



American Prosecutors  
Research Institute

*Community  
Prosecution  
Techniques to Reduce  
Drug-Related Gang  
Activity*

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*November 2007*

James F. Hayden



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# FOREWORD

America's communities have been plagued by gangs since the birth of our country. Until recently, the traditional notion of America's gang problem has been confined to urban areas. However, within the last decade or so, while remaining entrenched in cities, gangs have migrated to suburban and, in some instances, rural jurisdictions across America. Because of the versatile nature of their positions, community prosecutors are best poised to address the complex issues resulting from gang activity. Breaking from the traditional approach to prosecution, community prosecutors are deployed into the community to focus on quality-of-life issues using problem-solving techniques. Community prosecutors are uniquely situated to proactively implement strategies that anticipate potential neighborhood problems and create safer communities.

According to the National Drug Intelligence Center's 2005 *National Drug Threat Assessment*, gangs are the nation's primary transporter and distributor of narcotics in the United States. The findings of the 2005 *National Gang Threat Assessment*<sup>1</sup> show that 31.6 percent of the participants, comprised of federal and state law enforcement gang investigators, "indicated that gangs were highly involved in the drug distribution at the retail level, while 28.6 percent indicated at least moderate involvement." The goal of this monograph is to enable prosecutors to apply the community prosecution model to gang issues, including, but not limited to, the role of gangs in the distribution and trafficking of drugs.

The author of this monograph, James Hayden, has been a deputy district attorney with the Multnomah County District Attorney's Office in Portland, Oregon, since 1988 and a neighborhood-based deputy district attorney since 1995. During that time, he has worked extensively to develop and refine the legal tools that improve neighborhood livability, including gang reduction strategies.

Steven Jansen  
Director, National Center for Community Prosecution  
National District Attorneys Association



# INTRODUCTION

On August 17, 1988, 17-year-old Joseph “Ray-Ray” Winston was shot to death in the Columbia Villa apartments, in one of Portland, Oregon’s first drive-by shootings. The killer was a Blood gang member; Ray-Ray Winston a Columbia Villa Crip (CV Crip). The Bloods and Crips were violently feuding over turf and the distribution of crack cocaine. Ray-Ray Winston was a casualty of gang warfare.

The “Villa” was a 478 unit barracks-style public housing complex owned by the Housing Authority of Portland (HAP), the largest housing complex in the state. The CV Crips claimed the Villa as their turf, using their girlfriends’ subsidized apartments to sell crack cocaine and blatantly engaging in gang-related and violent behaviors in the common areas: flashing gang signs, wearing their “colors,” initiating new members and exchanging gunfire. By the time of Ray-Ray Winston’s murder, the CV Crips had made the Villa a very dangerous place to live.

In an effort to regain control and prevent further bloodshed, HAP contracted with the Multnomah County Sheriff to dedicate specific patrol officers to the Villa. The sheriff created a specialized “Safety Action Team” (SAT) that began expelling non-tenant gang members and arresting any who returned. Almost simultaneously, HAP began strictly enforcing its leases and evicting girlfriends with unauthorized CV Crips guests.

The SAT soon realized, however, that its exclusion plan was flawed. The District Attorney’s (DA) Office could not prosecute its initial trespass cases. The DA recognized that under the then-existing leases, all of the tenants had a share of the authority over the common areas, which required them to agree that any single person should be excluded.<sup>2</sup> Because this was unlikely to occur, Deputy DA Wayne Pearson volunteered to work with the SAT to fix the problem and proposed a possible solution.<sup>3</sup> He suggested that HAP take three steps: (1) obtain lease addenda from its tenants making HAP *solely* in charge of the common areas for purposes of enforcing state trespass laws; (2) agree upon rules non-tenants had to follow in the common areas (particularly prohibiting

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gang behaviors); and (3) delegate exclusion authority to the SAT. In this way, HAP and SAT would be in charge of the common areas to exclude a non-tenant for violating one of the new behavior criteria, something the tenants would have already agreed to in their lease addenda.

Letters permitting the SAT and Portland Police Bureau officers of HAP to enforce trespass laws at the Villa were signed June 9, 1989. The letters were later introduced in court as business records to prove that the officers were authorized to exclude non-tenants from the common areas of the Villa as agents of HAP.

The officers immediately began lawfully excluding non-tenant CV Crips from the common areas for gang-related behavior or breaking other behavior criteria. Excluded CV Crips who returned were arrested, taken to jail and prosecuted<sup>4</sup> for criminal trespass. The strategy was so successful that the CV Crips were eliminated from the Villa common areas within 18 months.<sup>5</sup> Residents could once again enjoy the parks, playgrounds and open spaces.

Trespass agreements became popular in other parts of Portland and elsewhere in the country. For example, the trespass exclusion used by the Richmond Redevelopment and Housing Authority in Richmond, Virginia, found constitutional in *Virginia v. Hicks*, 539 U.S. 113 (2003), was implemented a full decade after the Villa's trespass agreement.

This monograph will offer community prosecution tools that reduce gang crime<sup>6</sup> by using trespass laws to eliminate gang "hot spots."<sup>7</sup>

# COMMUNITY PROSECUTION

The American Prosecutors Research Institute (APRI) has identified six key elements of community prosecution:<sup>8</sup>

- A focus on problem-solving, public safety, and quality-of-life issues;
- Inclusion of the community's input into the criminal justice system, including the courtroom (e.g., admission of community impact statements to be considered at sentencing);
- Partnerships with the prosecutor, law enforcement, public and private agencies and the community;
- Varied prevention, intervention and enforcement methods (e.g., use of tools other than criminal prosecution to address problems);
- A clearly defined focus area, which has traditionally been defined as a targeted geographic area; and
- An integrated approach involving both reactive (e.g., prosecuting crimes identified by the police) and proactive strategies (e.g., anticipatory actions aimed at addressing problems at their root cause).

In the traditional prosecution model the community provides information to the police who investigate, arrest and present a case to the prosecutor. In the community prosecution model, the information flows in a circle between the community, police and prosecutor.<sup>9</sup>

## **Key Partnerships**

Key to the application of community prosecution strategies to gang reduction efforts is identifying community partners with leverage. The following partners help community prosecutors solve problems they cannot solve alone:

*Community Members* are the eyes and ears of law enforcement. They inform the community prosecutor of what is important and help establish priorities. They can provide community support for new laws, form block watches and foot patrols, monitor crime, share trespass authority with law enforcement and even document criminal activity at drug

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houses sufficient to obtain search warrants.

*Law Enforcement* is called on to solve many of a community's problems, and all of its crime problems. They will have established relationships in the community on which the community prosecutor can piggyback. The community prosecutor can help police improve their criminal cases and provide them with better legal tools to do their jobs.

