

**THE CRIME AND JUSTICE INSTITUTE AT COMMUNITY RESOURCES FOR JUSTICE**

(<http://cjinstitute.org/projects/webinars>)

**WEDNESDAY SERIES III: MAY 12, 2010**

**USING EVIDENCE TO PROMOTE PUBLIC SAFETY: PRACTICAL CONSIDERATIONS FOR PROSECUTION**

**FREQUENTLY ASKED QUESTIONS**

*We were unable to respond to all audience questions during the webinar due to time constraint. The Crime and Justice Institute (CJI) at Community Resources for Justice (CRJ) is pleased to post responses to those questions in this document. These responses have been provided by the Wednesday Series III panelists as well as representatives of CJI.*

Please visit <http://cjinstitute.org/projects/webinars/seriesIII> for the audio and visual recording of the webinar.

**Q: What I'm hearing is the importance of the roles of prosecutors and their involvement with law enforcement to reduce recidivism, along with victim advocacy...all of which is important to public safety...but I'm not hearing much about advocacy for the defendants i.e. providing social services to the accused. Isn't that where real reduction in recidivism can be made? Substance abuse treatment, vocational training & placement, housing, etc...Identifying and addressing those needs has an impact.**

**A: Peter Ozanne, Chief Operating Officer for Public Safety in Multnomah County, Oregon**

I personally share the questioner's belief in the importance of social services and sound corrections programs and practices. But "advocacy for defendants" is the role of defense attorneys, not prosecutors. This does mean, however, that both sets of attorneys should be conversant with evidence-based practices in sentencing and corrections.

The prosecutor, on behalf of the "state" or the "people," should advocate for sentencing defendants to corrections programs and services that promote public safety, which will usually mean programs that also incorporate evidence-based practices as much as possible. Such programs will most often serve the interest of defendants too, at least for those defendants who are committed to positive change.

For defendants who are not interested in changing and simply want to minimize their sanctions, many people don't understand the role of the defense attorney. Defense counsel are professionally obligated to carry out their clients' wishes, rather than what they think is in their clients' "best interests." Pursuing the best interests of defendants in this situation is probably primarily the role of corrections professionals, subject to the condition that any program or service to which defendants are assigned promotes public safety. And again, evidence-based

sentences, programs and services advocated by prosecutors will frequently serve those interests too.

**Q: In our state, county prosecutors are elected officials. They are mostly concerned with being responsive to their constituents. How can the message of being "smart on crime" is more effective than being "tough on crime" get to the public - so that they can demand and elect a prosecutor who can build these appropriate programs.**

**A: Peter Ozanne, Chief Operating Officer for Public Safety in Multnomah County, Oregon**

I think the Pew Justice Performance Project is currently crafting the most effective messages about being "smart on crime." See [http://www.pewcenteronthestates.org/initiatives\\_detail.aspx?initiativeID=31336](http://www.pewcenteronthestates.org/initiatives_detail.aspx?initiativeID=31336) and Pew's publications cited there.

**A: Brent Berkley, Assistant Director of Programs for the National District Attorneys Association's National Advocacy Center**

Getting the message out that "smart on crime" is better than just being "tough on crime" is one of the more difficult challenges facing prosecutors in the 21st century. The question points out one of the primary concerns: as elected officials, the prosecutors are somewhat subject to the demands and desires of the electorate. The message needs to be brought not just to law enforcement and the prosecutors, but to the general public as well. This can be done through editorials, news reports, publications, and other public outreach.

**Q: Regarding the partnerships that you have formed, have you been able to get buy-in from the criminal defense bar and involve them in this team approach?**

**A: Peter Ozanne, Chief Operating Officer for Public Safety in Multnomah County, Oregon**

In Multnomah County, Oregon all of our public safety stakeholders agree that public defenders and members of the private defense bar have unique and valuable perspectives that can inform the development of effective public safety policies and strategies. First, we all believe that they are citizens who have children and families and, therefore, are just as interested in promoting safe and healthy communities as anyone else. Second, their professional roles provide them with an understanding of the criminal thinking and correctional needs of offenders, as well as how the justice system can operate more cost-effectively.

Our local public defender serves on Multnomah County's Public Safety Coordinating Council, which includes all the leadership and many stakeholders in our public safety system, and which has been an active and effective participant in local policy development, planning and system oversight for 15 years. Staff from the defender's office and private defense attorneys have also served on many of the Council's working groups over the years.

