

# Discussion

## From the Margins to the Mainstream: Community Justice at the Crossroads

*Greg Berman and Aubrey Fox*

Across the United States, a variety of new ways to solve public safety problems in neighborhoods plagued by crime and disorder are being tested:

- Beat cops working with tenants to fix broken windows and doors in a public-housing development
- Judges sentencing low-level offenders to pay back the community by cleaning local parks
- Prosecutors using civil ordinances to close down crack houses and pursue gang members
- Probation officers reaching out to the relatives of probationers in an effort to offer better supervision
- Ministers working with the police and probation officers to identify and assist young people at-risk of criminal offending

These are just a few of the kinds of creative, problem-solving efforts that are happening across the country. Many have described these initiatives as examples of “community justice.” What does this mean? In what ways—if any—is community justice different than the traditional justice system? Is there a coherent philosophy or set of principles that unites all those who espouse or practice community justice? Is community justice a good or bad thing?

These are the kinds of questions that motivated the U.S. Department of Justice’s Bureau of Justice Assistance, in collaboration with the Center for Effective Public Policy and the Center for Court Innovation, to bring together a small group of leading practitioners and thinkers from around the country to participate in a daylong exploration of community justice. The group’s charge was deceptively simple: to begin to build an intellectual framework for community justice, defining its borders, articulating its values, and describing its best practices.

This task was complicated by the diversity of the projects falling under the community justice banner. Beginning with the rise of community policing in the 1980s, prosecutors, courts, probation offices, and even defender services have engaged—both at their own instigation and at the urging of community advocates—in community-focused and community-based work. Community justice programs have been created to solve local problems ranging from drug trafficking to underage drinking, from gang violence to

shoplifting. They have taken place in contexts big and small, from large urban areas to isolated rural jurisdictions. And they have relied on community members to play a wide range of roles in "doing justice"—from participating in local advisory boards to determining sanctions for offenders.

A number of community justice projects have achieved remarkable results and attracted considerable public acclaim. This includes Boston's Operation Cease Fire, in which a coalition of local and federal criminal justice agencies, researchers, social workers, and clergy nearly halted an epidemic of youth violence in two inner-city neighborhoods; the Midtown Community Court, which helped reduce low-level crime like prostitution and illegal vending in the Times Square neighborhood of New York City; and Boise County, Idaho, where courts have taken the lead in developing mediation programs in schools and home visitation programs for pregnant women.

Other community justice projects have been less ambitious. In many places, what passes for community justice is simply community relations—a police officer or assistant district attorney attending neighborhood meetings. In short, the umbrella of community justice has included both ambitious efforts to rethink how the criminal justice system goes about its work and more modest initiatives that seek simply to improve communication between justice agencies and the citizens they seek to serve.

Given this kind of variety—of quality, of geography, of purpose—participants in the Department of Justice's roundtable struggled to arrive at a common definition of community justice. This comes as little surprise—it is hard to imagine two words that carry more baggage than "community" and "justice," both independently and together.

As the judges, prosecutors, law professors, defense attorneys, and community representatives at the table groped for common themes, several distinct lines of thinking about community justice emerged. While participants did not fall neatly into clearly marked camps, it was possible to identify important differences in their views of community justice.

A first group of roundtable participants saw community justice as a moral critique of the current criminal justice system. For these participants, community justice is an effort to repair the "harm" done by this system, to "rebuild society," and to rethink "how we live together as human beings." This means fundamentally altering the balance of power—and the division of labor—between criminal justice agencies and communities. According to Vermont Commissioner of Corrections John Gorczyk, "For me, the goal of community justice is to provide nonexperts in communities with the infrastructure and capacity to do conflict and dispute resolution and become the primary providers of public safety. For the last sixty years, we've been moving the responsibility and the authority for resolving disputes out of the community and into some sort of governmental function. And it's made communities dysfunctional."

