

# Civil Society and the Development of a South African Community Prosecution Model

*Report of a Workshop held in Pretoria, South Africa, on  
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## SUMMARY

In South Africa, the general public has a limited understanding of the role the prosecution service plays in the criminal justice process. This, and the traditionally rigid view the prosecution service has of itself, limits prosecutors' ability to forge closer ties with local communities, engage in crime prevention activities, and address some of the underlying causes of public insecurity. The adverse consequences of this are many, and include:

- a lack of local, public accountability by prosecutors and limited prosecutorial effectiveness in addressing the concerns and needs of crime-ridden communities;
- a hesitation by crime victims to report crime and testify in court;
- the prosecution of crimes and offenders which are not a priority for the public and, conversely, a neglect of offenders which the public fears and wants prosecuted; and
- a lack of discernment by prosecutors between offenders who need to be dealt with through the formal criminal justice process, and those who are better dealt with through a diversionary alternative.

Community prosecution is an innovative approach to close the gap between prosecutors and the communities in which they work. Community prosecution focuses on targeted geographic areas and involves a long-term, proactive partnership between prosecutors, police, local government, the community, and civil society organisations, whereby the authority of the prosecutor's office is used to solve problems, improve public safety and enhance the quality of life of community members.

Community prosecutors strive to transcend their traditional roles as case processors, and forge partnerships with the police, the community, and various public and private agencies to act as problem solvers. Community prosecution is a grassroots approach to law enforcement. It involves traditional and non-traditional initiatives to work within a community to prevent crime, thereby reducing the number of arrests and prosecutions.

In February 2005, the Open Society Justice Initiative and the Open Society Foundation for South Africa hosted a workshop entitled *Civil Society and the Development of a South African Community Prosecution Model* (see *Appendix A* for workshop agenda). The workshop sought to initiate a process whereby civil society organisations examine the role they can play in developing a South African community prosecution strategy. As such, the objectives of the workshop were to:

- discuss the meaning and underlying philosophy of community prosecution in a South African context;
- identify opportunities for civil society engagement in the development and implementation of a community prosecution strategy; and
- foster dialogue and cooperation between civil society and the National Prosecuting Authority in the development of a common vision for a South African community prosecution strategy.

## INTRODUCTION

The focus of the typical South African prosecutor is on processing cases, primarily serious offences, in which police arrests have been made. Prosecutors spend the bulk of

their time reviewing evidence collected by the police; determining who shall be prosecuted on what charges; preparing cases for trial; prosecuting cases in court; arguing appeals; and (in a small minority of cases) conducting criminal investigations.

For prosecutors, case attrition and an inability to deal with increased caseloads is seen as a failure of their office and the criminal justice system generally. The ideal is full prosecution under the law. There is little appreciation of the context in which prosecutorial discretion is exercised, or the potential value it may offer in terms of other publicly desirable goals and objectives.

In spite of successful efforts by the National Prosecuting Authority (NPA) to increase the number of cases prosecuted (hiring additional prosecutors; opening reception, bail application and Saturday courts; and introducing electronic case management tools), case backlogs remain high. An important reason for the increase in the backlog of cases piling up in the country's courts is the even greater increase in the number of investigated cases referred to court by the South African Police Service (SAPS)—over which the NPA has little or no control.

Notwithstanding the NPA's capacity to process and prosecute an increasing number of cases, the country's crime levels remain high and public fear of crime appears to be rising.<sup>1</sup> The pursuit by prosecutors of their traditional role of processing cases is, on its own, not sufficient should the NPA want to play a more significant role in preventing crime, reducing the fear of crime, and improving public confidence in the criminal justice system. To do so, the NPA needs to broaden its mandate beyond its traditional prosecution-centred strategy, to also focus on developing a more community-oriented approach whereby prosecutors pay closer attention to the needs and concerns of the South African public.

## **BACKGROUND**

In 1998, the then National Director of Public Prosecutions, Bulelani Ngcuka, advocated a prosecution service for South Africa that is responsive to the concerns and needs of the public:

The new National Prosecuting Authority Act gives us a unique opportunity to carve out a new role and vision for ourselves. This new dispensation requires a new breed of prosecutor. We can change institutions, and we can even change the faces, but what is required is a far more fundamental change in our operation. We need prosecutors who see themselves as lawyers for the people.<sup>2</sup>

Since it was established in 1998, the NPA has improved the efficiency of its prosecutors and significantly enhanced its capacity for processing criminal cases. However, notwithstanding the NPA's successes, crime and the fear of crime remain unacceptably high. Moreover, the public is generally ignorant of the work prosecutors perform.

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<sup>1</sup> P. Burton, et al., *National Victims of Crime Survey. South Africa 2003*, ISS Monograph Series, No. 101, July 2004, p 40.

<sup>2</sup> Bulelani Ngcuka, National Director of Public Prosecutions, speaking at South Africa's first national public prosecutors' conference, August 1998.

Prosecutors, battling to cope with burgeoning caseloads, devote little time ascertaining the needs and concerns of the communities they serve, and exploring what role they can play beyond the confines of their courtrooms to prevent and reduce crime.

In late 2003, senior members of the NPA approached the Open Society Justice Initiative ('Justice Initiative') with a request to support the development of a more community-focused approach to the work prosecutors perform in South Africa.<sup>3</sup> The request was motivated by a desire of the NPA to improve the relationship between prosecutors and the communities in which they work.

In April 2004, the NPA and the Justice Initiative held a joint workshop entitled: *Developing a South African community-oriented prosecution model*. The workshop was attended by the head of the NPA's Sexual Offences and Community Affairs Unit, senior members of the Office of the National Director of Public Prosecutions, and a number of Chief Prosecutors from various parts of the country.

The objective of the workshop was to explore how other countries are seeking to improve community-prosecutor relations, and to share international developments in the field of community prosecution. The workshop also sought to initiate a discussion within the NPA on what community prosecution would mean in a South African context—that is, in a country with high levels of violent crime, limited criminal justice resources and (for primarily historical reasons) low levels of public trust in law enforcement agencies.

Part of the workshop was devoted to discussing what community prosecution is. It was agreed that, at its most basic, community prosecution seeks to close the gap between prosecutors and the communities in which they work, improve cooperation between prosecutors and other law enforcement and social service agencies, and enhance the ability of prosecutors to engage proactively in crime prevention activities. Thus, community prosecutors tend to interact more directly with local communities they serve, develop mechanisms for community feedback and methods of incorporating communities' input into the courtroom. A community prosecution philosophy emphasises community involvement in identifying crime and developing solutions to public order problems. At the core of such a philosophy is the prosecution service's partnership with, and accountability to, the public in local neighbourhoods.

Recognising that community prosecution strategies may take different forms in response to local needs and circumstances, the Justice Initiative developed a framework that could be used to develop a South African community prosecution strategy, taking into account South Africa's unique history and crime-related problems and needs.<sup>4</sup> The framework was presented and discussed at the April 2004 workshop.

