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Seth Williams for District Attorney

D E M O C R A T

A new Day. A new D.A.

Community-Based Prosecution

Acknowledgments

I gratefully acknowledge the ideas, hard work and support of the many men and women in Philadelphia's criminal justice system who contributed to the development of this policy. Many former city employees -- colleagues in the DA's office, retired police commanders and judges -- were instrumental in helping me develop this plan for our city. They have my deepest thanks.

Seth Williams

A Quick Guide to Community-Based Prosecution

What it is:

- A partnership between prosecutors, investigators and individual communities
- A proactive approach to neighborhood crime prevention and problem solving
- A fundamental, system-wide change
- A vertical, "man-to-man" system

What it's not:

- An isolated central bureaucracy
- A randomly-assigned case management system
- A reactive and piecemeal response to long-standing community concerns
- A horizontal, "zone" system

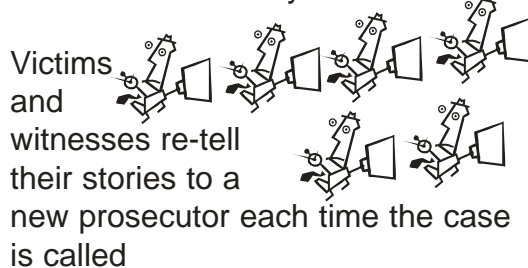
Community-Based Prosecution.

The criminal justice system in Philadelphia is at the breaking point. The increasing number of violent, often drug-related crimes overwhelms local law enforcement. The city has no money to throw at the problem, no ability to increase personnel, no magic bullet. The system can only respond by diverting resources from far more numerous, but less violent offenses in each community. The result: Crimes with the greatest impact on our daily lives receive the least attention.

Within this fracturing system are elements of progress. Less than 20 years ago, community policing was an experiment forced on the Philadelphia Police Department by an outsider. Today it is the foundation of the department's operations, credited with recent declines in reported crime even as budgets tightened and attrition thinned the ranks. As significant as these changes are, they are unmatched elsewhere in the justice system.

Less than a decade ago, the district attorney's office began its own experiment in community-based prosecution. Today it does not exist, abandoned because of tightening budgets and attrition. Rather than operate in parallel with the police department, the prosecutor's office continues to function as a centralized bureaucracy, essentially unchanged since 1951.

Under the current system...



Under a community-based system...

A single prosecution team handles each case from start to finish.



This is more than a difference of style. This is a management schism that divides investigation from prosecution, hindering both. True community prosecution allows attorneys to act as problem-solvers, engaging in proactive crime prevention and working side-by-side with the police and the community in a renewed focus on the quality of neighborhood life. The next district attorney has the power to fix this problem, without adding personnel or raising the budget, by instituting community-based prosecution as the foundation for the entire office.

Vertical Prosecution.

