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HOW PORTLAND DOES IT

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Barbara Boland  
March 1996

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## Preface

I recently spent a fascinating half day with the Portland District Attorney's Office, beginning with lunch with Mike Schrunk, the District Attorney, and ending with two hours at his Neighborhood District Attorney's Office and its director, Wayne Pearson.

This office is doing some of the most exciting work in the country, defining the cutting edge of public lawyering on behalf of public safety. As it stands now, Mike has taken six of his lawyers, assigned them to neighborhood offices, taken them off-line (off the 911 queue, in community policing parlance), and told them to work with the community to solve the safety problems facing that community. To those in the community policing world, this is the prosecutorial equivalent of Ben Ward's decision, as New York City Police Commissioner in 1984, to take ten officers in the 72nd Precinct, put them on foot patrol, tell them to knock on doors and work with existing community groups, to reduce crime and fear in their beats. The results are in fact quite similar. Wayne shared with me the status memorandum from the six Portland offices -- complicated problems, with innovative solutions, involving unusual partners and strategies. These are the sorts of things that never show up in 911 dispatches, and never appear in the traditional intake records, plea agreements, and sentencing reports of the criminal justice system.

Jeremy Travis, Director, National Institute of Justice,  
Memorandum to the Creative Use of Lawyers to Promote Public  
Safety Group, March 6, 1996.

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Community Prosecution is, more than anything else, an organizational response to the grass roots public safety demands of neighborhoods -- as expressed in highly concrete terms by citizens who live in them. Residents have immediate, specific crime problems they want addressed that the incident-based 911 driven system of justice is ill suited to handle. They are frustrated that no one listens, that nothing happens. Typical problems involve quality of life and disorder issues. But in high crime neighborhoods disorder is now overlaid with drugs (gangs and guns) and too often the offending behavior is violent and dangerous. The nature of the crime problems and the prosecutorial responses that are emerging to address them, differ radically from conventional notions about crime and crime fighting. For the most part, current initiatives are arising outside the operational status quo of existing organizational arrangements.

In what follows I describe the genesis, activities and nature of the community prosecution experiment in the Multnomah County, OR (Portland) District Attorney's office. I then make a preliminary attempt to identify critical elements of this new approach to law enforcement, but caution that "what this is" is still evolving.<sup>1</sup>

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<sup>1</sup> Portland's experiment with community prosecution focuses predominantly on quality of life and low level disorder crimes. Other offices are devising surprisingly similar organizational responses to deal with serious violent crime. The New York County District Attorney's office has community prosecution units for both quality of life and violent, mostly illicit business, crime. In Washington, DC the US Attorney's office first began community prosecution to deal with homicide.

## The Portland Community Prosecution Project: the Early Idea

In November of 1990 Michael Schruck, District Attorney for Multnomah County, OR (Portland) assigned Wayne Pearson, one of his most experienced senior deputies, to work for one year on a neighborhood based prosecution pilot project in Portland's inner city Lloyd District. First year funding for the project came from a group of district business people, concerned about crime and its consequences for the economic life of the area.

The Lloyd District is a roughly 100 square block area, just across the Willamette River from Portland's vibrant downtown. The District in the last decade has undergone sweeping change. Financed by an unusual mix of public and private investment, the previously declining mixed use industrial-residential area has been transformed into a major commercial business district. Developments include the Oregon Convention Center, a state financed office tower and a new federal building. The MAX light rail system, built largely with Federal dollars, conveniently connects the district to downtown and to east and west Portland. Public construction projects spurred other privately financed investments including: renovation of the Lloyd Center shopping mall, new hotels and restaurants, plus further plans for commercial development such as the new sports arena for the Portland Blazers (the city's professional basketball team). In 1989, as the Convention Center was nearing completion government and civic leaders became legitimately worried that criminal activity in the District could seriously reduce the economic benefits these investments were expected to bring to the district and adjacent areas in North and Northeast (North/NE) Portland. Local citizens perceived the Lloyd District to be less safe than other area business districts. The perception, validated by official crime data, was compounded by the eruption of gang and drug problems in the North/NE neighborhoods just north of the Lloyd District when the crack epidemic visibly hit Portland in 1988.