A second set of participants saw community justice more narrowly, as a set of new tools to be deployed strategically to address specific problems in specific situations. For these participants, community justice is "a problem-solving model" that "breaks down jurisdictional barriers" in an effort to achieve discrete objectives. Scott Newman, the district attorney in Indianapolis, articulated this point of view neatly: "I think communi-

ty justice is something that is problem oriented, something that is geographically tailored in some way, in which power is not jealously guarded but is shared with the community." John Feinblatt, director of the Center for Court Innovation, amplified this point, identifying a group of community justice proponents who "think we should adopt [community justice] because it's the right strategy—if we do it, there will be a number of benefits, such as safer cities and more people using parks and fewer living under the highway."

A third group focused less on the strategic value or transformative power of community justice, emphasizing instead community justice's potential to engage citizens and restore public confidence in the justice system. For this group, community justice is not about "gutting the traditional criminal justice system and replacing it with something different." Nor is it about solving "specific problems . . . that have proven resistant to traditional approaches." Rather, community justice is an opportunity to enhance citizen engagement in the process. According to Robin Kimbrough-Melton of Clemson University, "[I]f we want to have an effective justice system, we have to enable people to participate." Cheryl Steele of the Washington State Department of Corrections added, "I think [community justice] is a perfect opportunity for government to reacquaint itself with society in smaller groups. . . . [I]t's about reviving participation in democracy."

A final group was dubious about community justice, asking whether it is simply a "rallying cry" that drains resources from other worthy efforts and widens the net of governmental control over poor and minority populations. "I find myself skeptical of community justice and wondering if there is anything really new here," said Eric Lane of Hofstra University Law School.

At the end of a day's worth of discussion, no clear consensus emerged about the definition of community justice, its underlying values, or where the roles of communities and criminal justice agencies should begin and end. As Scott Newman concluded, "The problem right now for community justice is definitional. We have to be careful to not let it get too broad a concept or to sweep too much within it, because at some point it will be such an umbrella that it won't mean anything."

Despite this concern, participants at the roundtable acknowledged that community justice had emerged in response to a real crisis—the declining sense of public faith in the criminal justice system and those who work within it. "[Community justice] is what our customers are asking us to do," said Marti Kovener, a victim advocate in Denver, Colorado. "We're getting pretty clear messages from people who are involved in the justice system that what we're doing isn't working, it's not meeting their needs." Participants returned again and again to this theme, saying that "community justice is an effort on the system's part to regain legitimacy." Moreover, many participants felt that community justice initiatives around the country had begun to make strides in addressing this crisis, building new bridges between government and citizens and tackling neighborhood problems that would otherwise go unaddressed.

What follows is an edited version of the broad-ranging discussion about community justice, which took place over the course of six hours in a Washington, D.C., conference room in September 2000.

## PARTICIPANTS

Hon. Alex Calabrese	Presiding Judge, Red Hook Community Justice Center, Brooklyn, New York
Walter Dickey	Evjue-Bascom Professor of Law, University of Wisconsin-Madison Law School
John Feinblatt	Executive Director, Center for Court Innovation, New York, New York
John Gorczyk	Commissioner of Corrections, State of Vermont
Francis X. Hartmann	Executive Director, Program in Criminal Justice Policy, John F. Kennedy School of Government, Harvard University (moderator)
Leo Hayden	President and CEO, National Center for Violence Interruption, Chicago, Illinois
Robin Kimbrough-Melton	Professor, Institute on Family and Neighborhood Life, Clemson University
Marti Kovener	Program Director, Victim Services 2000, Denver, Colorado
Brad Lander	Executive Director, Fifth Avenue Committee, Inc., New York, New York
Eric Lane	Eric J. Schmertz Distinguished Professor of Public Law and Public Service, Hofstra University School of Law
Peggy McGarry	Senior Associate, Center for Effective Public Policy, Washington, D.C.
Timothy J. Murray	Director, Program Development Division, Bureau of Justice Assistance, Department of Justice
Scott Newman	Prosecutor, Marion County, Indianapolis
Leonard E. Noisette	Director, Neighborhood Defender Services, New York, New York
Tom Potter	Former Chief of Police of Portland, Oregon
Kay Pranis	Restorative Justice Planner, Minnesota Department of Corrections
Bill Ritter, Jr.	District Attorney, Denver, Colorado
Cheryl Steele	Community Mobilization Manager, Department of Corrections, State of Washington
John M. Stuart	Minnesota State Public Defender, Minneapolis, Minnesota
Hon. Patricia Young	Judge, Fourth Judicial District, State of Idaho

## What Is Community Justice?

FRANCIS X. HARTMANN (moderator): We're going to begin by asking the big question: What is community justice? How might you recognize it if you saw it?