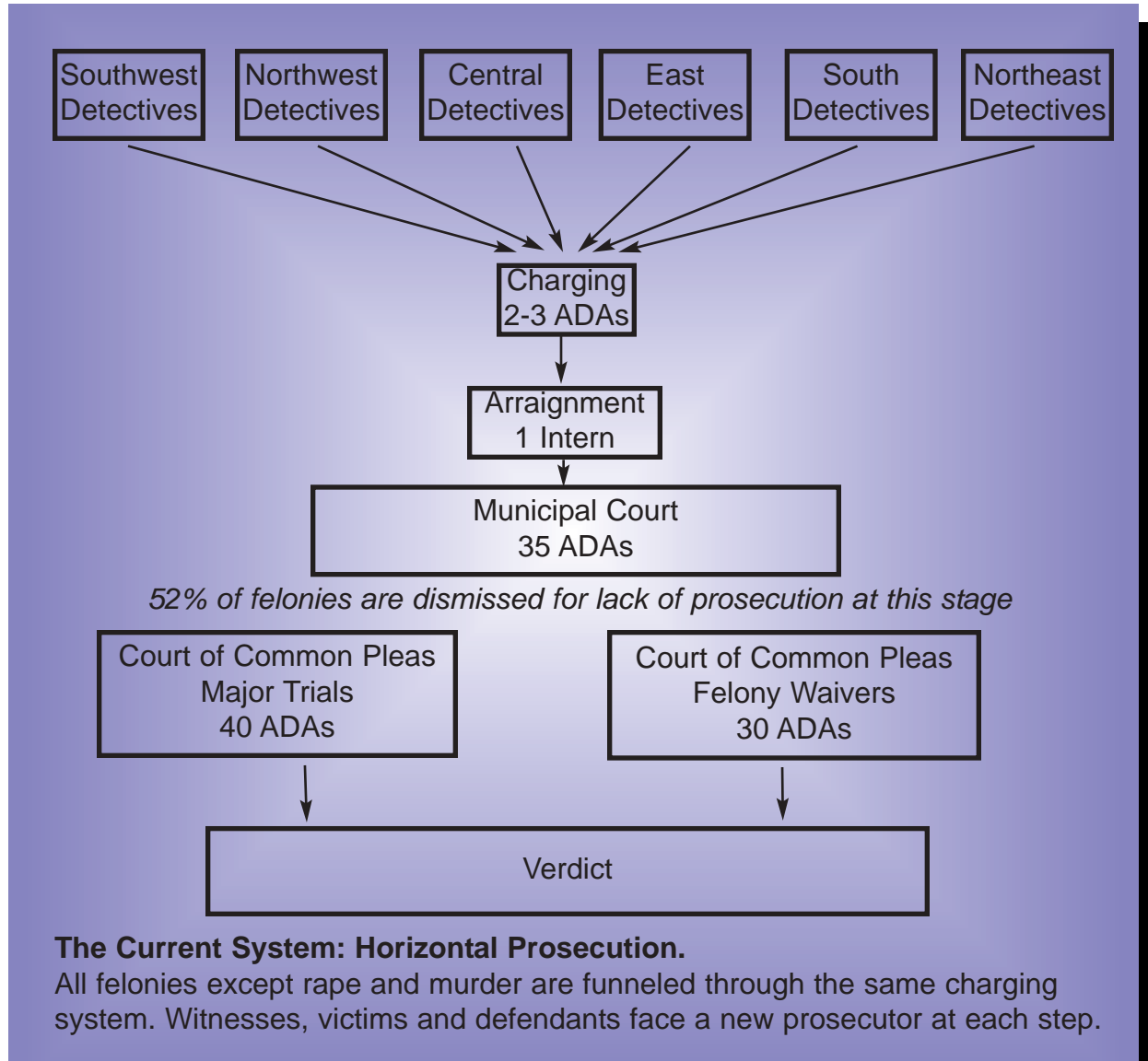
Homicides and rapes in Philadelphia are prosecuted vertically: A single team of assistant district attorneys handles the case from preliminary hearing to final adjudication. The prosecutor works closely with police investigators, is thoroughly familiar with the evidence and facts of the case, and meets the witnesses and victims whose testimony will be critical at trial.

Other crimes -- all crimes except murder, rape, and those stamped for "special handling" -- are prosecuted horizontally. Police investigations from across the city are forwarded to a central charging unit, where the first prosecutor to review the incident reviews the facts as presented, usually 24 hours after the crime. The file then sits on a shelf until the night before the preliminary hearing. It is then handed off to a second prosecutor to argue the case in Municipal Court and if the case is successful, it will be handed off to a third prosecutor for trial in the Court of Common Pleas. A different D.A. is assigned to each listing and each hearing in each court.