Epitomizing the civic traditions of Portland, Lloyd area business leaders formed an association, appointed a 40 member public safety committee, studied the issue, and came up with a carefully drafted public safety action plan. The committee included Schruck, staff from his

office, and representatives from the Portland Police Bureau (PPB). Other members represented a broad base of district businesses, adjacent residential neighbors, and public agencies servicing the district. The committee's draft plan states the concern:

When the new Oregon Convention Center opens in September, 1990, the [Lloyd] District will be the major gateway for hundreds of thousands of visitors to Portland each year. Most will not be familiar with Portland. Their perception of Portland and their experiences here will directly affect the length of their stay, the likelihood of their return to the region, and the impressions of the area they impart to their colleagues and friends.

A major goal of the convention center and of the private development is to encourage visitors to return again to the district, to Portland, and to Oregon. Creating a favorable impression on visitors, including making them feel safe from criminal activity, (emphasis added) is essential to meeting this goal. (Holladay [Lloyd] District Public Safety Action Plan 1990: p1)

The plan then outlines crime and the perception of crime in the district, and lists specific strategies to address the problem. The strategies included private actions, such as upgraded lighting and better coordination of private security resources. But a clear message was: the committee thought intensified public law enforcement in the district was crucial. The committee plan called for more police officers and a more visible police presence, a common request of citizens concerned about crime. But they also wanted something unusual -- a special prosecutor assigned to the Lloyd District. Specifically, the committee wanted a special prosecutor to address their concern about the lack of consequences in the downtown courts for criminal activity that affected district businesses. And when they failed to obtain federal funding through the Governor's office for the special district prosecutor project, they raised the money themselves. In essence the group made the offer to Schruck to "buy their own prosecutor". The local weekly tabloid labeled the project "Hired Gun".

Despite widespread support for the district's overall anti-crime plan, the idea of private businesses paying a special prosecutor's salary presented valid ethical issues. Critics, interviewed for the Willamette Weekly's "Hired Gun" article, viewed the idea as a way for special classes

of citizens (i.e. those with money) to get special services not available to others. Schrunk, mindful of these concerns, still decided that a one year pilot project served the public interest (safety in the Lloyd district was important to the general economic development of Portland). He accepted the private funding plan on the condition that, if the project were a success, eventual funding would be from public sources and all areas of the county would be served.

The District Attorney was also mindful of the fact that at the time the Lloyd District Business Association presented their anti-crime action plan, a coalition of business owners, community activists and average citizens representing drug and gang plagued neighborhoods in North and Northeast Portland were similarly organizing and drafting anti-crime action plans to address the problems in North/NE neighborhoods. This area of the city included some of Portland's highest crime and drug infested neighborhoods. The Northeast Rescue Plan Action Committee's "Call to Action" plan did not include a request for a special prosecutor, but it clearly called for a vigorous law enforcement response from not only the local police but also the FBI, the DEA, and a request to the Governor to deploy the National Guard to Northeast Portland neighborhoods. (Northeast Rescue Plan Action Committee 1990)

In early 1992, about a year after Schrunk sent Pearson to work in the Lloyd District he dispatched, with funds from his own office budget, a second neighborhood DA, Mike Kuykendahl, to work with citizens in North/NE. When activist citizens groups (and the police) in other areas of the city and county began to hear about the work Pearson and Kuykendahl were doing in the Lloyd District and North/NE they, "wanted one too".

The Association for Portland Progress, a downtown business association, funded a pilot Neighborhood DA (NDA) for downtown beginning in January of 1993. A fourth NDA was sent to work in the city of Gresham in the east end of the county in Nov 1993; initial funding came through the city of Gresham. The fifth NDA funded by the county went to work in Southeast Portland in August of 1994. A sixth NDA went to work for Tri-Met, the regional transit authority, in mid 1995.

The program is obviously highly popular with Portland's activist citizens, and Schrunk has come very close to achieving his goal of complete county coverage and public funding. All attorneys' salaries are now paid out of public funds. Private funding continues only in the form of donated office space and clerical help in some locations. And with the exception of the "Hired Gun" article which appeared in the Willamette Weekly just after Pearson started work in the Lloyd District, there has been virtually no public criticism.

The Neighborhood DA project has struck a cord, this is something citizens want.