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<sup>3</sup> The Open Society Justice Initiative, an operational programme of the Open Society Institute, pursues law reform activities grounded in the protection of human rights, and contributes to the development of legal capacity for open societies worldwide. See: <[www.justiceinitiative.org](http://www.justiceinitiative.org)>.

<sup>4</sup> M. Schönleich, *Developing a South African community-oriented prosecution model*, Discussion paper prepared for: National Prosecuting Authority / Open Society Justice Initiative Workshop on Community Prosecution, (unpublished), Pretoria, 26 April 2004.

In September 2004, the NPA set in motion an ambitious transformation initiative, called the “Serurubele Transformation Programme.”<sup>5</sup> Under the motto, “Changing ourselves. Transforming our Organisation”, the transformation programme seeks to promote the NPA’s vision of, “Justice in our society so that people can live in freedom and security”.

In January 2005, the transformation programme recommended to the NPA’s senior management team that a case processing approach is inadequate to deal with high levels of crime in South Africa, and that the NPA needed to incorporate “community prosecution much more aggressively than before” as part of its overall strategy.<sup>6</sup>

#### **What is community prosecution?**

Community prosecution has been defined as a “grass-roots approach to justice, involving citizens, law enforcement, and other government agencies in problem-solving efforts” to address the safety concerns of local communities.<sup>7</sup> Community prosecution also implies a shift in traditional prosecutorial philosophy whereby prosecutors “emphasize community-focused crime strategies and adapt some of the values and methods of other community justice innovations that relate to community policing, court, corrections, and restorative justice initiatives.”<sup>8</sup>

Community prosecution activities share a number of characteristics.<sup>9</sup> First, prosecutors do not focus exclusively on processing cases brought to their attention by the police. They recognise that traditional criminal enforcement measures have a limited impact on breaking the cycle of crime and violence besetting some neighbourhoods. Rather, by paying attention to quality of life crimes such as vandalism, certain forms of sexual harassment, trespassing, street-level drug dealing and muggings, prosecutors can assist communities in creating safer neighbourhoods. To reduce the onset of crime prosecutors may also reach out to schools with drug education, develop programmes to reduce family violence and sexual harassment-type offences, and coordinate crime prevention activities for the youth.

Second, in their efforts to redefine their role to promote community safety by including prevention and education as part of their mission, prosecutors become problem solvers. This means prosecutors focus on identifying specific problem areas and develop alternative approaches to solve these problems.

Third, prosecutors work closely with the community and other agencies and organisations in identifying problems and finding solutions that include traditional criminal justice responses, but focus on community-oriented alternatives to resolve conflict and prevent

<sup>5</sup> Serurubele means ‘butterfly’ in Sotho. This is an analogy to the insect world where the larva and pupa transform themselves into an imago – the final or perfect stage of an insect (such as a butterfly) after all metamorphoses are completed.

<sup>6</sup> O. Rabaji, Paper presented at a workshop, ‘Civil Society and the Development of a South African Community Prosecution Model’, (unpublished), Pretoria, 10 February 2005, p 3.

<sup>7</sup> M.E. Nugent, *What Does it Mean to Practice Community Prosecution? Organizational, Functional and Philosophical Changes*, American Prosecutors Research Institute, Alexandria, February 2004, p 3.

<sup>8</sup> J.S. Goldkamp, C Irons-Guynn and D Weiland, *Community Prosecution Strategies*, Bureau of Justice Assistance, Washington DC, August 2003, p 1.

<sup>9</sup> H. Gramckow, Community Prosecution in the United States, *European Journal on Criminal Policy and Research* 5(4), 1997, pp 10-11.

the occurrence of crime. The shift in focus to community needs and problems may require responses that differ from traditional prosecutorial priorities. The solution of a community problem may be expedited by a swift prosecution of a minor crime that would traditionally have been dismissed or prosecuted by an overworked junior prosecutor and resulted in an acquittal. Alternatively, not all cases that traditionally would go to trial may do so.

## **THE WORKSHOP**

### **Purpose and objectives**

In February 2005, the Justice Initiative and the Open Society Foundation for South Africa (OSF-SA) hosted a workshop entitled, *Civil Society and the Development of a South African Community Prosecution Model*. The workshop was premised on the belief that the public has a limited understanding of the role the prosecution service plays in the criminal justice process. This, and the traditionally rigid view the prosecution service has of its role, prevents prosecutors from playing a meaningful role in forging closer ties with communities, engaging in crime prevention activities, and addressing some of the underlying causes of public insecurity.

The workshop sought to initiate a process whereby civil society organisations can examine the role they may want play in developing a more community-oriented approach by the NPA and the prosecutors in its employ. Specifically, the objectives of the workshop were to:

- discuss the meaning and underlying philosophy of community prosecution in a South African context;
- identify opportunities for civil society engagement in the development and implementation of a community prosecution strategy; and
- foster dialogue and cooperation between civil society and the NPA in the development of a common vision for a South African community prosecution strategy.

### **Workshop presentations**

A number of formal presentations were made at the workshop, both by civil society organisations and senior members of the NPA—notably from the NPA’s Transformation Unit. A summary of the presentations made at the workshop follows below.<sup>10</sup>

#### ***What is community prosecution – benefits and opportunities?***

Martin Schönteich of the Justice Initiative gave a presentation entitled: *What is community prosecution—challenges and opportunities?*<sup>11</sup> The main aspects of his presentation follow below.

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<sup>10</sup> It should be noted that workshop presenters did not provide the compilers of this report with written papers, nor were verbatim transcripts made of the workshop proceedings. While every effort has been made to reflect the content of the presentations as accurately as possible, readers wishing to verify the accuracy of the summaries provided in this report should contact the presenters directly through the e-mail addresses provided.

<sup>11</sup> Martin Schönteich, Senior Legal Officer: National Criminal Justice Reform Programme, Open Society Justice Initiative, e-mail: mschoenteich@justiceinitiative.org.

Prosecutors potentially have a huge influence over the administration of justice in a community. Prosecutors have a unique perspective in that they represent the only part of the criminal justice system that comes into contact with every other part. Consequently, prosecutors are not confined to one part of the system when thinking about, and participating in, developing imaginative crime control strategies. Yet, prosecutors are inhibited from doing so because of their traditional focus on processing cases whereby their goal is to handle each case in an efficient and equitable manner to meet standards of justice, rather than to pursue larger social goals such as crime control, or playing a role in preventing domestic violence or making schools safer.

The last few decades have seen dramatic changes in the way criminologists and criminal justice policymakers think about the role of the criminal justice system. In many parts of the world operational changes in the criminal justice system have brought about a shift from a reactive to a proactive approach, with a focus on enhancing community participation in setting criminal justice priorities. For example, problem-oriented and community policing initiatives have developed to ensure community concerns are addressed by police agencies. In some countries, prosecutors, like the police before them, are making this shift away from the role of case processors to problem-solvers.