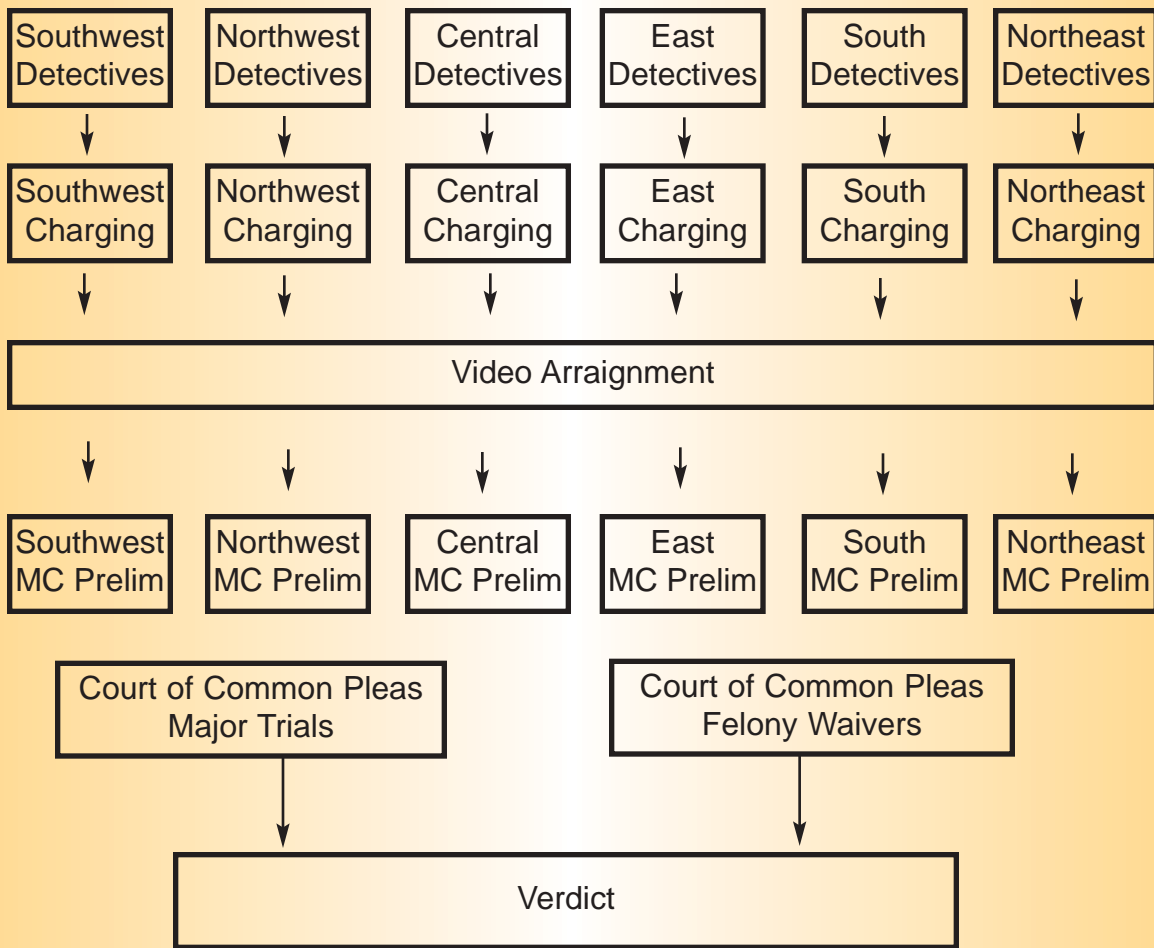
Horizontal prosecution is built to fail. The law demands a speedy trial, but the system wastes valuable time as each new prosecutor learns the case. The court needs testimony, but the system

is unable to notify witnesses until the night before the hearing. Justice requires discretion, but the system encourages overcharging at the beginning of the process and does not allow time for meaningful review until months, often years later.

The cumulative effect of these systemic failures: Half of all felonies are thrown out for lack of prosecution. Unable to produce witnesses, unprepared for trial, the court must dismiss the prosecutor's case.



Vertical prosecution is the backbone of the community-based approach. Teams of assistant district attorneys assigned to each police division handle cases in their jurisdiction from start to finish. A working partnership with investigators affords the maximum amount of time to study the facts and prepare appropriate charges. Early interaction with victims and witnesses builds a stronger case and helps ensure their presence at hearings. Awareness of the community they serve allows prosecutors to exercise necessary discretion.



A Community-based System: Vertical Prosecution.

All crimes are charged by an ADA operating in each division. Witnesses, victims and defendants work with a single prosecutor at each step.

Tracking Prosecution.

Frequent statements issued by the district attorney's office have said the office stopped compiling statistics on its own performance 14 years ago. While every other element of the criminal justice system tracks its performance, and every city agency has developed metrics to measure its efficiency under the five year planning process, the current district attorney insists that the office should not be "driven by statistics."

No one is suggesting that the DA's office should run like a fantasy football league, tracking wins and losses or other superficial data. But with no system in place to monitor why cases fall apart, when and where witnesses fail to appear in court, under what circumstances police evidence is dismissed, there is no mechanism to study and improve the performance of the office.

Again it is the police department that is setting the example for the rest of the justice system. Commissioner Timoney brought the innovative CompStat system with him from New York City -- a data mapping technique that allows police commanders to see patterns of crime in their

districts. The data allows them to get smart on crime, targeting their resources to break the pattern and prevent future crimes.

By tracking prosecution, the DA's office will be able to see any patterns of witness intimidation, improper filing of charges, repeat complainants and offenders, and police or prosecutorial misconduct. Matching CompPros and CompStat data will create yet another layer of intelligence, revealing where best to target special task forces, identify especially vulnerable segments of each community and otherwise improve the working relationship between police and prosecutors.

Geographic Partnerships.