### What Citizens Really Want

Citizens concerned about crime inevitably state their demand "to do something" about it in traditional law enforcement terms. The drafters of the Northeast Rescue Plan unequivocally wanted more police (as well as the FBI, the DEA, and the National Guard) to support their communities' fight against drugs and gangs. They even specified exactly what they wanted the increased troops to do. They wanted them to be visible; to control the streets, parks and schools; to knock on the doors of drug houses to let the inhabitants know they knew what they were doing; and to employ major police sweeps to enforce the juvenile curfew. The "call to action" to the rest of the justice system was "to get coordinated to fast track the gangsters". (Northeast Rescue Plan Action Committee 1990: p3)

The Lloyd district committee, while seeking a somewhat less vigorous response, nonetheless also stated their request in traditional law enforcement terms. They too wanted more visible police presence in cars, on bikes, on foot, on horses; and the one year pilot special prosecutor was supposed to focus on recidivist offenders. Local business owners thought "the same perpetrators [were] probably responsible for much of the problem." (Fehrenkamp 90)

Pearson, prior to actually being assigned to the District, thought that a problem-oriented rather than the traditional incident-based approach to prosecution would likely be a more effective response. Yet he too thought about ultimate project outcomes in traditional arrest and convict

terms. In his assigned section of the Lloyd District public safety action plan, he envisioned something along the lines of an "enhanced case processing" approach.

Perpetrators become anonymous in the criminal justice system. .... Through marshalling the support of the community, particularly at time of trial and sentencing, the judges involved in these cases would be more aware of the effect of these crimes not only on the individual victim, but also on the businesses and neighborhood. ([Lloyd] District Public Safety Action Plan 1990: p A2-6)

In retrospect, Pearson observes that he went into the field with traditional notions about crime and crime fighting, but when he got into the street he quickly found that what most bothered people was something different. People who worked and lived in the Lloyd District, like everyone else wanted robbers and burglars caught and rapid police response to emergencies, but they also wanted something else. Lloyd District citizens had more immediate concerns; they wanted something done about prostitution, public drinking, drug use, vandalism, street fights, littering, garbage, and car prowls. None of these behaviors fit traditional notions about serious crime, or, with the exception of car prowls (thefts from autos) are even counted in official measures of crime.

Lloyd citizens had good ideas about the source of the problem -- illegal camping in nearby Sullivan's Gulch, a wide natural gulch that forms the southern border of the Lloyd District. Sullivan's Gulch houses the intersection of two major railroad lines, and historically has been the point at which transients hop on and off north-south and east-west trains. Since the area is somewhat removed from residential neighborhoods, small numbers of transients who stay to camp are not a serious problem. By the late 1980's, however, the transient population had exploded. The number setting up more or less permanent residence and regularly venturing into neighboring areas, especially in the evening to buy liquor, drink, urinate, fight, etc, had become a threatening public nuisance. The problem coincided with the private and civic efforts to revitalize the Lloyd District.



## Crime, Fear, and Disorder

The immediate crime problem that concerned citizens in the Lloyd District is the classic problem of disorder that police researchers, beginning almost two decades ago, discovered is inextricably linked to fear of crime and serious crime. Police research, most prominently the work of George Kelling and Wesley Skogan, on the links among crime, fear, and disorder validates Lloyd citizen concern about seemingly minor crime. In brief, this research confirms the common sense citizen view that "serious crime flourishes in areas where disorderly behavior goes unchecked" (Wilson and Kelling 1982: p34)

The first observation that disorder is an important citizen concern came out of the Police Foundation's Newark, NJ foot patrol experiment conducted in the mid 1970s to measure the effect on crime of assigning police officers to foot patrol beats. The conventional wisdom within the policing profession at the time was that foot patrol was an ineffective anti-crime strategy. It had virtually been eliminated in most cities in the 1960's. The evaluation result that foot patrol had no measurable impact on crime was not surprising. But Kelling, who headed the evaluation team, and his fellow researchers reported other rather surprising and, at first glance, puzzling results. (Kelling et al 1981)

Even though crime had not been reduced in neighborhoods with foot patrol beats, residents reported feeling safer. They thought crime had been reduced, and begin to move about as if it had. They went out more at night, left their doors unlocked, and generally took fewer safety precautions. Shortly after the experimental results were published, Kelling wrote with James Q. Wilson the now widely referenced "Broken Windows" article in the Atlantic Monthly, interpreting the Newark results in light of Kelling's field observations.

What Kelling had observed while walking with beat officers in foot patrol neighborhoods of Newark was an "elevation of the level of public order". Foot patrol officers, in collaboration with people in neighborhoods, established commonly understood and agreed upon rules of acceptable and disreputable public behavior. People who broke the rules were mostly asked to

stop, move on, or go home. Arrests were used, but only on occasion. From this observation Wilson and Kelling drew two inferences.