*Building Inspectors or Code Enforcement Officers* can attack problems from angles the community prosecutor and community police officer cannot. They often have access to and authority over buildings that law enforcement does not.

*Parole and Probation Officers* often have authority over chronic offenders—including gang members. They can conduct gang member home visits gaining entry into their private residences, and often have the ability to monitor intelligence on gang members.

*City Attorneys* may have more tools than a district attorney to affect many quality-of-life issues, especially the ability to bring a civil action against problem property owners or amend municipal codes to better address nuisance properties.

*The Parks Department* has the authority to make and enforce park rules, implement environmental changes and designate police officers as agents in charge of parks to enforce rules where gang members congregate.

*Private Security Officers* are prevalent in some areas, particularly business districts. Establishing communication between them and law enforcement can elevate the effectiveness of each.

*Landlords* have the responsibility to maintain their properties to achieve a reasonable standard of living for tenants and neighbors. They can evict problem tenants and implement strict tenant screening requirements.

*Housing Authorities* can evict problem tenants, implement environmental changes on their properties and utilize police officers to enforce trespass

laws. They can also exclude gang members from their properties.

*Private Attorneys* may be able to solve a problem when community pressure, mediation, prosecution or nuisance abatement cannot. A private attorney may be able to sue property owners for criminal acts perpetrated on their property.



# REMOVING GANGS FROM PRIVATE PROPERTY

One of the most effective tools against gangs is to make law enforcement officers agents of private property owners, allowing officers to remove gang members, which improves safety and reduces crime. As agents of the owner, officers can enter private property to enforce rules even when violations are not crimes. For example, if drinking alcohol is not allowed in the common area of an apartment complex, officers can exclude non-tenants for doing this and arrest them for trespassing if they return.

The United States Supreme Court found this action constitutional in *Virginia v. Hicks*, 593 U.S. 113 (2003). The Court said:

Even assuming the streets of Whitcomb Court [housing development] are a public forum, the notice-barment rule subjects to arrest those who reenter after trespassing and after being warned not to return—*regardless* of whether, upon their return, they seek to engage in speech ... Punishing its violation by a person who wishes to engage in free speech no more implicates the *First Amendment* than would the punishment of a person who has (pursuant to lawful regulation) been banned from a public park after vandalizing it, and who ignores the ban in order to take part in a political demonstration. [Emphasis in original.]

Community prosecutors should explore ways to make it more difficult for gang members to commit crime. One way is to target their hangout, such as a girlfriend's apartment, a grandparent's house or a motel on a commercial strip. Destabilizing their base of operation makes it more difficult for gangs to be profitable. Each type of location may require a unique approach.

## **Girlfriend's Apartment**

The following steps make police officers agents of a private property owner at an apartment complex, where girlfriends of gang members

often live. This is often where the gang members hang out to plan or commit their crimes.

### **Step 1. Lease Addendum**

A common problem is how to give police authority to exclude a person from the common areas i.e., playgrounds, sidewalks, recreation rooms or the laundry area of an apartment complex. This is because tenants share with their landlord(s) authority over the common areas, making it necessary for both tenant and landlord to agree that any single person should be excluded. To transfer this authority to police, the landlord must first have all of the tenants execute an addendum to their leases giving the landlord sole authority to determine the rules and enforce trespass laws in the common areas (Appendix 2A presents an example of a lease addendum). If a landlord acquires sole trespass authority over the common areas, tenants may still invite persons into them, but only the landlord can lawfully exclude anyone from them. In Step 2, the landlord shares this exclusion authority with the police.

### **Step 2. Authorization Letter**

A private property owner or other person who has lawful control of the premises executes a letter authorizing police officers to act as “persons in charge”<sup>10</sup> on their private property to enforce trespass laws (Appendix 2B offers an example of an authorization letter). The private property owner should present satisfactory proof of ownership. The police should retain this information as a business record.

### **Step 3. Criteria for Exclusion**

In large or multi-family apartment complexes, landlords should post criteria for exclusion (those are the rules).<sup>11</sup> The police should exclude someone only for violating one of the rules (Appendix 2C presents an example of criteria for exclusion).

### **Step 4. Notice of Exclusion**

A person excluded from private property may be given written notice of the exclusion (Appendix 2D is an example of a written notice of exclusion). The notice should include an appeal right. The person who hears the appeal can be the landlord, private property owner or agent.

### **Grandparents' House**

Trespass enforcement agreements can be another effective tool when gang members sell drugs or commit other crimes from a grandparent's house. Since grandparents may be unaware of the criminal acts of their grandchildren, these agreements make police officers agents of the grandparents, allowing them to enter the house to exclude unauthorized persons and arrest them for trespass if they return (Appendix 3A presents an example of a trespass enforcement agreement).

In one example, a long-standing gang house in Northeast Portland generated so much drug trafficking and violence that several terrified neighbors moved. The house was owned and occupied by a 95-year-old grandmother who could not control her gang-involved grandchildren. There were multiple arrests in and around the house for assault, drug sales, disorderly conduct and other crimes. Neighbors endured constant traffic, intimidation and gunfire. The neighborhood DA, city attorney and police collaborated with remaining neighbors, attempting to close the house as a public nuisance. In the interim, a trespass agreement authorized officers to search the house for unauthorized persons, maintaining some calm before the house was closed.

### **Motels**

Low-cost motels grouped along a commercial strip often attract drug dealers, prostitutes and gang members. Criminals often need a cheap room and a private place to conduct crime. Unfortunately, many motel owners turn a blind eye to the crimes that occur in their rooms.

In Portland, some motels became havens for drug dealers, prostitutes and gang members. In the 1990s an undercover prostitution sting was conducted at the worst offending motel, resulting in a search warrant and criminal indictments of the owner and his son for racketeering and promoting prostitution. The owner sold the motel to city-approved buyers as part of a plea agreement, prompting the other motel owners on the strip to sign partnership agreements with the city.

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Much like leases are modified in apartment complexes, the motel partnership requires guests to agree to exclusion criteria when they register (Appendix 3B lists the criteria for exclusion used in the motel partnership agreement). The criteria require all visitors to register with the office. By observing traffic patterns and reviewing registration records, the police can easily detect the presence of unregistered visitors. A visitor's failure to register constitutes a breach of the rental agreement and allows the manager to immediately possess the room. Police reports reflect that once lawfully in a room, officers often discover drugs and drug paraphernalia, resulting in exclusion, arrest and prosecution of the occupants. Thanks largely to the partnership agreement, Portland police report that fewer drug dealers, prostitutes and gang members use the motels.<sup>12</sup>

# REMOVING GANGS FROM PUBLIC SPACES

**P**ublic spaces, such as street corners and parks, are popular places for gang members to hang out, engage in drug sales and perpetuate their violence. Their presence in a neighborhood can ruin it; their removal will make the neighborhood safer. But removing them from places where they may constitutionally loiter poses legal challenges.<sup>13</sup> This section describes two methods community police officers and neighborhood DAs have used in Portland to restrict and remove criminals from public spaces without court orders.