ERIC LANE: Community justice is an opportunity for citizens, working with government, to identify problems and look for ways to resolve them. So I see it as problem solving. It's about asking how the criminal justice system can use strategies to resolve specific problems such as drug-fueled crime and quality-of-life crime that have proven resistant to traditional approaches.

HON. ALEX CALABRESE: In addition to problem solving, I think of community justice as prevention. As a judge working in a traditional courtroom, I was like a plumber with one tool or an artist with two colors: jail or out. That wasn't effective. Now that I sit at the Red Hook Community Justice Center, I can bring many more tools. I can bring counseling sessions. I can bring community restitution projects. And I can bring anger management classes. I know these kinds of alternative interventions are not appropriate for every case. But for many of the cases that I see—disorderly conduct, low-level drug offenses, shoplifting—I've got a real chance at getting at the root cause of the offender's problems so the person doesn't come back before me again and again.

PEGGY MCGARRY: I think Eric and Judge Calabrese are right to highlight problem solving and prevention as central features of community justice. One of the forces driving community justice is that the criminal justice system is, in fact, uniquely positioned to see social problems like child neglect in a way that cries out for doing something about it. Why should the criminal justice system care about prevention? I think it comes from the sense that there are two sides of justice—that if we're going to hold people accountable for bad behavior, we should also hold ourselves accountable for guaranteeing that people start out with a chance at having a successful life.

JOHN FEINBLATT: I think that under the rubric of community justice, we're seeing institutions like courts and prosecutors become much more outcome oriented. They're thinking about reintegrating offenders into the community. They're thinking about restoring victims. And they're thinking about community health and getting addicts off drugs.

CHERYL STEELE: I'd like to nominate another definition for community justice. I think it's a perfect opportunity for government to reacquaint itself with society in smaller groups and help build community. In many respects, it's about reviving participation in democracy.

ROBIN KIMBROUGH-MELTON: I agree that community justice is about participation. In a lot of the communities I work with in South Carolina, it's the norm for families to feel that the justice system has not served them particularly well. On the other hand,

when I sat down recently with some women who had been through a family drug court and talked to them about why the program had been successful, I heard them talk about how the court had taken them seriously and let them participate in the decision-making process. They felt it helped them make progress with the issues they were facing like neglect and substance abuse. So I'm encouraged by the community justice movement because if we want to have an effective justice system, we have to think about how we enable people to participate.

MARTI KOVENER: For me, this is sort of a déjà vu moment, because a lot of what's being said about participation I've heard for years and years out of the victim advocacy community. When I was a court advocate, the victims I worked with were always saying, "Do I get to say something now? Is this when I get to say how I feel and how this has impacted me?" And we kept saying, "No, not yet, not yet." I think that desire to be an actor rather than acted upon is what community justice is really about.

SCOTT NEWMAN: What's clear to me so far is that community justice is something different from conventional case processing. The question is, in what ways? No one element fully captures community justice, which makes it hard to explain to the public. Is community justice about getting out of the courthouse and into the neighborhood? Let's take prosecutors in police stations, for example. If all they're doing is screening felony cases, they're nothing more than a convenience for the detectives so they don't have to come downtown. But if they start to notice particular crime trends and then make suggestions to police and other agencies, then that starts to look more like community justice, I think. Is community justice a willingness to deal with root causes and prevention? That, too, is an element, but only when those efforts are integrated with the justice process. Is it a willingness to break down jurisdictional barriers? Take the example of neighborhood sweeps where police and probation officers go out together to ensure compliance with probation conditions. If you link those sweeps up with a gang problem, as they did in Boston, that starts to look like community justice. So I guess I think community justice is something that is problem oriented, something that is geographically tailored in some way, in which power is not jealously guarded but is shared with the community, and the community is allowed to have a sense of ownership. It's more willing to look at what's happening, not just at what happened in a particular incident.