First, they argued that fear of crime in big city neighborhoods derived as much "from a sense that the street is disorderly, a source of distasteful, worrisome encounters" as from fear of serious crime. They supported this argument with data collected in the Newark evaluation and similar findings reported by other existing research studies.

Second, they put forth the hypothesis that if left unchecked disorderly behavior (like broken windows left unrepaired) is a sign that no one cares, inviting further damage, disorder and serious crime. They inferred the process by which this occurs.

The unchecked panhandler is, in effect, the first broken window. Muggers and robbers, whether opportunistic or professional, believe they reduce their chances of being caught or even identified if they operate on streets where potential victims are already intimidated by prevailing conditions. If the neighborhood cannot keep a bothersome panhandler from annoying passersby, the thief may reason, it is even less likely to call the police to identify a potential mugger or to interfere if the mugging actually takes place. (Wilson and Kelling 1982: p34)

The link between disorder and serious crime was put forth as a hypothesis worthy of empirical test. Kelling and Wilson had no data, at this point, to empirically test this part of their argument. Which is what Wesley Skogan set out to do in his book, Disorder and Decline: Crime and the Spiral of Decay in American Cities, published in 1990. (Skogan 1990)

Using data sets collected in previous studies, Skogan utilized sophisticated statistical techniques to analyze the crime, fear, and disorder nexus in 40 inner city neighborhoods of six cities: Atlanta, Chicago, Houston, Philadelphia, Newark and San Francisco. The study data included surveys of citizens in all neighborhoods and field observations of neighborhood conditions in 10 of the 40. With these data Skogan replicated the link between disorder and fear found in previous studies. He also documented the fact that a broad consensus existed among diverse demographic groups as to what behavioral and physical conditions constitute disorder.

Most important, he established an empirical link between disorder and serious crime.

While it is a common observation that high crime and disorderly conditions are found in the same neighborhoods, it was not clear the extent to which disorder and serious crime are causally linked. Both could be independently caused by other neighborhood factors such as poverty, instability and ethnic composition. Skogan's work established an independent causal link between disorder and serious crime. His statistical findings support Wilson and Kelling's argument that disorder left unchecked leads to serious crime -- lending credence to the view that direct action against disorder has substantial payoffs in preventing crime.

Pearson, in other words, discovered in his first couple of months in the Lloyd District the problem police reformers and researchers had been working on for almost 20 years. The most immediate crime problems citizens in neighborhoods want addressed are low level crimes of disorder, not just the serious index crimes that constitute official police and FBI measures of crime. In a more recent article Kelling discusses the distinction between serious crime and community crime problems. While the focus of criminal justice institutions has been on the former, they have, he believes, failed to address the latter. In particular, Kelling argues that using only official crime rates as a measure of performance fails to pick up important community concerns. "Lawlessness consists not just in the relatively rare "index" crimes counted by the FBI, but can also refer to an atmosphere of disorder in which it seems like these and less serious crimes and harassments might occur at any time." (Kelling 1992: p22)

Having come to this conclusion first hand Pearson, had to figure out what to do. "Once you see this," he comments, "the question is what do you do. Citizens can articulate the problem but they don't really know or understand that the traditional criminal justice system can't do much about it." That, he decided, is the Neighborhood DA's job. Come up with a way to handle this.

## What the Neighborhood DA's Do

Prior to spending time in the street the Portland Neighborhood DAs envisioned the job in traditional case processing terms: the neighborhood prosecutor would bring into the courtroom the concerns of residents and businesses about particular cases and categories of crimes that impacted quality of life in neighborhoods. The Neighborhood DAs do advocate for the community on particular cases when that is an appropriate response (they do not themselves prosecute cases). But most of what they do is so radically different from traditional prosecution, that very early Schrunk changed the name from Neighborhood Prosecutor to Neighborhood District Attorney.

In generic terms what Neighborhood DAs do is work with citizens and the police to help them figure out how to control the negative street behavior and low level disorder crime that threaten public safety in neighborhoods. They are, in the first instance, an access point for citizen concerns that do not fit into the incident-based 911-driven system of justice downtown. Part of what they do is provide answers, feedback and explanations -- especially explanations on why police, under the law, cannot do what citizens think they ought to be able to do to "deal with" offensive street conditions. Their core activity, however, is coming up with alternative ideas.