## **Drug Free Zones**

Drug Free Zones (DFZs)<sup>14</sup> are designed to reduce drug activity in areas of high drug sales, where rival gangs use intermediaries to sell drugs, and where they rob other drug sellers of their criminal proceeds. Rival gang members often assault one another and shoot at each other in these areas, endangering innocent people. Restricting gang members from these areas makes it more difficult for them to find each other and engage in violence. Restricting other buyers, sellers and intermediaries from the areas makes it more difficult for gang members to victimize them and to turn a profit. Consequently, restricting gang members from high drug trafficking areas greatly improves safety, whether the area is in a residential neighborhood or a business district.

Portland's DFZs were created precisely to make neighborhoods and business districts safer from drug traffickers and their concomitant violence. The DFZ Code is found at Portland City Code (PCC) 14B.20. The code was first enacted in 1992 in response to overwhelming community anger at the continued and immediate release of drug dealers back to the very community where they were arrested. The neighborhood DA, in collaboration with police and the city attorney, created the DFZ concept with the support of 14,223 citizens who petitioned for it.

A critical component of the success and lawfulness of the DFZs is to apply them only to specific, targeted geographic areas that have a proven history of drug trafficking. Geographic zones may be enacted by the city council if drug arrests in the area are significantly higher than in other areas of similar

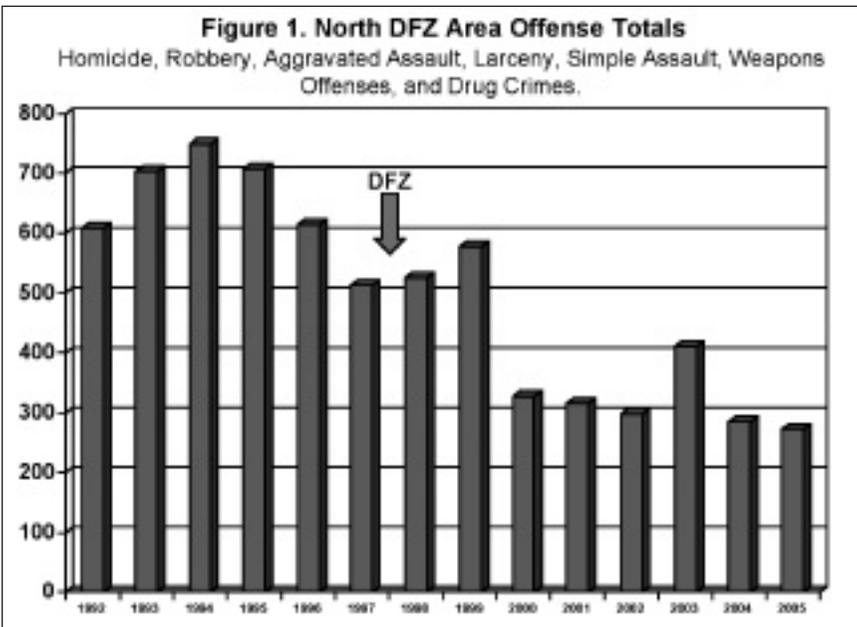
size. There are currently two DFZs in Portland, the Central City Zone (downtown) and the North Zone (residential neighborhoods) (Appendix 4 displays a map of the City of Portland with outlines of the DFZ zones implemented in 2006 and a map of the arrests for (1) possession of a controlled substance and (2) delivery of a controlled substance).

The DFZ Code allows a police officer to exclude a person from a DFZ for 90 days if the officer arrests the person on probable cause for a qualifying drug crime in a designated zone. If the person is subsequently convicted of the offense, the code provides for an exclusion lasting one year. Exclusions are managed through the use of a form that includes a map of the zone. A copy of this form is given to the arrested person, and other copies remain with the city's administration of the exclusion. The form announces that a person may appeal the exclusion for a short period following the triggering event and that the exclusion will be automatically reviewed for probable cause by a city code hearings officer.

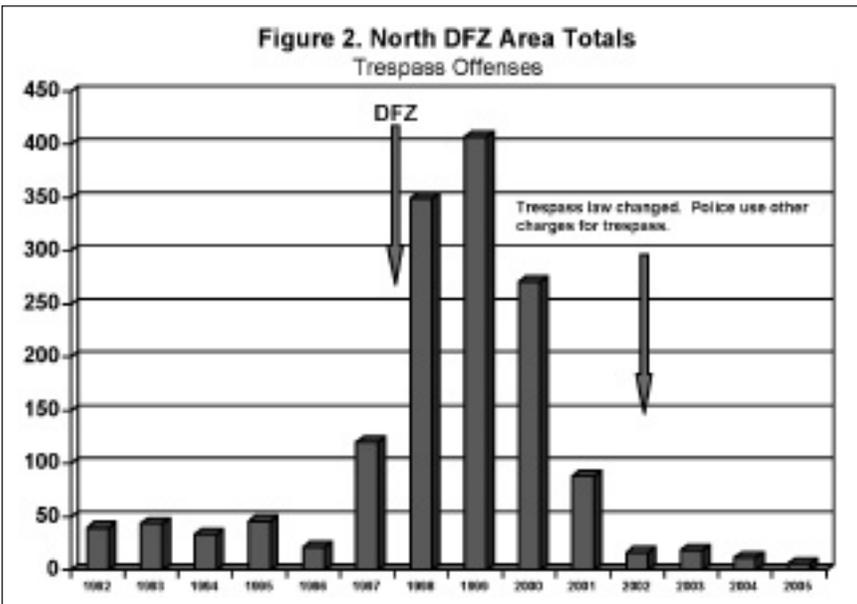
Excluded persons may only be in the DFZs for specific reasons, including, but not limited to, traveling directly to or from their residence, employment, school, social services, using public transportation or other important needs as listed in their exclusion. A person who is excluded and is then found in a DFZ outside the permission of an exclusion is subject to arrest and jail for criminal trespass, a class C misdemeanor.