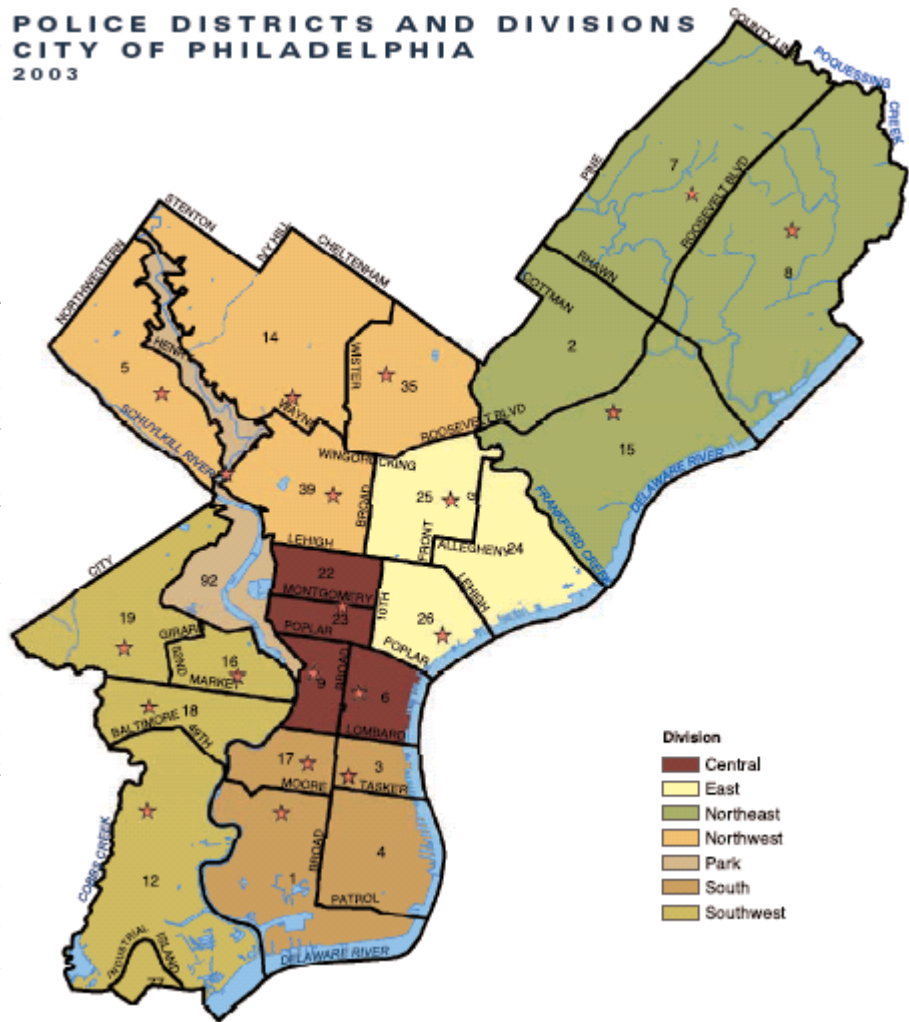
Addressing the many procedural flaws in the criminal justice system is a significant result of community-based prosecution, but not its primary purpose. Building effective community partnerships to both prevent and prosecute crime is the mission of the community-based approach.

For Philadelphia, long described as America's 'City of Neighborhoods,' community-based prosecution would seem a natural fit.

Assigning assistant district attorneys and county detectives to each police division, working cases exclusively in their jurisdiction, brings them in direct, daily contact with each community. Small business owners, town watch and community group members, clergy and the district police officers will know who is accountable for bringing each case to trial.

A senior trial lawyer will head each prosecutorial unit as the divisional district attorney. He or she will represent the office at Police District Advisory Council meetings, attend the police department's weekly CompStat review of crime patterns and be responsible for the division's performance at the DA's own CompPros meetings.

Most importantly, the district attorney's office will work in parallel with the police department's community-based



operations. Officers will work with a single prosecutor on each case -- someone they are in daily contact with. Police investigators and county detectives will work as a team in each division. They will work together to ensure the safety of witnesses and the strength of their testimony. The gains made by community policing will no longer be squandered because the prosecution wasn't ready in court.

Other Jurisdictions - The Two-Track Approach.

Many cities across the nation employ some form of community-based prosecution. Most use the model as a way to address quality-of-life crimes, creating separate community teams in addition to traditional case processing units. Other jurisdictions have modeled the entire office on a community-based system. Their experience demonstrates the need for a system-wide change in Philadelphia.