The Neighborhood DA's figure out what police and citizens "can do" about low level crime and disorder that destroy legitimate neighborhood life. This includes innovative use of the law (development of civil remedies, for example); figuring out how to reconfigure existing resources (getting people to work together in new ways) so alternative strategies can proceed; and considerable behind the scene negotiation to bring diverse parties to agree on solutions and action plans. In this process the Neighborhood DA is a facilitator, legal counselor, negotiator, problem solver, and community advocate. What they do not do is litigate. If that is needed the case is handed off to the downtown office.

Like community policing, Neighborhood DAs' work is by nature problem, rather than

incident, oriented. But the crime problems they address tend to be larger in scope and longer term than most police problem projects. Each neighborhood DA, while they advise police officers on many small projects, tend to work on six to ten major projects during the course of a year, and some projects continue indefinitely. In a sense the Neighborhood DAs' problem case file never closes. Once a problem is brought under control, they continue to monitor the situation themselves or through a network of citizens and neighborhood police officers in the impacted area. Part of the job is to "stay on it". If the problem returns or emerges in a new form (car prowls moving from the street into closed parking lots, for example) they adjust the strategy. Now that the entire county is covered, the unit as a whole has the capacity to look for and respond to displacement of crime from target locations to surrounding areas. Virtually all projects involve both police and citizen participants. Other city agencies are brought in as needed.

The alternative character of what the Neighborhood DAs do and how they do it is illustrated by the strategy Pearson devised to attack the problem street conditions in the Lloyd District. Based on what citizens had identified as the underlying cause of the problem, illegal camping in Sullivan's Gulch, Pearson reasoned that increased police visibility and arrests of problem people was not likely to be effective in the long run. Police tactics for dealing with street conditions typically involve an increase in targeted patrol, a crack down on the negative behavior, and then retreat. All too often when the additional police resources pull out the problem reappears. Police agencies must respond to many competing demands on their resources. A strategy based on a permanent commitment of new resources is not realistic. Yet infrequent, intermittent arrests for the nuisance makers are a mere inconvenience.

Pearson instead focused his attention on figuring out how to clear up the transient camping situation in Sullivan's Gulch. If the citizen observation was correct, getting the campers to disperse would solve most of the problem. He devised a long term plan that began with a

police sweep and a major city clean up. For a number of years the city had spent \$40,000 to \$60,000 each spring to clean-up the garbage left by the gulch campers.

More important, Pearson facilitated a collaborative team effort between citizens and police whereby the north slope of Sullivan's Gulch, which borders the Lloyd District, was prominently posted with neon colored "no camping signs". The reverse side of the signs listed shelter locations where the truly homeless could find temporary housing. He then enlisted citizen volunteers, in this case area businesses, to do visual patrols of the gulch by driving through at regular intervals during the day. When campsites were observed the citizen patrol faxed notification, detailing the exact camp location, to Pearson who passed the information on to the regular district patrol officer. The officer then went to the location and simply asked the camper(s) to leave. Arrests were rarely required.

Eventually, with no prompting from Pearson, citizens themselves started asking the campers to leave (and clean up after themselves), eliminating further the demand on police resources. Pearson simultaneously facilitated the intervention of other city agencies to clean out the brush that created the cover campers depended upon to escape detection. He also got the city department of transportation to build inexpensive steel bar barriers under the highway viaducts to close off cave-like shelters campers used, to shield themselves from view.

There is no question that the illegal camping problem in Sullivan's Gulch has been eliminated. Grass now grows on the former site of "cardboard condominiums". Street conditions also improved in the Lloyd District. The next phase of Pearson's plan -- to get liquor store owners to restrict voluntarily the sale of certain types of malt liquor and fortified wines, favored by campers -- never had to be implemented. No one can say exactly where the campers went (the joking response is Seattle). While street people, in general, have not been cleared out of Portland, no similar aggregation of problem transients has reappeared in other parts of the city or nearby urban areas.

As the work of the Neighborhood DA unit evolves, it is clear that the capability to adapt

is critical. To be effective this new approach to law enforcement requires a highly flexible organizational environment that allows Neighborhood DA's to shape responses and strategies to meet the different needs of different neighborhoods. What bothers the residents of one neighborhood may be irrelevant to the next. Conditions in given neighborhoods also change over time. Street behaviors themselves are dynamic and changing. Rigid operational prescriptions on how to proceed are not helpful.