As shown in Figure 1, since the Boise neighborhood became part of the North DFZ, gang-type crime has not reached the level it once did during the early to mid-1990s. Between 1992 and 1996, the Boise neighborhood averaged 676.2 offenses per year for homicide, robbery, aggravated assault, larceny, simple assault, weapons offenses and drug crimes, compared with 392 offenses per year after the neighborhood became part of the North DFZ (1997 through 2005). This is a 42% reduction in crime typically committed by gang members. The drop in crime is inversely correlated with a stark increase in DFZ trespass arrests. In this North DFZ area, trespass offenses increased 385% (See Figure 2). Conversely, in the same period city wide trespass offenses were up 44% (See Figure 3), while other crime was down only 7% (See Figure 4). Moreover, serious crime dropped six times faster in the North DFZ compared to the rest of the city when police used trespass laws as the primary enforcement tool.

REMOVING GANGS FROM PUBLIC SPACES

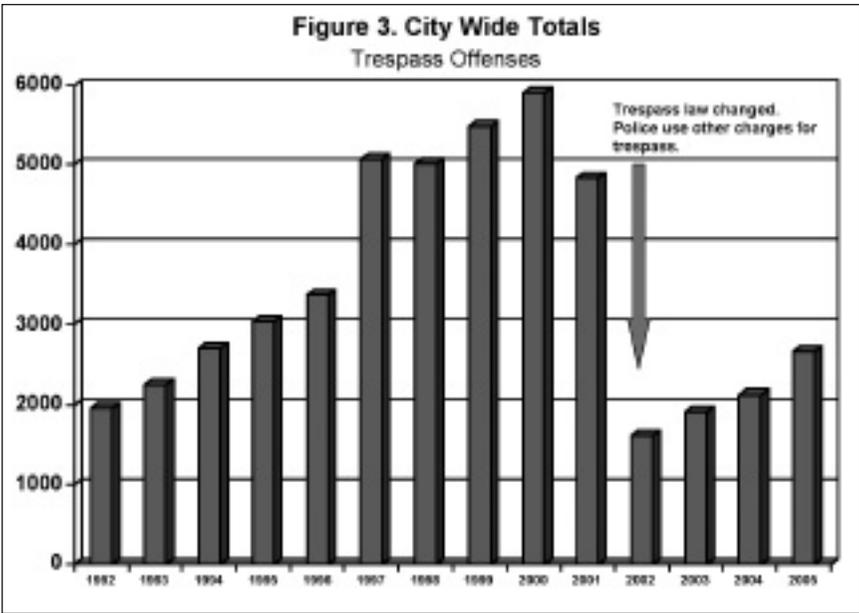


Source: *Portland Police Data Systems*. These statistics reflect only offenses in the Boise neighborhood.

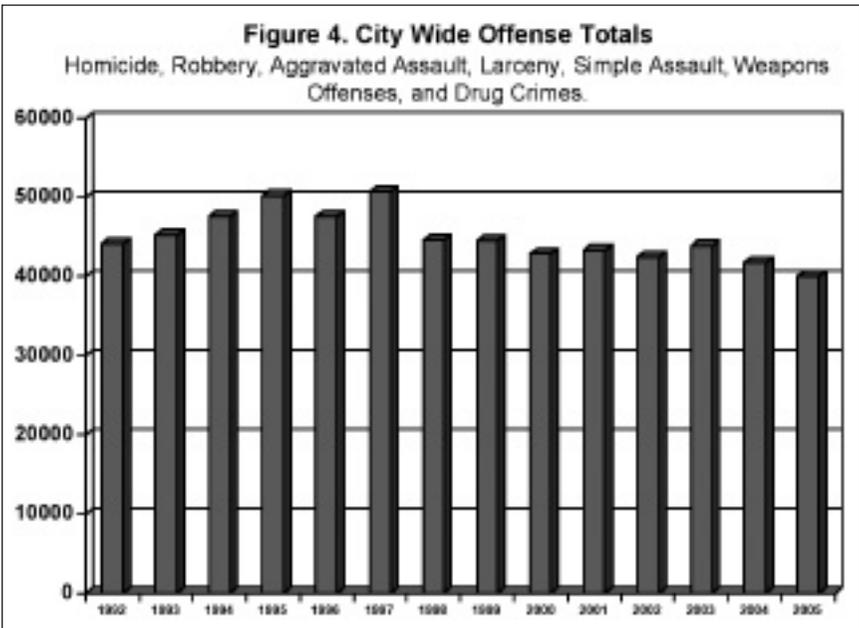


Source: *Portland Police Data Systems*. These statistics reflect only offenses in the Boise neighborhood.

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Source: *Portland Police Data Systems.*



Source: *Portland Police Data Systems.*

### **Parks**

Gang members congregate in and around parks. There are places to hide, plenty of potential victims and the constitutional right to loiter. It is not uncommon for drug trafficking and related crime to occur in parks.

Community prosecutors, community police officers and park employees should explore ways to make it difficult for gang members and others to use parks to commit crime. One way is to establish rules for the parks, and have them enforced by making police officers agents of the Portland Parks & Recreation Department. There should be a curfew and prohibitions against non-speech related behavior that detracts from the enjoyment of the park, such as amplified noise, litter, vandalism or alcohol use. Once excluded from a park for violating a rule, a person may not return, even to engage in speech. See *Virginia v. Hicks*, 593 U.S. 113 (2003).



# TARGETING GANG HOT SPOTS

## ***Neighborhood Drug Houses and Gang Drug Houses***

Neighborhood drug dealers usually sell just enough marijuana, crack cocaine or methamphetamine to support their drug habit. Yet even trafficking in small amounts of drugs can devastate the safety and livability of a neighborhood. Neighborhood drug houses are often in structural disrepair and a visual blight; they enable drug activity around the clock; they are magnets for visitors having criminal backgrounds, including drug dealers, drug addicts and prostitutes; they precipitate trash and drug paraphernalia on the street; they can lead to an increase of nearby thefts of personal property and car break-ins to increase, including bikes, car stereos, scrap metals or other items which are easily pawned; and they are easy targets for gang members to rob.

If gang members are not targeting a neighborhood drug house for robbery, they are running it. Drug houses can be very profitable for gang leaders. With an organizational chain of command, gang members run a drug house as a business. Leaders require foot soldiers (usually juveniles) or addicts under the gang's influence to operate the drug house in shifts. Gangs congregate in and around their drug houses, protecting their profit and precipitating a litany of other crimes such as homicide, robbery, aggravated assault, larceny, simple assault, weapons offenses, drug trafficking and prostitution.

## ***Community Search Warrants***

There are several challenges to eliminating neighborhood drug houses. If the dealers are renters, most landlords want evidence of drug activity for eviction. If the house is owner-occupied, the city attorney needs similar proof to abate the nuisance. However, since only small amounts of drugs are typically used or sold from neighborhood drug houses, it is difficult to justify significant law enforcement resources for such minor crime (albeit with a major impact on a neighborhood). Compounding this problem, small-time dealers do not always sell drugs to police informants, leaving insufficient proof to obtain traditional search warrants.