The cities of Austin, Indianapolis and Kansas City all use community-based prosecution teams to solve specific problems such as nuisance abatement, juvenile delinquency and quality-of-life crimes. These teams operate independent of traditional trial teams, who process the bulk of the cities' prosecutions. While larger in scope, this is similar to Philadelphia's experimental approach to community prosecution.

All of these jurisdictions struggle from year-to-year to fund these programs. Initially funded by federal grants, these jurisdictions have levied sales taxes, pursued private grant funding and even staged community fund-raisers to support these units. The fundamental flaw of this two-track approach is that as budgets tighten, traditional case processing units cannot be cut to provide resources for community prosecution teams.

Philadelphia programs have suffered similar fates, and will continue to do so as long as the district attorney views community-based prosecution as a pilot program rather than a model for systemic change. Further compounding Philadelphia's problem is the failure of the district attorney's office to make the case for the effectiveness of the office.

Kalamazoo senior neighborhood prosecutor Karen Hayter urges that "community prosecutors sell their programs and convince those who control the purse strings that community prosecution can work. To this end, any convincing crime reduction numbers and cost savings estimates should be brought to the attention of county supervisors, city council members, and other government officials who allocate funding to law enforcement."¹

Philadelphia District Attorney Lynne M. Abraham takes the opposite view. "We don't keep statistics. If you go back in city council records, any year you want, look at the records. Some councilman or other always asks us, 'What are the statistics for drunk driving, aggravated assault,' we don't have that capacity, we don't. The court keeps those statistics, and we don't even necessarily deal with the court statistics."²

Austin, Kalamazoo and Indianapolis -- cities with creative and accountable approaches to securing funds -- struggle each year to maintain their community prosecution teams. Their fundamental problem is balancing the needs of two different prosecution tracks, one based in the community and the other processing traditional cases.

The experience of these other jurisdictions suggests that Philadelphia, under the leadership of the current district attorney, will be unable to continue even the few community prosecution programs currently in place. Lacking accountability to "those who control the purse strings" and confronting the same balancing act as other two-track prosecutors' offices, the current approach to community-based prosecution in Philadelphia is clearly unsustainable.

Other Jurisdictions - Systemic Reform.

The solution to Philadelphia's problem can be found in the cities of Boston and Washington.

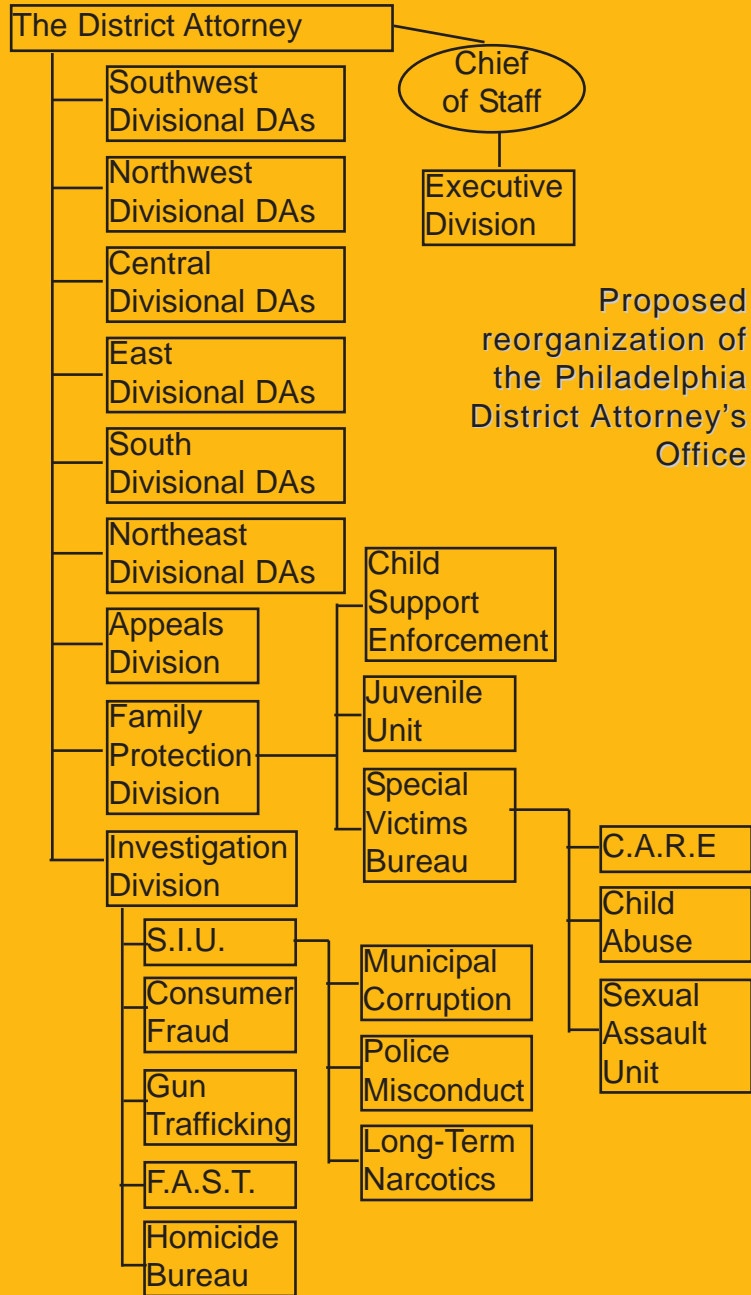
"I think one of the things we have to think about, as we march forward on community based prosecution, is how to reallocate resources, not just look for additional resources. But how to shift and reallocate and reprioritize, so that it doesn't always require additional funding," says Ralph Martin, the former district attorney of Suffolk County, Massachusetts.