Some argue that prosecutors should—as the police have begun to do—assume greater responsibility for providing an effective service to the public and enhancing the public's perception of prosecutors and the role they play in reducing crime and improving public safety. Moreover, that prosecutors should be involved in more problem-solving activities and less handling of individual events, and that prosecutors should seek greater guidance from communities when identifying priorities and developing an organisational strategy.

Since the early 1990s, prosecutors (primarily, but not exclusively, in the United States) have developed a variety of community-oriented responses to crime, public fear of crime and the public's lack of trust in the criminal justice system. Some of these responses have been in conjunction with community policing, some independent of it. These efforts range from simple organisational adjustments in response to community policing to assuming a proactive role in working with the community to assure neighbourhood safety. In some places community prosecution strategies have signalled a major milestone in changing the culture and role of prosecutors by developing partnerships and collaborative, problem-solving approaches with the communities to improve the quality of life and safety of residents.

Different jurisdictions have established a variety of initiatives under the broad rubric of community prosecution. Just as policing agencies established different forms of community policing, prosecutors have established community prosecution programmes that reflect the needs of their own jurisdictions.<sup>12</sup> Indeed, it has been pointed out that there is “no one-size-fits-all community prosecution model”.<sup>13</sup> Community prosecution strategies (as with other community justice innovations) have taken different forms in

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<sup>12</sup> See H. Gramckow, Community Prosecution in the United States, *European Journal on Criminal Policy and Research* 5(4), 1997, p 9.

<sup>13</sup> See J.S. Goldkamp, C Irons-Guynn and D Weiland, *Community Prosecution Strategies*, Bureau of Justice Assistance, Washington DC, August 2003, p xiii.

response to local needs and circumstances. However, common characteristics of community prosecution can be identified, and include the following:

- prosecutors do not just focus on processing cases, but *assist communities* in creating safer neighbourhoods;
- prosecutors are active as problem solvers, focusing on *specific problem areas* (e.g. a specific type of crime, a geographic area, or certain types of offender) and develop *alternative approaches* to solve these problems;
- prosecutors focus on *crime prevention*;
- prosecutors engage in *long-term partnership* with communities in *specific geographic areas* to identify problems and solve neighbourhood security problems; and
- prosecutors *strengthen bonds with citizens*, other state institutions, civil society and community-based organisations to establish a community capacity for enhancing security and *promoting community justice*.

While community prosecution is still a relatively recent phenomena in most parts of the world, its introduction in various jurisdictions is beginning to show a number of positive outcomes. These include:

- lowered crime rates in targeted neighbourhoods;
- increased public satisfaction with the work of prosecutors and the criminal justice system more generally;
- decreased public fear of crime;
- enhanced working relationships between prosecutors and other justice agencies, particularly the police;
- more effective coordination and delivery of criminal justice and local government services (including successful prosecutions) to address crime and safety in particular neighbourhoods; and
- the growing acceptance by citizens of responsibility for creating and maintaining safe communities.<sup>14</sup>

Community prosecution can enhance prosecutorial – police cooperation. Police may take advantage of more accessible legal consultation to improve their street activities and investigations. Prosecutors may gain a better sense of what police face on the streets. As prosecutors learn more about how particular offenders and criminal activity impact on a local neighbourhood, they become more creative in generating specific tactics to address particular problems. Prosecutors may also perform an educative role by, for example, explaining to the public why the police cannot legally undertake certain actions, why an accused person was released on bail, or why a decision was made not to prosecute in a particular case. Community prosecutors can also suggest what police and citizens can do to assist in a prosecution, or use their influence to request assistance from local government services.

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<sup>14</sup> See C.M. Coles, *Community Prosecution, Problem Solving, and Public Accountability: The Evolving Strategy of the American Prosecutor*, Working Paper #00-02-04, John F. Kennedy School of Government, Harvard University, October 2000, p 3.



Community prosecution offers local prosecutors the opportunity for opening their office to a broader community and making the criminal justice system (via the prosecutor) more user-friendly and responsive. Moreover, prosecutors who are more familiar with the neighbourhood cases originate in are generally better informed about the actual case background and can better understand the impact the criminal act and the criminal justice response have on the individual offender, the victim and the community. Community members who have the opportunity to observe and learn about the work of the prosecutor gain a better understanding of the limits of criminal justice interventions and can become actively involved in finding alternative responses or support the prosecutor in his or her work. As a result, community members develop a better sense of the criminal justice system, feel that they play an active part of the process and begin to develop more trust in the system.<sup>15</sup>

A successful community prosecution strategy enables prosecutors to derive an additional source of authority through relationships with specific neighbourhoods and communities. This increased authority emerges from the legitimacy prosecutors gain by responding not in the abstract to crime, but in response to “particular problems in particular locations that affect particular individuals and groups”.<sup>16</sup> Moreover, as prosecutors respond to public priorities and have the opportunity to share their thinking directly with the public—often about what they cannot do about problems or cases—their credibility is enhanced.

In instances where prosecutors have succeeded in building partnerships with local residents as part of a community prosecution strategy, public satisfaction and cooperation have been known to increase dramatically.<sup>17</sup> Once trust is established, members of the public offer prosecutors information about offenders and events in the community that prosecutors previously never had, unless it came from the police. With this information, prosecutors are able to prosecute cases that otherwise would not have been possible, with the additional benefit of improved witness cooperation and community impact statements.

### ***The NPA’s Transformation Unit***

Bradley Smith of the NPA, gave a presentation entitled: *The NPA Transformation Unit, its role and mandate*.<sup>18</sup> The main aspects of his presentation follow below.

The NPA’s vision is: “Justice in our society so that people can live in freedom and security”. This vision, in turn, feeds into the vision of the Department of Justice and Constitutional Development: “Ensure access for all to a transformed justice system”. As part of its vision the NPA seeks to provide different services to each of its three core stakeholders, namely:

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<sup>15</sup> See H. Gramckow, Community Prosecution in the United States, *European Journal on Criminal Policy and Research* 5(4), 1997, p 16.

<sup>16</sup> C.M. Coles, *Community Prosecution, Problem Solving, and Public Accountability: The Evolving Strategy of the American Prosecutor*, Working Paper #00-02-04, John F. Kennedy School of Government, Harvard University, October 2000, p 22.

<sup>17</sup> C.M. Coles, *Community Prosecution, Problem Solving, and Public Accountability: The Evolving Strategy of the American Prosecutor*, Working Paper #00-02-04, John F. Kennedy School of Government, Harvard University, October 2000, p 33.

<sup>18</sup> Bradley Smith, Programme Manager: Transformation Unit, National Prosecuting Authority, e-mail: [bradley@serurubele.org.za](mailto:bradley@serurubele.org.za)

The community / public stakeholder group:

- contribute to the freedom and security of the South African community;
- contribute to the reduction in crime;
- contribute to a culture of civic-morality; and
- enhance public confidence in the criminal justice system.

The NPA customer stakeholder group (the court using public):

- ensure customers are treated in accordance with the values enshrined in the Bill of Rights; and
- provide access to NPA services.