## COMMUNITY PROSECUTION TECHNIQUES TO REDUCE GANG ACTIVITY

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To solve both resource and proof problems, neighborhood DAs zeroed in on the observations of neighbors as an economical and necessary way to establish drug activity for a search warrant. As an added benefit, neighbors got to help solve their own problems.

The prosecutors and police officers created a list of typical drug-related behaviors at neighborhood drug houses, which became a template for a search warrant affidavit.

To obtain a community search warrant, officers question neighbors from the list and include the information in the affidavit. The questions are drug-related: the frequency of visitors to the house, the length of their stay, vehicular traffic, drug exchanges, or whether there is drug paraphernalia scattered about the location. Neighbors who provide information remain anonymous since the affidavit is designed for police officers to corroborate the neighbors' observations through other verifiable information.

The first community warrants were referred to as "citizen-driven" search warrants. Neighbors logged activity that would be incorporated into a search warrant affidavit. Appendix 5A presents the citizen-reporting log that is used for a citizen-driven search warrant.

The community search warrant evolved into a fill-in-the-blanks affidavit that officers complete after interviewing the neighbor(s) (See Appendix 5B).

After obtaining information from the neighbor informant, the police officer attempts to corroborate the information (See Appendix 5C).

Community warrants have resulted in the eviction of crack or methamphetamine addicts from neighborhood drug houses, eliminating the illicit activity from a neighborhood and closing the drug houses about 85% of the time. Besides the possession, manufacture, or delivery of a controlled substance a list of nuisance activities is listed in Appendix 6 with reference to either the Portland City Code or Oregon Revised Statutes.

## TARGETING GANG HOT SPOTS

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Image 1 shows a house on a residential street in Portland. The owner was a methamphetamine addict who bartered in stolen goods to feed his addiction. It is typical of the kind of house gang members have targeted for robbery. Two community warrants were executed at the house.

Source: *Portland Police Bureau Neighborhood Response Team, Multnomah County District Attorney, Neighborhood DA Office.*



Image 2 shows the house that was built after the drug dealer's house was closed.

Source: *Multnomah County District Attorney, Neighborhood DA Office.*



## SUMMARY

Once thought to be only a big city problem, gang violence has spread throughout our country. As law enforcement has become better equipped to suppress gang violence in urban areas, gang members have taken their activities into suburban and even rural areas. With the community prosecution philosophy empowering prosecutor offices to forge partnerships with the community, law enforcement, and public and private agencies, the community prosecutor is uniquely situated to address neighborhood safety.

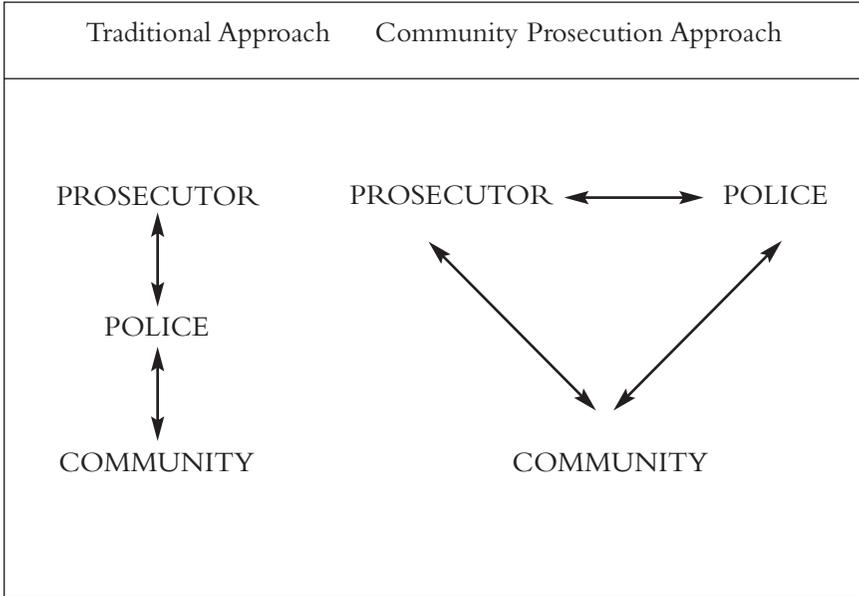
Because community prosecution is a collaboration of community stakeholders, the community prosecution model is flexible and can address a wide range of gang-related activities such as gun violence, prostitution, drug dealing and nuisance properties. The community prosecutor can coordinate different groups and agencies to address neighborhood gang problems. There is no formula one must follow to improve the livability of a community, but by applying the community prosecution model, the community prosecutor stays proactive in helping reduce gang violence.

Special thanks to the Portland Police Bureau Neighborhood Response Team, Multnomah County District Attorney's Office for providing the following sample forms:



# APPENDICES

## *Appendix I: Traditional versus Community Prosecution*



**Appendix 2A**

**Sample Lease Addendum  
ADDENDUM TO RENTAL AGREEMENT**

\_\_\_\_\_  
*(Property Name)*

The Residential Rental Agreement (the “Agreement”) dated \_\_\_\_\_ between \_\_\_\_\_ as Landlord or Agent to the Landlord and \_\_\_\_\_ as tenant, or real property located at \_\_\_\_\_ County, \_\_\_\_\_ (State), (the “Premises”), is hereby amended to include the following terms and conditions:

**CONTROL OF COMMON AREAS:**

The Landlord, by and through its agent \_\_\_\_\_ and any person designated by \_\_\_\_\_, retains control over any common areas of the Premises for the purpose of enforcing state trespass laws and shall be the “person in charge” for that purpose as that phrase is defined at \_\_\_\_\_.

In addition to the above, all other terms of the Rental Agreement are hereby affirmed.

\_\_\_\_\_  
Tenant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Landlord/Agent

\_\_\_\_\_  
Date

**Appendix 2B**

**Sample Authorization Letter  
Trespass Agreement**

Commander \_\_\_\_\_

I \_\_\_\_\_ authorize officers of the \_\_\_\_\_ Police Bureau to act as the “persons in charge” (as defined in \_\_\_\_\_) for the purpose of enforcing state trespass laws on my property located at \_\_\_\_\_.

I understand that this authorization shall continue indefinitely or until I revoke it in writing, again, delivering the writing to the precinct commander at least seven (7) days prior to the effective date of the revocation. I also understand that officers of the \_\_\_\_\_ Police Bureau may use discretion in this application.

Property must display “No Trespassing” signs.