When Attorney General Janet Reno selected Portland as one of the six original sites for her Strategic Approaches to Community Safety Initiative in 1998, the U.S. Attorney invited both the state and federal defender to serve on the projects oversight council and its working groups, particularly for the purpose of developing effective prevention strategies to combat youth and gang violence.

At the state level in 2003, the Oregon Legislature severely reduced the public defense budget for the state, thereby preventing the provision of defense counsel in many cases for the last several months of the fiscal year. Because cases obviously cannot be prosecuted without defense counsel, that experience led the law enforcement and prosecution communities to become among the most forceful advocates for an effective public defense system and for the active involvement of defenders and defense attorneys in the development of public safety policies and strategies in Oregon.

**Q: What is the percentage of prosecutors across the country that use "community prosecution?" I'm just not seeing it in the jurisdictions I work in, nor do I see interest in it.**

**A: Brent Berkley, Assistant Director of Programs for the National District Attorneys Association's National Advocacy Center**

Because of the differing definition of "Community Prosecution," it is difficult, if not impossible to determine the exact percentage of prosecutors engaged in community prosecution programs. A 2004 survey by the American Prosecutors Research Institute (APRI - now a division of the National District Attorneys Association), determined that approximately 38% of prosecution offices claimed to practice community prosecution; however, about 55% of those offices identified community outreach and involvement that encompassed the various principles of community prosecution.

It is not necessary to have a dedicated community prosecution unit in order to practice CP. Engagement of the community, evaluation of success, problem solving, and working on preventive initiatives all delve into the community prosecution arena.

**Q: How do Community Prosecution agencies guard against partnerships with destructive partnerships, such as "scared straight" where we saw a lot of partnerships with prosecutors and later found this program to be crime CAUSING.**

**A: Brent Berkley, Assistant Director of Programs for the National District Attorneys Association's National Advocacy Center**

This is one of the more difficult aspects of community prosecution and it can often be a trial-and-error process. Many programs that initially seem promising are later determined to be ineffective. Prosecutors must be flexible enough to be able to modify, limit, or terminate partnerships that are not achieving success in reducing crime levels in their community.

Additionally, prosecutors involved in community prosecution should engage national organizations and national community prosecution Listservs. These groups have extensive experience and contacts nationwide that will assist with identifying helpful partnerships.

Suggested national resources:

National District Attorneys Association: [www.ndaa.org](http://www.ndaa.org)

Association of Prosecuting Attorneys: [www.apainc.org](http://www.apainc.org)

**Q: Brent touched on the importance of the advocacy for accused in mentioning the importance of drug courts and other specialty courts. What about those partnerships between prosecutors and advocates for defendants.**

**A: Brent Berkley, Assistant Director of Programs for the National District Attorneys Association's National Advocacy Center**

Partnerships between prosecutors and defense attorneys are still evolving. Generally, these relationships have historically been adversarial and continue to be so due to the rules and culture of the American criminal justice system. However, problem-solving courts are the beginnings of what will hopefully become a new era of cooperation.

It is important to note that from a prosecution standpoint, there will always be those cases and those defendants that need to be handled through the traditional, adversarial criminal justice process. But by identifying those individuals who do not need to be handled with the full force of the prosecutorial machine and by utilizing other mechanisms for reducing crime, we will be able to devote resources to the most appropriate response in each case.

**Q: Please repeat website information for COPS along with CRS.**

**A: Community Oriented Policing (COPS) <http://www.cops.usdoj.gov/Default.asp?Item=34>**

**Community Relations Service (CRS) <http://www.justice.gov/crs/>**

**Additional resources mentioned:**

- NDAA Evaluations for download ([http://www.ndaa.org/research/research\\_home.html](http://www.ndaa.org/research/research_home.html))
- Community Prosecution efforts at the Center for Court Innovations (<http://www.courtinnovation.org/index.cfm?fuseaction=page.viewPage&pageID=510&documentTopicID=26>)
- Association for Prosecuting Attorneys' Community Prosecution, Advisory Council (<http://www.apainc.org/default.aspx/MenuItemID/113/MenuSubID/20/MenuGroup/Programs.htm>)