The NPA's partners in the criminal justice system:

- enhance co-operation within the broader criminal justice system.

The NPA's Transformation Programme is based on the NPA's commitment to transform itself into a strategy- and performance-driven organisation. The Transformation Programme seeks to ensure that the NPA achieves its broad objective of a transformed organisation able to meet the challenges associated with the high levels of crime in South Africa. The transformation approach adopted by the NPA can broadly be categorised into four stages: mobilise, understand, design and create.<sup>19</sup>

The understand phase of transformation is critical. During this phase the NPA examines the situation it finds itself in by looking at key issues and trends. An important output of the understand phase is a comprehensive report on the state of the NPA, the criminal justice system and crime in the country. Such a situational analysis report consists of three sections: macro-environment analysis, micro-environment analysis and internal analysis.

The macro-environment covers the broader criminal justice context in which the NPA operates. It includes, for instance, an assessment of how free and secure South Africans are and public confidence in the criminal justice system. The micro-environment analysis covers the criminal justice system and its role players. It assesses aspects such as the effectiveness of the criminal justice system and progress since 1994.

The internal analysis examines how the NPA itself functions. It is broadly divided into five areas: governance, customer management, operational excellence, partner management and people management. It explores how well the NPA functions in these areas and, where appropriate, compares the NPA's processes with best practices in other public and private sector organisations.

The design phase will focus on the creation of solutions to the challenges identified in the understand phase. The strategy will be tested against an assessment of the NPA's

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<sup>19</sup> See also B. Ngcuka, *Experiences in Building a Prosecuting Authority Grounded on a Human Rights Culture: A Tribute to Dr Dullah Omar*, Address at the Dullah Omar Memorial Lecture, University of the Western Cape, 22 November 2004, <[http://www.communitylawcentre.org.za/docs\\_2004/BulelaniNgcukaSpeech.doc](http://www.communitylawcentre.org.za/docs_2004/BulelaniNgcukaSpeech.doc)>, (12 March 2005).

performance. Where necessary, processes and systems will be improved or reengineered to ensure achievement of the strategy. The transformation process will culminate in the creation of an organisation with the attributes necessary to ensure achievement of its objectives.

The Serurubele Transformation Programme is guided by the following six objectives:

- achieve optimal levels of governance;
- create a best-in-class customer management capability;
- achieve optimal levels of cooperation with the NPA’s partners in the justice system.
- engineer organisational processes that deliver excellent services to customer requirements;
- create a best-in-class operations management capability;
- ensure the management of people enables the NPA to become an employer of choice.

The Kennedy School of Government at Harvard University identified a potential strategic shift that may be underway in the “business of prosecution” aimed at addressing the weakness of a traditional case processing-focused approach by prosecutors.<sup>20</sup> This shift is from a traditional “case processing” strategy, to a “problem solving / community prosecution” strategy.

Traditional case processing strategy	Problem-solving / Community prosecution strategy
<ul style="list-style-type: none"> <li>• Traditional role of prosecutors: <ul style="list-style-type: none"> <li>○ assisting in criminal investigation;</li> <li>○ defining who will be prosecuted and brought to trial;</li> <li>○ preparation for trial; and</li> <li>○ arguing cases at trial and appeal.</li> </ul> </li> <li>• Involves passive approach to managing demand.</li> <li>• Contributes to a justice system that responded inefficiently to: <ul style="list-style-type: none"> <li>○ worsening crime;</li> <li>○ citizen’s quality of life; and</li> <li>○ citizen’s needs.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• A new sense of prosecutorial accountability to local neighbourhoods.</li> <li>• Using a crime prevention approach.</li> <li>• Adoption of a problem-solving approach to public safety.</li> <li>• Close collaboration with other criminal justice agencies.</li> <li>• New partnership with citizens in the community.</li> <li>• This approach has led to: <ul style="list-style-type: none"> <li>○ lowered crime rates in targeted neighbourhoods;</li> <li>○ increased public satisfaction and decreased public fear of crime.</li> </ul> </li> </ul>

<sup>20</sup> See C.M. Coles, *Community Prosecution, Problem Solving, and Public Accountability: The Evolving Strategy of the American Prosecutor*, Working Paper #00-02-04, John F. Kennedy School of Government, Harvard University, October 2000.

### ***Community prosecution in South Africa***

Ouma Rabaji of the NPA, gave a presentation entitled, *Redefining community prosecution in a South African context*.<sup>21</sup> A summary of her presentation follows below.

The NPA's Transformation Programme presented its situational analysis report to the NPA senior management team in January 2005. The management team concluded that the effective processing of cases by the country's prosecutors is inadequate to deal with increasing levels of crime. In response, the Transformation Programme recommended the NPA needs "to move to community prosecution much more aggressively than before".<sup>22</sup>

The Transformation Programme's recommendation is based on the respective visions of the NPA and the Department of Justice and Constitutional Development, to address the positive duties imposed on both institutions by the constitution, namely:

- to provide protection to everyone through appropriate laws and structures;
- to take operational measures to protect individuals' constitutional rights; and
- to fulfil the duty prosecutors have to carry out their public functions independently and in the public interest.<sup>23</sup>

Given these positive duties, and the increasing trial backlogs in the country's criminal courts, a case processing strategy, or the prosecution of cases, will not alone adequately prevent crime, reduce crime and make communities feel safe and secure.

The NPA is making good progress in achieving many of its strategic objectives. Some highlights include:

- In April 2004, the NPA opened the country's first Community Court in Hatfield, Pretoria. The court is a public-private partnership between the NPA, Department of Justice and Constitutional Development, Department of Social Welfare, the Department of Correctional Services, the SAPS and the University of Pretoria. The court has contributed to a decline in recorded crime, an increase in police morale,<sup>24</sup> positive media publicity, and the introduction of a diversion programme that has reduced the workload of the court and the prosecutors who work there.<sup>25</sup>
- The approval by the Minister of Justice and Constitutional Development for the opening of a further three Community Courts has been obtained. Two of these, Mitchell's Plain and Mannenberg opened in November 2004. A request to open an additional 12 courts is to be submitted to the Minister.
- Approximately 90 percent of all cases on the District Court rolls between June and September 2004 had been there for less than six months.

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<sup>21</sup> O. Rabaji, Special Director of Public Prosecutions, and Project Leader for Alternative Solutions to Delivering Justice: Transformation Unit, National Prosecuting Authority, e-mail: ouma@serurubele.org.za

<sup>22</sup> O. Rabaji, *Redefining community prosecution*, Paper presented at a workshop on Civil society and the development of a South African community prosecution workshop, Pretoria, 10 February 2005, p 3.

<sup>23</sup> See, *Carmichele v Minister of Safety and Security and Another* 2002 (1) SACR 79 (CC).

<sup>24</sup> L. Davis and K. Booysens, *The Hatfield Court Project: Impact on Police Morale, Community Discipline and Potential Offenders*, University of Pretoria (unpublished).

<sup>25</sup> L. Davis and M. Busby, *The Hatfield Court Project: Diversion as a punishment option for petty crimes*, University of Pretoria (unpublished).