The downtown Neighborhood DA has spent an inordinate amount of time coordinating a citizen-supported law enforcement response to open air drug dealing (mostly Mexican heroin) in Portland's Old Town, an entertainment district adjacent to downtown. To pull this off has required the resolution of numerous conflicting views of the problem among the diverse interests and varied agencies that converge in the downtown area: these include business owners, advocates for the Hispanic community, the Immigration and Naturalization Service, the US Attorney's Office, the Portland Police Bureau, and the local courts and jails. In the view of one downtown business representative, just getting these diverse parties to the table so problem solving could proceed was a major accomplishment. He had tried and failed. He attributes success to the negotiation skills of the Downtown Neighborhood DA and the political prestige of the District Attorney's Office. The Downtown Neighborhood DA also did a tremendous amount of behind the scenes legal footwork to facilitate an innovative mix of traditional and non-traditional law enforcement responses to the problem.

On the other hand, the North/NE Neighborhood DA has spent a great deal of time and effort helping citizen groups and police officers deal with "problem properties" that arise from drug and gang activity in residential neighborhoods. A routine part of the North/NE Neighborhood DA's work is coming up with innovative uses of the law to give legal power to police and citizen initiatives. These include the delegation of trespass authority by private property owners to the police, civil eviction tools, and crafting city ordinances to close down nuisance properties. The problems of Portland's North/NE residential neighborhoods are

common to drug plagued neighborhoods in many other cities. Interactions among police, citizens, and the Neighborhood DAs that are occurring there illustrate how connecting the District Attorney's office to police and citizens in neighborhoods, as Schrunk puts it, "results in a different response".

### Getting Connected to Neighborhoods

Equipped with a cellular phone and a truck for an office, Mike Kuykendahl set out to work with citizen groups in North/Northeast Portland in April 1992 (roughly one year after Pearson set up shop in the Lloyd District). The area covers roughly one quarter to one third of the city's land area and includes approximately one third of Portland's half million residents. At the time Portland Police Bureau's North Precinct served all North/Northeast neighborhoods. The Bureau has since created separate precincts for North and Northeast, constructing a new precinct station in inner Northeast that encompasses neighborhoods particularly hard hit with gang and drug activity. By the time Kuykendahl arrived, grass roots citizen groups and community policing officers were already actively working to combat neighborhood drug, gang, and liveability (Portland's term for disorder) issues.<sup>2</sup> His first task was to provide these groups with regular contact to the District Attorney's office. Shrunk thought, at a minimum, "people wanted access, say so, and information back". Of the 22 North/Northeast neighborhoods about half were experiencing significant difficulties.

Problem neighborhoods fell into two groups. Complaints in the less seriously impacted

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<sup>2</sup> North/Northeast has 22 Neighborhood Associations, part of a comprehensive network of over 90 associations formally associated with Portland's Office of Neighborhood Associations. In addition to citizen volunteers the Office of Neighborhood Associations provides paid crime prevention specialists to assist citizen anti-crime efforts. The Police Bureau, as part of community policing reform, has assigned a Neighborhood Liaison Officer (NLO) to each Neighborhood Association; two to three officers in each of the city's four precincts to Neighborhood Response Teams (NRT) to work full time on crime and liveability problems; and reduced the call loads of other designated district officers to free up time for crime problem solving.



centered on classic disorderly behaviors: public drunkenness, drug use, prostitution, trash, abandoned autos, illegal dumping, and so on. One of Kuykendahl's first successes, in North Portland's Kenton neighborhood, was to help citizens curb chronic public drunkenness in the local business district. Armed with police data identifying eight problem alcoholics as the source of several hundred "detox holds" in a twelve month period, he, with citizen support, persuaded local liquor stores not to sell to the eight problem drinkers. In higher crime neighborhoods closer to the inner city core, disorderly behaviors intermix with drug and gang activity. "Problem properties", drug and gang houses associated with the crack-cocaine trade, were the predominant problem. Most involved rental properties used either as locations for drug sales (drug houses) or as places to "flop and use drugs" (gang houses). Both generate similar negative street behaviors -- disruptive levels of noise and traffic, fights, indecent exposure, public drug and alcohol use, aberrant loitering, harassment of passersby, intimidation and shootings. Problem behaviors sometimes got threatening. One activist citizen who lead the attack on crack houses on his block, twice had his car bombed. At one point a prominent community organizer was demanding that the city station a police officer in front of every crack house.