Purpose:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed:

\_\_\_\_\_ D.O.B. \_\_\_\_\_ Date \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

PROPERTY OWNER

\_\_\_\_\_ D.O.B. \_\_\_\_\_ Date \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

PROPERTY OWNER

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

**Appendix 2C**

**Sample Exclusion Criteria for  
a Multi-Family Apartment Complex**

CRITERIA FOR EXCLUSION

Any person who violates any of the following rules while present at this apartment complex may be excluded by the \_\_\_\_\_ Police Bureau from the above listed complexes. If a person is a tenant of one of the above listed complexes, then he or she may be excluded from the above listed complexes except the complex where he or she is a tenant. For purposes of this agreement, a tenant is a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public housing authority. "Tenant" also includes a minor, as defined and provided for in \_\_\_\_\_.

- I.** Engages in any activity that constitutes a criminal offense under the \_\_\_\_\_ Statutes or the \_\_\_\_\_ City Code including, but no limited to:
- A. The unlawful use or possession of a firearm(s) or possession or use of an illegal weapon(s);
  - B. The unlawful use of controlled substances including, but not limited to, any manufacturing, delivery or possession of controlled substances;
  - C. Damaging or littering on member business property or the property of their employees, customers or visitors on member business property;
  - D. Engages in fighting, or in violent or threatening behavior.
- II.** Engages in any of the following activities that are prohibited according to participating apartment regulations:
- A. Making unreasonable noise;
  - B. Substantially interfering with any right, comfort or convenience of a participating apartment tenant, authorized guest or employee;
  - C. Grouping to show gang affiliation or to intimidate rival gangs, tenants or employees;
  - D. Using gang-related hand signals intended to provoke violence or fear.

**Appendix 2D**

**Sample of a Written Notice of Exclusion**

CASE: \_\_\_\_\_ TODAY'S DATE: \_\_\_\_\_

\_\_\_\_\_  
NOTICE OF EXCLUSION  
\_\_\_\_\_

NAME: \_\_\_\_\_

last first middle

MONIFER/AKA: \_\_\_\_\_ I.D. \_\_\_\_\_

ADDRESS: \_\_\_\_\_

neighborhood city state zip

PPDS \_\_\_\_\_ SEX \_\_\_\_\_ RACE \_\_\_\_\_ DOB \_\_\_\_\_

HT \_\_\_\_\_ WT \_\_\_\_\_ HAIR \_\_\_\_\_ EYES \_\_\_\_\_

**Excluded from:** \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at about \_\_\_\_\_ am/pm, you violated one or more of the below listed

**CRITERIA FOR EXCLUSION:**

- EXCESSIVE NOISE       VIOLENT/THREATENING BEHAVIOR
- VANDALISM             OPEN ALCOHOL CONTAINER
- CURFEW VIOLATION    CRIMINAL ACTIVITY    LITTERING
- RECKLESS/CARELESS DRIVING    INTERFERENCE WITH ANOTHER
- OTHER

EXPLAIN: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**COMMUNITY PROSECUTION TECHNIQUES TO REDUCE GANG ACTIVITY**

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You are hereby immediately excluded from the above listed property(ies), including common areas and parking lots, for the period indicated below from today's date. If you return to any of these properties within that time you may be arrested for Criminal Trespass. (Check appropriate time period)

1-year                       Permanent Exclusion (per owner)

APPEAL You have a right of appeal. Contact the owner/manager, Monday-Friday during regular business hours.

---

Officer/Issuing Person	BPST	Precinct	Shift	Assign/Dist.
------------------------	------	----------	-------	--------------

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Signature of Excluded Person

**Appendix 3A**

**TRESPASS ENFORCEMENT AGREEMENT**

\_\_\_\_\_ Police Bureau \_\_\_\_\_ Precinct

Dear Commander Smith:

I, \_\_\_\_\_, am the owner of the residential premises located at \_\_\_\_\_;

I am afraid that persons frequenting my premises are engaging in criminal drug activity that I am unable to control;

I am afraid for my personal safety if I attempt to curtail the criminal behavior;

I would like the \_\_\_\_\_ Police Bureau to assist me in maintaining my safety from crime conducted on my premises.

For my safety and to maintain control of my premises, I would like for only the following persons to be at my premises:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The \_\_\_\_\_ Police Bureau is aware that dangerous criminal drug-related activity has occurred at the premises listed above;

The \_\_\_\_\_ Police Bureau is aware that criminal drug activity is dangerous to persons involved in the drug trade and persons exposed to it;

And, the \_\_\_\_\_ Police Bureau has an interest in ensuring the safety and livability of the listed premises and the surrounding neighborhood.

Therefore, for the safety of \_\_\_\_\_ and the livability of the surrounding neighborhood, I \_\_\_\_\_

**COMMUNITY PROSECUTION TECHNIQUES TO REDUCE GANG ACTIVITY**

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give continuing consent to officers of the \_\_\_\_\_ Police Bureau to enter my listed premises at any time to check on my welfare, to examine my premises for evidence of criminal drug activity, to ensure that any visitors found on my premises have been authorized by me as listed above and, if not, to designate \_\_\_\_\_ Police Bureau officers to act as “Persons in Charge” on my premises for their removal and arrest for trespass if they return.

I can be contacted by mail at \_\_\_\_\_, and by phone at \_\_\_\_\_. This permission is given voluntarily and is hereby effective from this day forward or until revoked in writing.

I or a person whom I have appointed will respond to any and all subpoenas and subsequent court appearances as required to prosecute any individuals arrested by officers of the \_\_\_\_\_ Police Bureau.

I or my appointee, \_\_\_\_\_, can be contacted by mail at \_\_\_\_\_, and by phone at \_\_\_\_\_. This permission is given voluntarily and is hereby effective from this day forward or until revoked in writing.

---

(Signature)

(Date)

---

(Printed Name)