- Conviction rates have been maintained at high levels, namely: 85 percent in the High Courts, 75 percent in the Regional Courts, and 89 percent in the District Courts.

Notwithstanding the good work done by the NPA, the outstanding lower court roll in October 2004 amounted to almost 178,000 cases nationally. Even additional resources, courts and prosecutors are unlikely to create a more efficient criminal justice process which will significantly reduce the case backlog. This is because the traditional manner of prosecution seeks to reactively process cases that come into the criminal justice system. Case processing is mainly offender-focused with the prosecution conducting criminal proceedings in cases that come from the police, and processing cases through the courts until the offender is punished or acquitted.

The traditional case processing approach fails to adequately deal with victims' needs – making them feel safe and secure, and ensuring there is justice for all – except to ensure offenders are punished in cases where the state secures a conviction. Although the aim of punishment is to deter other criminals from committing crime, it is unclear to what extent potential criminals are in fact deterred in this way. It is also unclear to what extent communities are satisfied with the punishment meted out to offenders, to what extent offenders are rehabilitated, and to what extent healing and reintegration takes place in South Africa's crime-torn society. It is also important to consider the following facts:

- Crime levels are high in South Africa, and most members of society lack the means to protect themselves.
- For the general public, crime is the second most pressing problem that government has to address.<sup>26</sup>
- Levels of domestic violence are high, and the promulgation of the Domestic Violence Act of 1998 has had a minimal impact on the reduction of this type of offence. Systematic secondary victimisation remains the most impeding factor to the successful implementation of the Act. Research has revealed that, on average, only 30 percent of abused women seek police assistance, 9 percent seek medical assistance, and a mere 2.6 percent of domestic violence cases end in court.<sup>27</sup> Research further shows that 80 percent of rural women are victims of ongoing violence in their homes. As a consequence, the NPA's Sexual Offences and Community Affairs (SOCA) Unit has entered into a partnership with traditional leaders to address domestic violence in rural areas.
- Not all crimes require criminal prosecution as an intervention. Prosecutors are at the tail end of the criminal justice chain. Prosecutors constantly refer to the negative impact uncoordinated government services have on the implementation of the Domestic Violence Act. If service providers located at the entry point of the criminal justice system do not treat victims with respect, sensitivity and fairness, the chances of victims refusing to testify in court are high. Under such circumstances the chances of a successful prosecution are remote.
- Up to 48 percent of South Africans are not prepared to report crime to the police.

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<sup>26</sup> P. Burton, et al., *National Victims of Crime Survey. South Africa 2003*, ISS Monograph Series, No. 101, July 2004.

<sup>27</sup> NPA SOCA Unit Business proposal for Ndabezitha Project.

- Some 74 percent of South Africans disapprove of the government's handling of crime.<sup>28</sup>

In addressing these problems, South Africa can learn from other countries. For example, in the United States community prosecution has produced the following positive results:

- lower crime rates in targeted neighbourhoods;
- increased satisfaction and decreased fear among citizens;
- enhanced working relationships between prosecutors and other justice agencies; and
- more effective co-ordination and delivery of criminal justice services to address crime and safety in particular neighbourhoods.<sup>29</sup>

According to Tumin, the ultimate test of law enforcement's effectiveness is whether people can walk, play, work, educate themselves, raise families and travel in the absence of crime and disorder.<sup>30</sup>

Taking into account the available comparative experiences, and given South Africa's public security problems, the NPA's Transformation Programme proposes we "come together with all the relevant stakeholders to redefine what community prosecution should achieve for South African society".<sup>31</sup>

Given South Africa's high crime rate, and what law enforcement agencies, civil society and other stakeholders can contribute, the NPA's Transformation Unit is working on a project provisionally entitled "Project X" or "Community Justice". The project is based on the understanding that the traditional case processing approach, as a model for criminal proceedings, is not delivering justice and is not victim-focused, mainly due to its reactive and narrow-focused approach. To ensure justice in our society, so people can live in freedom and security, alternative models need to be examined. The outcomes of such alternative models should be (abbreviated to: P<sup>2</sup>AR<sup>7</sup>C):

- Prevention (including deterrence)
- Protection
- Acquittal of the innocent
- Rehabilitation
- Restoration
- Retribution
- Reparation
- Remorse
- Reconciliation

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<sup>28</sup> Washington Post; Kaiser Family Foundation; Harvard University (Sept. 2003).

<sup>29</sup> C.M. Coles, *Community Prosecution, Problem Solving, and Public Accountability: The Evolving Strategy of the American Prosecutor*, Working Paper #00-02-04, John F. Kennedy School of Government, Harvard University, October 2000.

<sup>30</sup> Z. Tumin, *Summary of the Proceedings: Findings and Discoveries of the Harvard University Executive Session for State and Local Prosecutors at the John F. Kennedy School of Government (1986-90)*, John F. Kennedy School of Government, Harvard University, November 1990, Working Paper #90-02-05.

<sup>31</sup> O. Rabaji, *Redefining community prosecution*, Paper presented at a workshop on Civil society and the development of a South African community prosecution workshop, Pretoria, 10 February 2005, p 19.

- Restraint
- Civic morality

The above outcomes of justice are not applicable in all cases. Rather specific outcomes will need to be determined depending on the type of crime being combated and/or the needs of victims. ‘Project X’ will examine alternative approaches to the delivery of justice in accordance with the P<sup>2</sup>AR<sup>7</sup>C model. These alternatives could include aspects/tools such as:

- Crime management
- Crime prevention
- Compliance management
- Community prosecution
- Problem solving
- Using the law to solve problems of crime / infringement of rights
- Community dispute resolution structures
- Conflict resolution

The following objectives for ‘Project X’ are recommended:

- To identify alternative problem-solving methods to combat crime, and bring about effective criminal justice.
- To investigate the applicability of suggested alternative methods for justice delivery.
- To investigate alternatives to reduce the burden on prosecutors, especially in the lower courts and the criminal justice system value chain.
- To identify mechanisms the NPA can use to reduce the country’s awaiting trial prisoner population.
- To investigate avenues of integrating innovative alternatives within the criminal justice system.
- To design a strategy and implementation plan for alternative approaches to crime and criminal justice.

‘Project X’ description (deliverables):

- Develop a ‘Project X’ stakeholder management plan.
- Set up a multi-disciplinary design team.
- Draft a research report on:
  - alternative problem-solving methods;
  - applicability of suggested alternatives;
  - alternatives to reduce the burden on case-processing and the criminal justice system;
  - procedures to integrate innovative alternatives within the criminal justice system; and
  - mechanisms the NPA can use to reduce the awaiting trial prisoner population.
- Pilot project(s) proposal.
- ‘Project X’ strategy proposal.

### ***Lessons from community policing***

Sean Tait of the Open Society Foundation for South Africa, gave a presentation entitled, *Community policing: Challenges and lessons learnt*.<sup>32</sup> A summary of his presentation follows below.