Prosecutors in Boston have long been located in neighborhood district courts, prosecuting cases that arise in their local area. The prosecutor's office was already structured for community prosecution, so community-based programs such as Safe Neighborhoods Initiatives could be implemented without requiring significant additional resources.³

Boston does not rely on federal grants to create and staff a separate unit, building public expectations, and then not able to maintain it when the funding ends. Instead, by keeping core prosecution teams based in each neighborhood, Boston is able to make the most effective use of scarce grant funds in a community-based model that is hailed throughout the country for a dramatic reduction in youth homicides and gang-related gun violence.

Can Boston's good fortune in maintaining a geographically-based system of prosecution be recreated in other cities, without significant cost? The US attorney's office in Washington DC has succeeded in doing just that.

In 1999 US Attorney Wilma A. Lewis re-tooled the entire Superior Court Division, the largest division in the DC office responsible for prosecuting local crimes. The 166 attorneys and their support staff were re-assigned geographically, making



each of them a community prosecutor. All funding came from the office's regular budget.⁴

This realignment in the District of Columbia, and its use of community-based prosecution to make prosecutors more effective in their traditional role of trying cases, is known as "smart prosecution."

Before the realignment, "We couldn't get the chiefs of the sections to talk to each other," said Clifford T. Keenan, former chief of the Superior Court Division. "One section might be trying to solve a homicide, and the other learns that the homicide was over drugs, but that information never made it back to the first unit."⁵

Today, "We teach our attorneys not to think of themselves as attorneys working in a particular section on a particular case," said Assistant US Attorney Kathleen O'Connor, who supervises the Community Prosecution/Intake Section. "They're taught to think of themselves as part of a team of neighborhood-based prosecutors who are looking to solve problems in their communities."⁶

Conclusion.

The systemic flaws in the Philadelphia district attorney's office are self-evident. If the office continues under the same management scheme, it will be unable to continue the few programs that are producing success.

True community-based prosecution offers the best solution to the growing criminal justice crisis in Philadelphia. Not a small number of community programs operating in a two-track prosecution system, but a realignment of resources to best serve the public where they live.

The experience of other cities shows the low cost and high benefit of implementing "smart prosecution" in Philadelphia.

Reforming the criminal justice system in our city is no longer a matter of asking what we should do, how we could do it or if we could afford it. The only remaining question is, "Why not now?"

Additional Resources.

American Prosecutors Research Institute --

http://www.ndaa-apri.org/apri/programs/community_pros/cp_home.html

US Attorney's Office for the District of Columbia --

http://www.usdoj.gov/usao/dc/Community_Prosecution/index.html

Kennedy School Program in Criminal Justice Policy and Management --

http://www.ksg.harvard.edu/criminaljustice/research/community_prosecution.htm

Notes.

¹*Lessons From the Field*, American Prosecutors Research Institute, November 2004

²*Interview with Lynne Abraham*, Philadelphia City Paper transcript, published May 10, 2001

³*Prosecution in the community: A study of emergent strategies*, Coles & Kelling, Program in Criminal Justice Policy and Management of the Malcolm Wiener Center for Social Policy, John F. Kennedy School of Government, Harvard University. September 1998.

⁴APRI, op. cit.

⁵ibid

⁶ibid



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