HARTMANN: I hear us struggling to define the boundaries of community justice. I've heard problem solving. I've heard prevention and expanded sanctioning options. I've heard participation in democracy. I've heard power sharing and a geographic focus. My concern is that we don't want to end this meeting by saying "doing good and avoiding evil is community justice." So let me try a different approach. I wonder if it would help us if I asked, what do you think community justice is a solution to?

JOHN GORCZYK: The first thing community justice is a solution for is a criminal justice system that is totally unsustainable fiscally. In the state of Vermont, where I'm commis-

sioner of corrections, one out of seven men from the ages of eighteen to twenty-one is under correctional supervision. We need to add 265 new taxpayers to the state rolls a month just to pick up the bill for the growth in our incarcerated population. That's unacceptable.

KAY PRANIS: I think community justice is a solution to the harm the current system is causing to individuals and to communities, which I think is substantial. It's a solution to the disempowerment of those communities most impacted by crime, and a real shift in the relationship between the criminal justice system and communities. It's about letting the community take a leadership role, while criminal justice professionals learn to listen and ask themselves, "How do we support the community and its goals towards building a healthier community?" I also think that community justice is about rebuilding a society in which people actually care about one another and take responsibility for the well-being of one another. In many respects, what we're talking about here today is what we think the term "justice" ought to mean.

TOM POTTER: Community justice is a solution to the problem of the lack of responsibility of parents for their children, of citizens for other citizens. It has the potential to begin to engender more personal responsibility. There's a belief out there that "the government will fix it. We don't have to do it." One of the models that I envy is the environmental movement. Right now every citizen knows that there's something they can do as an individual to help with the environment. It's called recycling. So everybody has their little yellow recycling bins. They can put things in it, and they can do something every single day to make the environment a little bit better. In the issue of personal and public safety, we haven't given the same kind of choices to people that the environmentalists have.

LANE: I think there's a legitimacy problem in the criminal justice system today, and community justice is an effort on the system's part to regain legitimacy. It's one solution to the lack of public confidence in the justice process.

FEINBLATT: I hear a lot of agreement that community justice be problem oriented, locally focused, that there should be power sharing. Where I don't think there is a lot of agreement so far is why those characteristics are necessary. I think I detect three strains of thought here. There's a group of people who think community justice is necessary because those are the right values. It's moral—it's what we should be doing and how our society should be organized. And I think there's a second strand of people who think we should adapt these characteristics because it's the right strategy—if we do it, there will be a number of benefits, such as safer cities and more people using parks and fewer living under the highway. And finally there's a third strain, which says we need to do these things because the criminal justice system has done such a lousy job that we have no choice but to share power until we right the boat. And then when we right the boat, the necessity to share power might recede. It's important to think through these different philosophies now, before we consider expanding and institutionalizing community justice.

## Why Now?

HARTMANN: My next question is, why now? What are the forces driving the rise of community justice?

HON. PATRICIA YOUNG: I think a lot of it has to do with people within the criminal justice system wanting to do a better job. I'm starting my twentieth year on the bench, and like Judge Calabrese, I kept feeling that I was not being very effective because by the time I would get a case, the damage had already been done, whether it was a child who had been abused or a drunk driver who had hit somebody. And I kept thinking, there's got to be a way that we can get on the front end of some of this. For me, this has translated into a real need to explore prevention programs so that we don't just have a reactive response to problems.

LEONARD E. NOISETTE: My sense is that, with prison expansion and the criminalization of more and more conduct, there's a recognition that the justice system is headed in the wrong direction.

GORCZYK: Fundamentally, we have a colonial system of justice. When you see overrepresentation of minority populations in correctional systems, that's not a reflection of a system being broken. That's a reflection of it doing what it's designed to do.