Community policing and the notion of community prosecution bear remarkable similarities.<sup>33</sup> As such, the implementation of community policing in South Africa contains important lessons for the development of a community prosecution initiative.

The philosophy of community policing was introduced early in the South African transition. It was primarily motivated by the need to establish a relationship of trust between the police and communities during the negotiation process and run-up to the country's first non-racial election in 1994. The 1991 National Peace Accord provided for a code of conduct for policing based on protecting all the inhabitants of South Africa in a non-partisan manner, accountability and the provision of an effective and efficient service.<sup>34</sup>

The Interim Constitution, which came into effect in April 1994, contained a detailed requirement that the new police service should establish a Community Police Forum (CPF) at every police station. The South African Police Service Act (SAPS Act) of 1995 formally established CPFs, making it the responsibility of the police to establish CPFs at police stations around the country.<sup>35</sup> The SAPS Act emphasises that CPFs are to function primarily to enable improved police-community liaison and communication. Specifically, that such liaison is to focus on facilitating improved problem solving, and promoting greater cooperation and police transparency and accountability. Section 18(1) of the SAPS Act sets out the functions of CPFs as follows:

- establishing and maintaining a partnership between the community and the SAPS;
- promoting communication between the SAPS and the community;

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<sup>32</sup> Sean Tait, Director: Criminal Justice Initiative, Open Society Foundation for South Africa, e-mail: sean@ct.osf.org.za

<sup>33</sup> The following extract of a report entitled: Community Policing: Report of the Technical Committee on Community Policing of the Standing Committee on Public Safety and Security of the Gauteng Legislature, (September 1998), identifies characteristics of community policing which are almost identical with those of community prosecution: "...the concept of community policing is underpinned by the notions of 'partnership' and service to the community. Community policing, universally, centres around three main features:

1. It aims to create a real partnership between the police and community, with the view to more effective protection of communities and a better quality of life.
2. There is an emphasis on solving underlying problems that lead to crime rather than simply arresting offenders.
3. The police are more visible and accessible through beat patrols. This is achieved in conjunction with the assignment of staff to a specific, small, geographical area." (pp 12-13).

<sup>34</sup> The National Peace Accord was a multi-party agreement created in 1991 to address high levels of political violence in the early transition period. The Peace Accord introduced a range of structures and procedures to prevent and deal with inter-group conflict, many of them focussed on policing.

<sup>35</sup> South African Police Service Act no. 68 of 1995.



- promoting co-operation between the SAPS and the community in fulfilling the needs of the community regarding policing;
- improving the rendering of police services to the community at national, provincial, area and local levels;
- improving transparency in the SAPS and accountability of the SAPS to the community; and
- promoting joint problem identification and problem-solving by the SAPS and the community.

In early 1997 the Department of Safety and Security published its formal policy on community policing, the *Community Policing Policy Framework and Guidelines*. Developed through a consultative process over a three-year period, the Policy Framework defines community policing in terms of a collaborative, partnership-based approach to local level problem solving. This was the first explicit expression of community policing as a methodology for reducing crime by improving the service provided by the police. According to the new policy, community policing is comprised of five core elements:

- *Service orientation*: the provision of a professional policing service, responsive to community needs and accountable for addressing these needs.
- *Partnership*: the facilitation of a cooperative, consultative process of problem solving.
- *Problem solving*: the joint identification and analysis of the causes of crime and conflict, and the development of innovative measures to address these.
- *Empowerment*: the creation of joint responsibility and capacity for addressing crime.
- *Accountability*: the creation of a culture of accountability for addressing the needs and concerns of communities.

These core elements of community policing are very similar to the elements of community prosecution, namely:

- an orientation to service provision;
- partnership;
- a problem solving approach;
- empowerment and creating joint responsibilities for safety; and
- accountability

Each police station area is charged with establishing a CPF. While this has generally been achieved, the extent to which the philosophy of community policing permeates the SAPS is debatable. Moreover, some years into the new democracy less than half of South Africans (45 percent) know what a CPF is.<sup>36</sup>

Commentators like Pelser identify a number of critical assumptions that have influenced the evolution of community policing in South Africa.<sup>37</sup> These provide important points of reflection when considering a community prosecution model.

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<sup>36</sup> P. Burton, et al, *National Victims of Crime Survey. South Africa 2003*, ISS Monograph Series, No. 101, July 2004.

<sup>37</sup> E. Pelser, *The Challenges of Community Policing in South Africa*, ISS Paper, No. 42, September 1999.

The notion of 'community' remains problematic, generally, but particularly in South Africa where communities have been divided and fractured. Using geographic location as a basis for identifying a community risks reinforcing old apartheid division, while local political divisions have also polarized communities. In addition the myriad of interest groups from churches to civics, youth and school groups, and sports clubs are difficult, if not impossible, to synthesize into a single consultative community forum. A result of these challenges has been the difficulty of many CPFs moving beyond the half a dozen people making up a CPF's executive and into the broader community.

Implementing community policing places additional capacity restraints on an already stretched police service. Extensive interaction with communities, problem solving and conflict resolution add a host of new activity areas for which the police has received little or no training. Responding to community demands presented another challenge often leading to increased frustration as innovations are blocked by the hierarchical and bureaucratic nature of the SAPS. Moreover, the manner in which community policing was operationalised in the SAPS, with the creation of a specific community policing functionary at station level, contributed to the fact that it was seen as the remit of a few officers only. Consequently, the spirit or ethos of community policing was never embraced in the SAPS as a whole.

Finally, the mandate of the CPFs is to a certain extent contradictory as they are tasked to provide both an oversight and accountability function as well as that of partnership or bridge to local communities. It was the latter that evolved more rapidly being both in the interest of the police to utilise community partnership to access areas to which they had been previously barred, as well as by communities used to the idea of local neighbourhood patrolling and who found additional legitimacy being associated with the police. As a result a critical oversight function of community policing was largely sidelined.

The lessons of community policing highlight a number of important issues a community prosecution strategy would need to address. These include:

- There is no single community agenda. Different and varying interest groups need to be accommodated. Political pressures need to be negotiated and any engagement needs to constantly guard against the possible marginalisation of groups such as youth, women or the elderly.
- Training programmes for prosecutors need to include a host of new skills, including understanding community dynamics and conflict resolution.
- The organisational structure of the NPA needs to accommodate the tensions between top-down and bottom-up approaches.
- A clear mandate for community prosecution which does not conflate notions of partnership and accountability is essential.
- The capacity of the community to participate in additional forums, in the face of the many community forums that already exist, needs to be considered when developing a community prosecution model.

## WORKSHOP DISCUSSION

After the above formal presentation, workshop participants discussed and debated a variety of issues – both among themselves and with the presenters (for a list of workshop participants see *Appendix B*). A summary of the discussions follows below.