**Appendix 3B**

**Sample Exclusion Criteria for  
a Motel Partnership Agreement**

Criteria for Exclusion

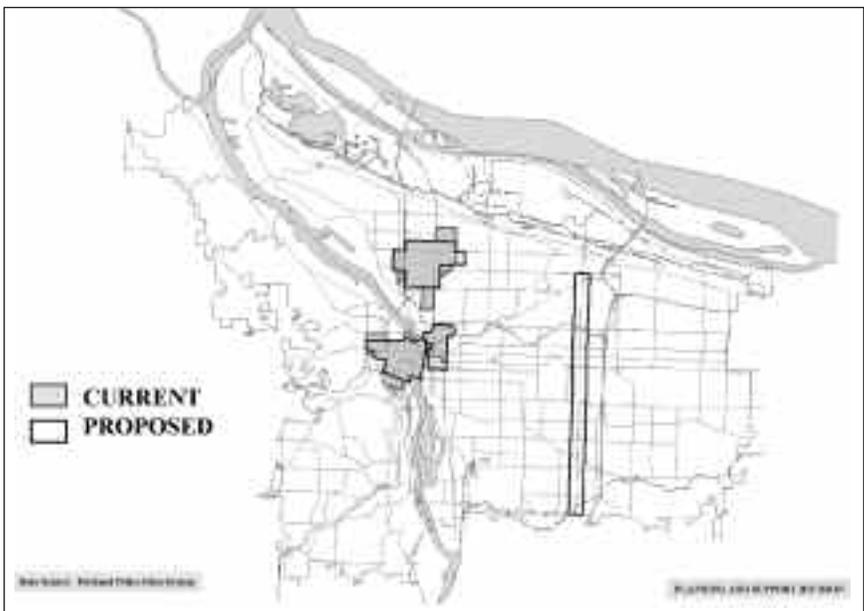
Transient occupants or visitors to any member motel may not engage in any of the following enumerated behaviors. Violations of this agreement by transient occupants or visitors voids the registration agreement between the member motel and the transient occupant and the presence of all persons in violation of the agreement on the property is unlawful. The motel owner, manager or other person in charge or agent of the business may immediately enter and take possession of the property. A violation of the rules may also cause the transient occupants and/or the visitor to be excluded from this motel and other East Precinct motels and businesses. Forbidden activities include, but are not limited to:

1. The unlawful use or possession of a firearm(s) or possession or use of an illegal weapon(s);
2. The unlawful use of controlled substances including, but not limited to, any manufacturing, delivery or possession of controlled substances;
3. Damaging or littering on member business property or the property of their employees, customers or visitors on member business property;
4. Engaging in fighting, violence or threatening behavior;
5. Failure of principle transient occupant to register by name and date of birth, with valid state-issued photo identification with the same name, including vehicle license plate, if any;
6. Failure of each additional transient occupant to register by their true name and date of birth. Each transient occupant in a group must ensure that they are registered by their true name and date of birth. Failure to register by true name and date of birth constitutes a violation of the criteria and voids the registration agreement between the member motel and the transient occupants;
7. The presence of unregistered visitor(s) in a room; and
8. Engaging in any other unlawful or disruptive behavior.

**Appendix 4**

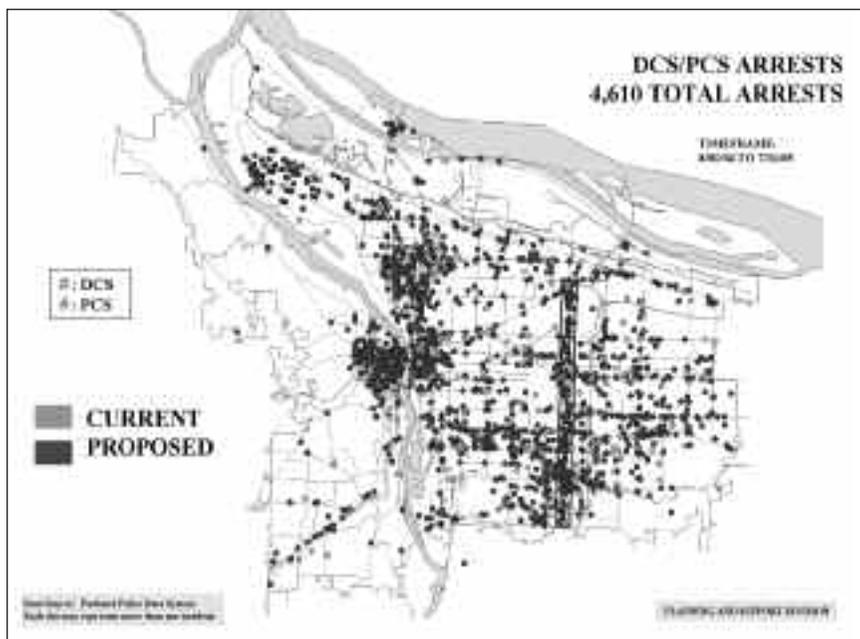
**City of Portland Drug Free Zones**

This map displays the outlines of the zones implemented in 2006. The final DFZ boundaries differ slightly, as amended by Portland City Council. Shaded areas represent the previous zones.



## APPENDICES

This map shows the City of Portland with possession of a controlled substance (PCS) arrests and delivery of a controlled substance (DCS) arrests plotted over the zones.





**Appendix 5B**

**Sample Questions in the Community Warrant Affidavit**

- The neighbor complainant reported on at least \_\_\_\_\_ occasion(s).
- A person, who came from the Subject Residence, engages in an activity with another person that appeared to be an exchange of an item or items, but the item or items exchanged could not be observed.

**Length of Visits**

- Most of the persons who visited the Subject Residence left within,
  - 1-10 minutes,
  - 10-30 minutes,
  - 30 or more minutes.

**Frequency of Visits**

- On occasions when activity at the Subject Residence would become apparent, the number of people visiting the Subject Residence average approximately,
  - 1-2 per hour,
  - 2-4 per hour,
  - 4 or more per hour.

**Appendix 5C**

**Sample Form used by Police Officers to  
Corroborate Neighbor Complaint and  
Affidavit Information**

**VERACITY OF NEIGHBOR COMPLAINANT**

- The neighbor complainant told me that the neighbor complainant:
  1. Is over 18 years old,
  2. Is a registered voter,
  3. Has a valid driver's license,
  4. Has no criminal convictions,

I informed the neighbor complainant of the penalties associated with initiating a false report.

**VERACITY OF NEIGHBOR COMPLAINANT'S  
INFORMATION**

I personally verified the statement under "VERACITY OF NEIGHBOR COMPLAINANT," above, is true according to police, county, state and federal records.

Based upon my observations of activities at the Subject Residence above:

- Most of the people who visited the Subject Residence left within
  - 1-10 minutes,
  - 10-30 minutes,
  - 30 or more minutes.

Based upon my observations of activities at the Subject Residence above:

- On average, the number of people who visited the Subject Residence was,
  - 1-2 per hour,
  - 2-4 per hour,
  - 4 or more per hour.