JOHN M. STUART: I want to return to the point that community justice is being driven by the frustration of system players with "business as usual." I work with the public defender's office in Minnesota, where we routinely have prosecutors and defenders who handle a thousand cases a year. We have set up a very expensive prison system and a bottleneck in the middle. The court system handles cases on a kind of McDonald's basis. Now we're talking about a system of community justice in which each disposition is going to be cooked to order. The problem that we have to work out is that we don't have enough cooks to do that.

BILL RITTER, JR.: Part of the reason for this feeling of frustration, I think, is that in the last twenty years the justice system has had foisted upon it more in the way of social problems than ever before. Drugs may be the best example, as well as domestic violence. We don't have all the means we need to address these problems because they're social problems, and we're a legal system.

WALTER DICKEY: I think we can also relate the rise of community justice to a larger political context. Political debate today often consists of false choices: tough on crime or soft on crime is one example. One way of looking at community justice is that it's an attempt to break down false choices and create other options. It's a way of trying to bring nuance to the political debate about public safety and crime in this country.



KOVENER: I think there's another reason for the rise of community justice, and it's because it's what our customers are asking us to do. We're getting pretty clear messages from people who are involved in the justice system that what we're doing isn't working, it's not meeting their needs.

TIMOTHY J. MURRAY: Another answer to the question of "why now?" is the increasing alienation that citizens feel from the criminal justice system. To most laypeople, the criminal justice system doesn't make sense. When they go to a courthouse, they go to a place that is architecturally designed, staffed, equipped, and populated with people trained for something that hardly ever happens in that place, and that is a trial. All of us in this room know that trials hardly ever happen in state criminal courts. We're just moving cases, plowing through the day's calendar with plea bargains. And so when my mom and dad go to watch court, they say, "What was that? What were all those guys doing there?" I think if we can expose ourselves to some of the common sense that people bring into the process, the process will get better.

## The Role of Communities

HARTMANN: What is the role of the community in all this? How does community justice change the relationship between the community and the justice system?

STUART: Traditionally, crime is seen as a breakdown of community life that has to be handled outside of the community in a special courthouse downtown, with marble columns and so on. What we're talking about here is bringing the criminal justice process back into the neighborhood to address community needs.

POTTER: I've spent thirty-five years watching police around America operate, where we treated communities as people we did things to, not with. With community justice, I think we have the opportunity to see communities as part of the solution and a real partner.

PRANIS: I think that we, in the criminal justice system, have a responsibility to use our authority to help build stronger communities. It's a huge challenge, but I think the criminal justice system can play a role as a convener. If you call a meeting to build a stronger community, not many people show up. But if you call a neighborhood meeting around crime, people will come. The issue of crime becomes an opportunity to gather people to build stronger communities.

MCGARRY: I think the criminal justice system has to understand the need not just to partner with communities, but to let them lead. There's a really high level of distrust of government and the criminal justice system in large parts of the country. Unless we get partnership and leadership from the community—and from a broad cross-section, not just the usual suspects like the chamber of commerce—that level of distrust is not going to change.

DICKEY: One of the threads that's been running through this conversation has been the loss of legitimacy in the criminal justice system, and that the way to restore it is through community participation. But what makes us think that what the community would do would be different?

CALABRESE: Walter, what I've found—and I was surprised at this—is that when you ask the community what they want, they want defendants to be given an opportunity to use services, even people with longtime records. I thought that would be a little bit of a problem to convince people in Red Hook before the court opened, but right away they were saying, "No, let's give them a chance."

STEELE: I don't think the community wants to change the criminal justice system. In my experience working with the community, they don't say, "Well, let's not have judges or prosecutors." The fundamental system they believe in, but they're concerned about all the ways in which the system isn't functioning.

MURRAY: As I listen to what's been said so far, I think it's important to note that we're not talking about using the criminal justice system to fix society and we're not talking about gutting the traditional criminal justice system and replacing it with something different.

HARTMANN: So what's different about community justice?

DICKEY: What interests me about community justice is that it can evoke or invoke naturally occurring forces that drive human behavior in ways that have the potential to advance public safety. For example, it seems to me that our desire for the respect of others is a powerful force in our lives. Why would we think that's not true of offenders? They desire love, respect, all that sort of stuff just as people in this room do. Most of us don't respond very well to threats, and yet we continue to threaten people with the idea that's going to motivate them or change them. I think the question is, how can the criminal justice system tap into informal, community-based means of enforcing appropriate standards of behavior and promoting public safety?