### *Transformation of the NPA*

The Constitutional Court has highlighted the role of the courts and prosecutors in ensuring that the rights of citizens are upheld.<sup>38</sup> In a 2002 ruling the Court considered a case involving a young woman who was brutally assaulted by an accused who had been released on bail despite several indications that he was a convicted criminal and was facing a charge of rape. The applicant's case was that the police and prosecutors involved in the case owed her a legal duty to act in order to prevent the accused from causing her harm, and that they had negligently failed to comply with that duty. In considering the legal liability of the prosecutor, the court highlighted that each case should be judged on its own merits. However, the court also held, that there seems to be no reason in principle why a prosecutor who has reliable information that the accused is violent and that he has threatened the complainant, should not be held liable for the consequences of a negligent failure to bring such information to the attention of the court. If such negligence results in the release of the accused on bail who then proceeds to assault the complainant, then a strong case could be made out for holding the prosecutor liable for the damages suffered by the complainant.

To meet its obligations to the public the NPA needs to broaden its scope of involvement with crime victims and members of the public. The NPA further needs to improve its service delivery, especially to victims and witnesses. The issue of local accountability to communities by prosecutors also needs to receive further attention. Ultimately, transformation for the NPA is about reorienting the prosecution service to place greater emphasis on service delivery and relocating its services closer to local communities.

Transformation in the NPA is about finding a balance between the prosecution's traditional work and placing more emphasis on what the community thinks and needs. While prosecutors are expected to act in the interest of the communities in which they work, they are confined to their offices and court rooms and have no contact with the community. The NPA, and law enforcement generally, can work well only if it has the trust and cooperation of the broad community. The transformation process should start with the NPA's customers (the court using public) and work backwards to include the general public and other criminal justice practitioners. It is therefore critical that access to the courts and the prosecution service be improved. Building additional courts and disseminating the contact telephone numbers of key court personnel is part of the solution.

Transformation also means that prosecutors better understand local dynamics and gain access to local communities to ascertain what public security-related priorities particular communities have. Such a broad approach to their work by prosecutors will generate solutions to crime and disorder, including permitting prosecutors to take on a preventive

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<sup>38</sup> *Carmichele v Minister of Safety and Security and Another* 2002 (1) SACR 79 (CC).

and educational role, thereby reducing the burden on the traditional criminal justice system.

Community prosecution can play a positive role in the crime prevention sphere. Sometimes crimes like drug dealing go unchecked because of a lack of evidence or other difficulties relating to the prosecution of the suspected offenders. In some instances prosecutors would be better served by using local by-laws which provide an alternative, yet effective, form of crime control. Such alternatives are, however, rarely used because most prosecutors and police officers are ignorant of such legal possibilities. A prosecutor familiar with community concerns, and knowledgeable in the law (including by-laws) can use the authority of his office to creatively exploit such alternative channels of law enforcement.

### ***Broadening the debate***

The involvement and participation of the community is crucial for a useful debate on community prosecution. The development of any successful community-oriented prosecution strategy must take into account – and actively canvass – the needs and concerns of local communities. A community prosecution project based on a wholly imported model that sidelines or marginalises the interests of local communities is doomed to fail.

The media can play an important role in disseminating information about NPA community-oriented prosecution initiatives, and should be used to engender sufficient interest and enthusiasm among local communities to secure public participation in the process of developing a community prosecution strategy designed to meet local needs and conditions. The timing of such an outreach or awareness raising campaign is critical. Public expectations should not be raised unrealistically early in the process. Yet, public outreach should also not be delayed unnecessarily, thereby limiting public comment and participation in the development process of a community-oriented prosecution strategy. Importantly, non-governmental organisations (NGOs) and Community Based Organisations (CBOs) can – and should – play a key role in generating public awareness of, and participation in, community-oriented prosecution, on both a national and local level.

### ***The notion of community***

The notion of ‘community’ is fluid and difficult to define. It is a concept which can be abused by using it to exclude rather than include people. Yet, resolving the definition of community is an essential step in identifying and understanding different community-oriented prosecution models. The experience of the Community Police Forums (CPFs) provides a rich source of experience on the difficulty of developing a broad and common understanding of community.

The Hatfield Community Court is an example of the confusion that may be created between the model for this type of court and the use of the word community. The Hatfield court is, strictly speaking, not based on a community court model whereby the community takes ownership of the work and activities of the court. Rather, the Hatfield court is a district court which prioritises relatively low-level crimes that are of concern to sections of the community (e.g. business owners, the University of Pretoria), but the role

and responsibilities of the Hatfield court prosecutors is otherwise similar to that of prosecutors in other district courts.<sup>39</sup>

One definition of community is people under duress or threat from crime and who, consequently, have a common set of interests to find a solution to the crime problem in their communities.

In the context of community involvement, it is important to recognise that many members of the public do not want to 'get involved'. Community members who have worked a full day and/or have a family to look after often do not want – or are not in a position – to engage in voluntary activities in support of community-based anti-crime initiatives. Sometimes people also avoid participating in community structures because they have become politicised or are dominated by influential and powerful local figures. The notion of volunteerism in present day South Africa may also be blurred by pressing material needs – where a voluntary commitment is undertaken by unemployed people with the hope and expectation that this may lead to paid employment. Volunteerism may therefore not be (solely) motivated by service to the community but by a hope for gainful employment. Even if employment is not the ultimate goal, the informal rewards implicit in a 'volunteering' relationship may often be significant motivators. Moreover, the history of the CPFs shows that community members volunteer their time with the best of intentions but as a result of a lack of necessary skills may end up doing more harm than good.

Partnerships where roles and responsibilities of relevant stakeholders overlap (e.g. Community Police Forums and Community Safety Forums) need to be explored as possible mechanisms by which to mobilise community engagement in a community-oriented prosecution initiative.

### ***Focusing on the role and function of community prosecution***

There needs to be clarity about what community prosecution will mean in a South African context. Specifically, the role and function of prosecutors engaged in a community-oriented prosecution initiative, as well as the responsibilities and powers of community structures engaging with such an initiative. This will have to be clarified in law or by way of regulations (subordinate legislation) or internal NPA memoranda. The conflation of an oversight and partnership role community structures may play in respect of local prosecutors' offices, may produce tension with one role dominating the other (as was the case with the Community Police Forums).

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<sup>39</sup> The Hatfield Community Court focuses on petty crimes such as public indecency, bag-snatching and cell-phone thefts, as well as cases related to drug and alcohol abuse. The Court operates on a full-time basis, with one magistrate and two prosecutors. Cases are heard, whenever possible, within 24 hours, ensuring that justice is dispensed swiftly in order to serve as a positive crime deterrent. See, Hatfield Court proves to be a big success, *Tuks Alumnibrief*, September 2004, <<http://www.up.ac.za/services/alumni/alumnibrief/2004/archive/5ab02/>>, (15 March 2005). The types of crimes dealt with by the Hatfield Court are those which are of a priority to the 'community' which the court serves. See, Hatfield se hof maak gou-gou 'n groot verskil, *Beeld*, 23 September 2004, <[http://www.news24.com/Beeld/In-Diepte/0,,3-67\\_1594372,00.html](http://www.news24.com/Beeld/In-Diepte/0,,3-67_1594372,00.html)>, (17 February 2005).