**Appendix 6****PCC 14B.60.010 Definitions**

**Nuisance Activities.** Any of the following activities, behavior or conduct:

1. **Harassment** as defined in ORS 166.065(1)(a).
2. **Intimidation** as defined in ORS 166.155 through 166.165.
3. **Disorderly conduct** as defined in ORS 166.025.
4. **Assault or menacing** as defined in ORS 163.160 through ORS 163.190.
5. **Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct** as defined ORS 163.415 through ORS 163.445.
6. **Public indecency** as defined in ORS 163.465.
7. **Prostitution or related offenses** as defined in ORS 167.007 through 167.017.
8. **Alcoholic liquor violations** as defined in ORS Chapter 471.105 through 471.482.
9. **Offensive littering** as defined ORS 164.085.
10. **Criminal Trespass** as defined in ORS 164.243 through 164.265.
11. **Theft** as defined in ORS 164.015 through 164.140.
12. **Arson or related offenses** as defined in ORS 164.315 through 164.335.
13. **Possession, manufacture, or delivery of a controlled substance or related offenses** as defined in ORS 167.203, ORS 475.005 through 475.285, and/or 475.940 through 475.995.
14. **Illegal gambling** as defined in ORS 167.117, and/or ORS 167.122 through ORS 167.127.
15. **Criminal mischief** as defined in ORS 164.345 through 164.365.
16. **Any attempt to commit** (as defined in ORS 161.405), and/or **conspiracy to commit** (as defined in ORS 161.450), any of the above activities, behaviors or conduct.
17. **Fire or discharge of a firearm** as defined in PCC 14A.60.020.
18. **Unlawful operation of sound producing or reproducing equipment** as defined in PCC 14A30.010 and/or **excessive noise** as define in PCC 18.04.010 through 18.14.010 through PCC 18.14.020.
19. **Unlawful drinking in public places** as defined in PCC 14A.80.010.
20. **Indecent exposure** as defined in PCC 14A.40.030.

*Note: PCC = Portland City Code, ORS = Oregon Revised Statutes*



## ENDNOTES

- <sup>1</sup> National Alliance of Gang Investigators Associations, *2005 National Gang Threat Assessment 1* (2005), available at [http://www.ojp.usdoj.gov/BJA/what/2005\\_threat\\_assesment.pdf#](http://www.ojp.usdoj.gov/BJA/what/2005_threat_assesment.pdf#)
- <sup>2</sup> Tenants have implied easements over common areas.
- <sup>3</sup> For more about Multnomah County DA Michael D. Schrunk's innovative neighborhood DA program, please refer to APRI's monographs, "The Effect of Multnomah County Neighborhood District Attorneys on Crime: 1990-2005," "Lessons from the Field: Ten Community Prosecution Leadership Profiles," and "What Does it Mean to Practice Community Prosecution?" available at [http://www.ndaa-apri.org/apri/programs/community\\_pros/cp\\_home.html](http://www.ndaa-apri.org/apri/programs/community_pros/cp_home.html) or the Multnomah County DA's Web site at <http://www.co.multnomah.or.us/da/index.php>.
- <sup>4</sup> The final change to the trespass process was added after the initial prosecutions. The judge hearing the cases believed excluded non-tenants had a due process appeal right and refused to convict defendants of trespass without an appeal process in place. After consultation with the prosecutor and HAP's lawyer, the judge ultimately approved an internal appeal process, with HAP's lawyer as the hearings officer. This small change to the process satisfied the judiciary that the exclusions were lawful, and was later incorporated into many other private and public trespass processes.
- <sup>5</sup> According to retired Portland police officer Mark Romanaggi, an original member of the SAT who patrolled the Villa for much of his career.
- <sup>6</sup> Until 1994, Portland tracked gang crime by recording crime committed by known gang members. In 1994, Portland's list of designated gang members was deleted pursuant to a federal court order. The order requires due process, including notification and the right for a proposed gang member designee to appeal the proposed designation. This has resulted in fewer gang designations. Therefore, gang crime is assessed through law enforcement and community experience, and by analyzing fluctuations in crimes typically engaged in by gang members such as homicide, robbery, aggravated assault, larceny, simple assault, weapons offenses and drug trafficking as opposed to crime committed by *designated* gang members.
- <sup>7</sup> "Hot spots" are areas within the community that are prone to high gang activity and subsequently gang violence.
- <sup>8</sup> M. Elaine Nugent, *The Changing Nature Of Prosecution*, Community Prosecution vs. Traditional Prosecution Approaches, (February 2004).
- <sup>9</sup> Appendix 1 demonstrates the models for the different prosecution roles.
- <sup>10</sup> See Oregon Revised Statute 164.205(5): "Person in charge" means "a person, a representative or employee of the person who has lawful control of premises by ownership, tenancy, official position or other legal relationship."

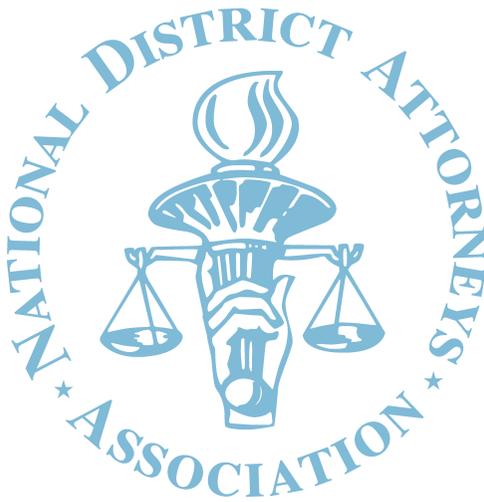
## COMMUNITY PROSECUTION TECHNIQUES TO REDUCE GANG ACTIVITY

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- <sup>11</sup> Owners of single-family residences or vacant lots should post “no trespassing” signs in obvious places; written warnings are not required.
- <sup>12</sup> According to Portland Police Data Systems records, examining two-year periods before and after the agreement, arrests for drug sales declined 162% and arrests for drug possession declined 68%. However, new ownership and better management practices at the worst motel in the two-year period may have contributed to the drop in drug arrests. Further, according to Portland police gang analyst Peter Simpson, the nature of gang drug trafficking has evolved into a cell phone based operation. Gang members increasingly conduct their illicit activity in ever changing public locations, rather than residences or motel rooms. Still, Portland police officer Eric Zajac, who for several years worked in and around the partnership motels, says that although gang members used the motels for years as bases of operation, the agreements had the effect of deterring criminals, including gang members, from using the rooms. In his view, drug trafficking and related crime declined as a result.
- <sup>13</sup> See *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972).
- <sup>14</sup> DFZs were adopted in Cincinnati, Ohio, and then held unconstitutional for violating certain substantive due process rights and double jeopardy in *Johnson v. City of Cincinnati*, 119 F. Supp. 2d 735 (SD Ohio 2000), *affirmed* 310 F3d 484 (6th Cir. 2002), *cert. Denied* 539 U.S. 915 (2003). The double jeopardy reasoning was rejected by the Oregon Supreme Court in *State v. Lhasawa*, 334 Or. 543, 55 P3d 477 (2002), and the DFZ was narrowed but held constitutional in the Multnomah County Circuit Court. See *State v. Burrage*, C. 04-05-45747 (2005).







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