GORCZYK: I'd like to expand on that point. Punishment does not work to change behavior in any kind of positive direction. It's a fact. For me, the goal of community justice is to provide nonexperts in communities with the infrastructure and capacity to do conflict and dispute resolution and become the primary providers of public safety. For the last sixty years, we've been moving the responsibility and the authority for resolving disputes out of the community and into some sort of governmental function. And it's made communities dysfunctional.

NEWMAN: I disagree that punishment doesn't work. In drug courts, using the coercive power of the court to coerce treatment and keep people in intensive outpatient treatment is working. And I also believe punishment works to incapacitate the most dangerous people and make sure they don't hurt anybody.

PRANIS: I agree with John Gorczyk. All of our institutions have to rethink what it is for us to be human beings and live together. We are trying to develop processes that invoke the deepest desires of human beings to be in positive connection with others.

LANE: I think we ought to be cautious about romanticizing human nature. Even as we talk about tapping into the positive desires and forces that drive our behavior, I think we need to acknowledge that fear and violence are part of the deep nature of human beings as well. I worry about the idea of just leaving things to communities to decide for themselves. I was thinking about the example of the Voting Rights Act, where the only way we could solve the problem was by sending federal marshals into communities to ensure that people got to vote. And I use that as an example only to show that some problems are resolvable on a community basis, and some problems are not resolvable that way.

PRANIS: I recognize that there's a concern about what communities would do if given decision-making power. I know of an experience that defies everything everybody at this table would assume about communities. There was a neighborhood in Oregon where the city was placing a sex offender transition house. Even though the project did not require community approval, the city knew how difficult it would be to go forward without consulting neighborhood residents. A woman I know offered to do a circle in the community, and the city agreed to abide by what the circle wanted. After some negotiations, the community agreed to support the transition house and even helped fix it up. Three months later, the city decided that there had been a mistake in zoning and said the house couldn't be there. And the neighborhood was angry at the city and got up in arms to defend the house because somehow the occupants had gone from a "they" to a "we." And I share that story because there are times when communities and neighborhoods do things that are very exclusive, and there are times that the dark side of humanity comes out, but it seems to me that we've been overemphasizing that. We've built all of our policy on the Willie Horton story and none of our policy on the stories like the one that I just shared.

FEINBLATT: I can imagine the process that you're describing producing that kind of result, but I can also imagine three blocks away that same process producing a very different decision. And I wonder whether that's tolerable, that two communities could follow the same process and have a different outcome. One of the hallmarks of our current justice system is a sense of predictability and certainty. When I think about the balance between community and the judicial branch of government, what I keep thinking about is that the judiciary is the branch that's not supposed to be influenced by the political process or public opinion or the concerns of one community versus another. They're supposed to be the ones who are responsible for a more detached form of justice. And so one of the issues I have to come back to is the balance between community involvement and the role of government. Where does one start and the other begin?

LEO HAYDEN: I submit to you that evenhandedness looks very uneven as it relates to my community. Look at the disproportionate number of people of color in the prison system. What happens when they go to prison is that their families break up and chil-

dren don't get financial support. We end up creating a cycle of deprivation. What looks evenhanded may in reality have very uneven or unintended consequences for a particular community.

DICKEY: We've been talking about the role of communities in the criminal justice system. But what if we turned the question on its head and asked, what role should the criminal justice system play in communities? My friend Herman Goldstein, who is widely thought of as the father of problem-oriented policing, tells a story of visiting a town in Italy. And there are two murals on the wall. One is obviously meant to depict a healthy, vibrant community, and the other an unhealthy one. And in the healthy, vibrant community, there's all kinds of commerce going on. People are in the park, playing, interacting with one another. There are individuals alone who are having their privacy respected. The criminal justice system is a very, very small part of this mural. The point obviously is that a healthy, vibrant community doesn't have a very big criminal justice system. Then, in the unhealthy mural, there's a big criminal justice system. There are soldiers all over the place, there are police officers, and the amount of commerce is very small. And that, of course, is meant to indicate an unhealthy condition that people basically don't want to be in. The question becomes "what is it about community justice that will move us from the unhealthy to the healthy place?" One thought that occurs to me is "first do no harm." That's been a consistent theme in our discussion today—that a lot of harm has been done by the conventional justice system. And my second thought is that we're really talking about a realignment and a different role for government. The challenge for community justice is to figure out what the criminal justice system can do, knowing that it's not the primary producer of public safety and community well-being.