Kuykendahl established himself as available. In short order, he had "clients" seeking what he had to offer. Activist citizens and police agree that what he had that they most needed was "legal expertise." Sometimes this meant upfront legal advice on strategies they wanted to try. For example, could landlords legally and constitutionally use Police Bureau criminal records to screen potential tenants to keep out convicted drug dealers? (Yes, as long as the same procedure applied to all applicants.) Sometimes legal expertise meant the mere presence of an Assistant District Attorney, with police at problem property "knock and talk" sessions", for example. Knock and talk is a community policing tool first used to connect officers to neighborhood problems and residents. In Portland (and elsewhere) police have found this to be a surprisingly effective tactic for deterring drug dealing from residential properties. It lets resident dealers know complaints are being investigated. Kuykendahl reserved one day a week

for what he called "roll day". He and a community policing officer working from a priority list, "rolled" through the precinct visiting problem properties that police were having difficulty resolving on their own.

It would be a mistake to characterize the Neighborhood DAs as "lawyers for police". This is an important part of what they do, but early on Pearson and Kuykendahl saw that their most valuable legal contribution was coming up with legal options. A central function of the Neighborhood DA mission is to develop new legal tools citizens and police can use when existing tactics hit a brick wall. Such situations typically require not only new ideas and legal research but also coordinated action by varied agents -- citizens, police, downtown justice and other city agencies. "The best ideas come from citizens and police," Kuykendahl comments, he just "researches it, massages downtown and hands it back". Support on the legal end, nonetheless, is critical to community efforts. "It has to be done right so the legal system will take it," and even if the final solution turns out to be informally negotiated, having in place the legal back up assures integrity. Informal solutions, in other words, are not based on bluff.

A good example of how this process works is the development of a particularly novel tool, the "citizen driven search warrant", that Kuykendahl and Pearson devised to deal with low level drug dealing at owner occupied houses. Dealing by home owners is less common than dealing by tenants, but often more difficult to root out if dealers resist informal neighborhood efforts to get them to stop. Pearson and Kuykendahl had been working on ideas to deal with such situations when a particularly stubborn problem property showed up on an otherwise quiet block in North Portland. Kuykendahl's work report tells the story.<sup>3</sup>

"On ..... a telephonic search warrant was successfully executed at 11 Ninth Street in the St. Dennis neighborhood. This location was an Operation Target property, and the warrant was served by Target officers and members of North

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<sup>3</sup> Names and locations have been changed and dates deleted.

Precinct's Neighborhood Response Team.<sup>4</sup> The property did not respond to the typical Target strategies -- it was owner-occupied, making eviction through landlord-tenant law and the City's Nuisance Ordinances not possible. The residence met city code requirements and was not subject to Bureau of Buildings enforcement procedures. Taxes were current and not subject to scrutiny. The residents were not amenable to the Neighborhood Mediation program and had disregarded their warning letter from the Drugs and Vice Division (DVD).

With all this in mind, the decision was made to look at the more traditional option of obtaining a search warrant. DVD [was] unsuccessful in obtaining undercover buys, making this location a candidate for the telephonic search warrant we have researched in the past months, [provided] a citizen-neighbor informant could be located. Officer Lisa Branch canvassed the neighborhood and was able to locate a neighbor who had filed complaints with DVD for the past two years and who was willing to do anything to rid her neighborhood of this problem. After debriefing the neighbor and providing her with copies of the Drug Observation Log Sheet that we prepared, the neighbor was instructed to watch the suspect location and record suspicious activities with as much particularity as possible. The resulting log contained observations of weeks of pedestrian and vehicular traffic at the location, most of which lasted for no more than three to four minutes. During that period, Officer Branch also performed random surveillance and was able to verify the accuracy of the informant's observations. After checking with the License Bureau and determining that there was no business license issued for that address, and gleaning corroborative information from police reports regarding the suspect location and its present occupants, it was determined that probable cause existed for a search warrant.

The affidavit was prepared and I met with Judge Abrecht to discuss the telephonic procedure on ..... and Officer Branch then did additional surveillance at the suspect location, maintaining telephone contact with the neighbor informant.

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<sup>4</sup> Project Target is a community policing program targeting problem properties, staffed by designated district patrol officers. Neighborhood Response Teams are precinct based community policing units devoted full time to problem solving activities.

