generate increased support for your efforts.