## Values

HARTMANN: What values underlie community justice? Is it possible to identify them?

GORCZYK: That's an important question. Earlier Scott Newman listed a number of points about community justice, which I agreed with. But it struck me that they were a little bit more oriented to the process side and less focused on the values and principles that I think we need to have if we're going to ensure that community justice is consistent with who we are as a culture and what kinds of outcomes we want to produce.

NEWMAN: I think the point's well-taken. I think the tricky thing is figuring out whether we can, at a national level, delineate a set of values or whether that needs to be left to individual communities.

PRANIS: I've resisted the term "community justice" because I've always had at the back of my mind the recognition that lynching was a form of community justice. And so I'm insistent in my own work that we never talk about any terminology without saying what

values bound whoever it is that's making decisions. The work I do is about a fundamental rethinking about what we mean by justice. It's much, much bigger than the criminal justice system. This is about how we live together as human beings.

STUART: I have an anecdote that gets to the issue of what values animate community justice. I was at a sentencing circle on the Mille Lacs Reservation, and the people in the circle were dealing with a guy who had fourteen drunk-driving convictions. It had gotten to the point where every time he'd show up in court, the local judge would give him a year in jail, pretty much automatically. And he'd had a year in jail five or six times through this process, and it had done absolutely no good. But since he'd been participating in the sentencing circle, he had been sober for two years. And I heard some of the elder women from the Ojibwa band critiquing this guy at the circle, and they said, basically, "Look, we saw you going over to your cousin's house last week, and we know those guys drink a lot of beer over there. We want you to watch it." And he replied, "Yeah, you're right. I've got to be careful about that." And through that kind of weekly dialogue with this guy, he'd been sober for two years and had not been in jail and had not been driving drunk. To me, that was an illustration of a lot of the principles we're talking about—how communities, if given the opportunity, can be far more effective in changing behavior than the traditional justice system.

DICKEY: Your story is a great example of how basic human impulses can be tapped to change behavior in community justice. What happened was that this man realized he was part of a group whose respect he desired, who cared about him, and who were watching. They weren't going to give him a free pass, but, on the other hand, they were very decent in their approach to him. And all of a sudden it had engendered an alteration in his behavior that hadn't been achieved in five years of sitting in prison.

LANE: I don't feel as comfortable as Walter Dickey seems to about communities trying to change someone's behavior. I've lived for a long time in a very small town, and there are wonderful advantages to it. But there are also a lot of horrible things about small towns. For example, they tend to be exclusive. So I'm not sure I always trust the values of people acting in the name of "community."

NEWMAN: I'm wondering if there is in fact a coherent set of values behind community justice. In the description of the Ojibwa sentencing circle where the guy went to his cousin's house, and they drink a lot of beer, and somebody said, "Well, you shouldn't be going to your cousin's house." I mean, what values are at play here? Is it self-determination? Or is the value sobriety and community control? I think you've got a conflict here. What does community justice stand for? Is it the dignity of the individual? Is it the interconnectedness of community? If so, what about all those people who want to be left alone, who would rather have a back deck than a front porch, who would rather be on the Internet than in the park with their kids? So each of these values sounds good, but when you start to peel away the layers of the onion, you still have other questions underneath.