When the informant called to report the presence of a probable purchaser at the location who had entered and exited in a four-minute period, Officer Branch called Judge Abrecht from her surveillance point and read the affidavit and its fresh information. Judge Abrecht then authorized the search. North Precinct was contacted and the search warrant team arrived within 15 minutes. The search produced over 100 "bindles" of marijuana packaged for sale. The residents, Edward and Anne McCoy, both have been indicted for DCS I/PCS I<sup>5</sup> and the case has been assigned to Deputy DA Weintraub. As the North Precinct officers were leaving the scene with the suspects, about 20 neighbors and their children began clapping and cheering the officers' efforts, which was something I personally have never seen in the past." (Kuykendahl, File work report.)

As is often the case. This was not the end of the story. The McCoy's were convicted and given probation with fairly stringent "civil behavior" conditions. The judge imposed a 10 pm curfew, required a log of visitors, specified no contact with neighbors and no alcohol or drug use on the property. The neighbors kept watch. The McCoy's moved. Their son drove his car onto the citizen informant's lawn in retribution. Young McCoy subsequently was charged with stalking and received a 30 day jail sentence and \$750 fine. Kuykendahl fronted for the neighborhood on the case downtown. Another incident would ratchet up to a class C felony. Kuykendahl briefed the regular district patrol officer about the situation, who agreed to perform low level maintenance surveillance. The McCoy's property was ultimately sold, although they still reside in the St. Dennis neighborhood. As of this writing (several years after the incident) they remain in strict compliance with their terms of probation. SOPs (Standard Operating Procedures) were written for both the police and the court for future citizen driven warrants. The tool is now regularly used in North/NE and other parts of Portland and Multnomah County.

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<sup>5</sup> Delivery of a Controlled Substance Schedule I/Possession of a Controlled Substance Schedule I, a Class B Felony.

## The Emerging Organizational Response

What the Neighborhood DAs' in Portland are doing is first and foremost citizen driven, in both genesis and response. The critical element to providing what citizens need is connecting the legal expertise of the District Attorney's office to "what goes on in the street". As the attorneys who work in the field repeatedly remark, "you don't see this downtown". It is when they come to see what the police see and learn what citizens know, that their focus broadens, from the narrow task of assessing legal culpability in a particular case as defined by written rules (the rule oriented individualistic perspective of the court downtown), to the question of how to deal with the situation (the situational order maintenance perspective of the police officer in the street). To assess guilt, legal procedure strips away circumstances irrelevant to the individualized case; to deal with the situation requires taking all circumstances into account. This does not mean dispensing with individualistic procedural justice, but thinking through other ways, within the rule of law, to promote order and prevent crime. It means figuring out not just what to do about neighborhood drug dealers but also the landlords who unwittingly, negligently or corruptly rent to them; not just dispersing the prostitutes but also dealing with the motel proprietors who facilitate and profit from their trade; not just arresting shoplifters but also pursuing the convenience store fence who converts their contraband to cash for drugs.

What has evolved from the Neighborhood DAs work in dealing with such problems is not a program -- guided by clear cut procedural rules, prescribed in advance interventions uniformly applied across neighborhoods and similar situations, administered in a stable administrative environment. Nor is it a mere collection of tactics and strategies that once proved successful are then routinized (although it can generate this, for example, setting up SOPs for successful legal tactics). Rather in the course of their problem solving activities, the Neighborhood DAs have built a highly flexible new organizational arrangement that is not wedded to specific solutions or responses but to the task of getting one -- to getting people to a doable action plan that brings

built a highly flexible new organizational arrangement that is not wedded to specific solutions or responses but to the task of getting one -- to getting people to a doable action plan that brings down the level of street disorder.

The problems Neighborhood DAs deal with require multifaceted action. They have learned there are situations in which individualized guilt won't do -- either because the adjudication of guilt is irrelevant, a mere inconvenience, or not enough. The immediate culprit is removed but the facilitators and the problem remain. In these situations the Neighborhood DA capitalizes on community initiatives -- empowering citizens and police to develop and implement multi-faceted public safety strategies. The attorneys figure out what they can do legally and then bring around other agencies and the criminal justice system (on an as needed basis) to facilitate coordinated action. The strongest strategies are multifaceted. Street behavior is dynamic and it is difficult to predict in advance how the problem makers are going to respond. Success requires trying everything within reason, monitoring what happens, dropping what doesn't work, and adjusting tactics as events unfold. Only a network -- police, citizens, city government, downtown justice -- can get the job done.

To work this new idea about how to deal with crime requires flexibility and a new organizational arrangement between the District Attorney's office and citizens and police. More than anything else it is the direct two way channel of communication the Neighborhood DAs have created with citizens and police that results in a different response, because they understand better than anyone else the cause of the problem.

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