## **NEXT STEPS**

Workshop attendees were in favour of taking the discussions of the workshop further. It was agreed that the momentum of encouraging a civil society-driven debate on community prosecution should not be lost. To do so, there was agreement that the following should be undertaken:

- Establish a loose network of NGOs and CBOs to share ideas and knowledge about the development of a South African community prosecution initiative – especially the role and functions civil society can play in this development. Such a network should initially grow organically, with a view to creating a more formal structure at a later stage. A starting point is the creation of a list of contacts and a networking list.
- Conduct research on Community Police Forums and other models of community involvement with the criminal justice system to identify challenges and opportunities for greater civil society engagement in the field of community-oriented prosecution.
- Continue with a programme of workshops and discussions on the topic of community-oriented prosecution, where the broad civil society sector can engage in the developing process of making the work of the NPA more community focused. NGOs and CBOs should be involved in the conceptualisation process for such a workshop series, and add their own specific skill sets to the discussions. Research gaps and opportunities in the area of community prosecution, and the role of civil society, can be identified at such future meetings.
- Accept an invitation by the NPA to meet again in a larger group in March 2005. Part of such a meeting should include presentations by NGOs and CBOs of their activities, and how their work and expertise can enrich discussion of developing a South African community prosecution strategy.

## **APPENDIX A:**

### **WORKSHOP AGENDA**

#### ***CIVIL SOCIETY AND THE DEVELOPMENT OF A SOUTH AFRICAN COMMUNITY PROSECUTION MODEL***

**Thursday, 10 February 2005**

**CSIR Crime Prevention Centre, CSIR, Building 4, 1<sup>st</sup> Floor**

**09h00 – 09h30**

Registration, tea/coffee

**09h30 – 09h45**

#### **Introductions**

*Martin Schönteich*, Open Society Justice Initiative

*Sean Tait*, Open Society Foundation of South Africa

**09h45 – 10h30**

#### **What is community prosecution – challenges and opportunities?**

*Martin Schönteich*, Open Society Justice Initiative

**10h30 – 10h45**

Discussion

**10h45 – 11h00**

#### **The NPA Transformation Unit, its role and mandate**

*Bradley Smith*, Transformation Unit, National Prosecuting Authority

**11h00 – 11h15**

Tea/coffee break

**11h15 – 11h45**

#### **Redefining community prosecution in a South African context**

*Ouma Rabaji*, Transformation Unit, National Prosecuting Authority

**11h45 – 12h00**

Discussion

**12h00 – 12h30**

#### **Community Policing: Challenges and lessons learnt**

*Sean Tait*, Open Society Foundation for South Africa

**12h30 – 12h45**

Discussion

**12h45 – 13h30**

**LUNCH**

**13h30 – 14h30**

**Discussion I:**

Chair: Sean Tait

What role should communities and civil society play in the development and implementation of a South African community prosecution strategy?

**14h30 – 15h30**

**Discussion II:**

Chair: Martin Schönteich

Objectives and outcomes of a South African community prosecution strategy – civil society perspectives?

**15h30 – 16h00**

**The way forward?**

Chairs: Martin Schönteich & Sean Tait

Do we, as representatives of civil society, want to take the discussions and proposals coming out of the day's proceedings further? Should there be a formal process whereby civil society interacts and contributes to the NPA process on the development of a community-focused prosecution strategy? Are there research gaps and needs that civil society should address to inform the evolving debate on community prosecution in South Africa?



## APPENDIX B:

### *Civil society and the development of a South African community prosecution model*

#### **WORKSHOP PARTICIPANT LIST**

<b>Name</b>	<b>Organisation</b>
Vera Schneider	Centre for the Study of Violence and Reconciliation
Alice Mothiba	Tshwaranang Legal Advocacy Centre
Iole Matthews	Independent Projects Trust
Harold Motshwane	USAID
Sean Tait	Open Society Foundation for South Africa
Renald Morris	Open Society Foundation for South Africa
Louise Ehlers	Open Society Foundation for South Africa
Delia Nation	Restorative Justice Centre
Alida Boshoff	Restorative Justice Centre
Give Ndhlane	Provincial Community Police Forum
Munihra Osman	KwaZulu-Natal Law Clinic
Chris Nel	National Prosecuting Authority
Eric van Staden	National Prosecuting Authority
P Mafani	National Prosecuting Authority
Phumla Dwane	Office of the National Director of Public Prosecutions
Pierre Smith	SOCA Unit: National Prosecuting Authority
Bradely Smith	NPA Transformation Team
Ouma Rabaji	NPA Transformation Team
Thembela Simelane	Legal Aid Board
Darwin Franks	NPA Transformation Team
Michael Solomon	NPA Transformation Team
Erna Meyer	Centre for Scientific and Industrial Research
Martin Schönteich	Open Society Justice Initiative
Luke Lamprecht	Teddy Bear Clinic



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E-mail: [info@justiceinitiative.org](mailto:info@justiceinitiative.org)

**New York**

400 West 59th Street  
New York, NY 10019 USA  
Phone: +1 212-548-0157  
Fax: +1 212-548-4662

**Budapest**

Oktober 6. u. 12  
H-1051 Budapest, Hungary  
Tel: +36 1 327-3100  
Fax: +36 1 327-3103

**Abuja**

Plot 1266/No.11, Amazon Street  
Maitama, Abuja, Nigeria  
Phone: +234 9 413-3771  
Fax: +234 9 413-3772

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OSF-SA is committed to promoting the values, institution and practices of an open, non racial and sexist, democratic, civil society. It works for a vigorous and autonomous civil society in which the rule of law and divergent opinions are respected. In its work the Foundation encourages new approaches and ideas which contribute to the creation of an open society in South Africa. The Foundation has three main programmes: the Criminal Justice Initiative; The Media Programme; and the Human Right Programme.

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The staff includes Zohra Dawood, Executive Director; Terry Robinson, Personal Assistant to Executive Director; Sean Tait, Director Criminal Justice Initiative; Louise Ehlers, Senior Project Officer (CT); Renald Morris, Senior Project Officer (JHB); Helene van der Watt, Programme Administrator (CT), Sue Valentine, Director Media Programme; Noma Rangana, Senior Project Officer; Phelisa Nkomo, Project Officer; Sharon Flemmit, Programme Administrator; Anthea van der Burg, Project Officer Human Rights; Zaid Israel, Finance Director; Monica Zifo, Finance Assistant; Noma Kulu, Office Assistant; Siyabulela Mgujulwa, Receptionist; and Msuthu Kema, Housekeeper.

1st Floor, Colinton House, Fedsure Oval, 1 Oakdale Road, Newlands PO Box 23161, Claremont, South Africa, 7735 Tel: +27-21-683 3489 Fax: +27-21-683 3550

**Email: [admin@ct.osf.org.za](mailto:admin@ct.osf.org.za)**

**Website: [www.osf.org.za](http://www.osf.org.za)**