GORCZYK: I think we can learn a lesson from the private sector, which is to ask customers what they want. In Vermont, we used focus groups and telephone surveys to find out what the public wanted from their criminal justice system, from corrections, and from offenders. What did we find? We found that they wanted to be safe from violent offenders and wanted offenders to be held accountable and make reparations to victims and the community. At the same time, they wanted offenders to receive treatment to reduce the risk of reoffending. Finally, they wanted to be directly involved in the justice process themselves, and had the most confidence in the system when they were involved. We used this input to construct reparative boards staffed by community volunteers across the state. My sense is that if you talk to the customers and find out what they value, then design your system within those parameters, it will flourish, particularly if you give people a role to play in the system.

RITTER: The difficult thing here is that we don't have a sufficient consensus on what the right values are. We can all probably agree on the value of citizen participation. But I think it's a lot deeper than that. And it has to do with what "quality of life" means in a given community. And we don't, quite frankly, have a consensus that allows us to say, "Quality of life should look like this in any given community."

## Skepticism

HARTMANN: What are some of your concerns about community justice? Do we have any skeptics in the room?

LANE: I find myself skeptical of community justice and wondering if there is anything really new here. American history is filled with examples of groups attempting to participate in governance, whether it's with the criminal justice system or other parts of government. Community groups rise and fall, fight to identify problems, and try to resolve them. And I worry about adopting a phrase like community justice that seems like a solution or sounds like an easier answer when it's really more of an ongoing struggle. The term community becomes a rallying cry, and I'm concerned about using it because it carries with it such baggage.

NEWMAN: I want to add a second historical note of caution. It may be kind of unfashionable and maybe a bit mundane, but part of the reason that we're in the situation we're in today is because concerns about corruption caused us to centralize and "professionalize" police departments. I don't know if those concerns have evaporated completely. It's still something we need to be aware of.

KIMBROUGH-MELTON: My concerns are a little bit different from the others I've heard. I'm cautious about community justice because I see a trend of people looking to the justice system for answers. I see schools pushing kids out into the justice system that they don't want to deal with. I see families sometimes pushing family members. I think

there are a number of institutions in our communities that are giving up and are absolving their responsibility to the justice system. So how we take that on and how we deal with people who are coming into our system and how we provide leadership back to our communities, I think that's a very critical point.

NEWMAN: I'm wondering whether the justice system is even capable of providing any answers to the kinds of problems we're talking about here today. We've talked about the idea that one reason we do community justice is because other segments of society have abdicated or are not occupying the field appropriately. And my question is, who are we talking about? And if they failed, why did they fail? And what can we learn from their failures? More to the point, what is it about courts, or appendages of courts, that's different, that means that we will not fail when other so-called social programs have failed? Is it in part because courts are the new kids on the block? Is it because of the awe that many people hold our courts in and the relative remoteness of the way they exercise authority? The question will arise in community justice, do you lose some of the coercive power of the court that is created by a certain amount of remoteness? Are we throwing out the baby with the bathwater?

NOISETTE: My reservations come from my perspective as a defender and seeing and experiencing community justice, at least as I understand it, mostly in the formal justice system, primarily in the reconfiguration of courts and specialty courts. I worry that community justice may have a tendency to expand the court's role in solving problems. I have a couple of concerns about it. One is the allocation of resources. There are limited resources. And if more and more of those resources are thrown into the justice system, then those resources have to come from somewhere. I also have concerns about widening the net. I wouldn't want to find people under the control of the criminal justice system who would otherwise not be there and who could resolve their problems without big brother watching over them. Then I have broader cautions about community participation. I think this is a nice aspirational goal, but I think we have to be very, very careful about promising something that we can't deliver on. Communities where crime is a big concern have been made promises many, many times. You had better deliver in these communities when you talk about community participation and involvement.

BRAD LANDER: I'm skeptical about whether community justice is really getting at the root causes of crime. In my neighborhood, the obstacles to community health can't be resolved after a crime's been committed. The problems run so much deeper. It's great to be able to offer people who have committed an offense a second chance at some things they didn't get the first time around: drug treatment or education and job development and housing. But there are a host of issues that cannot be addressed through the justice system at all. What people in communities care about is access to real opportunities to earn a decent wage and access to housing. Yes, they also care about living in a safe place. I don't want to underestimate it, but I don't feel like it's primary. I don't think people don't have good jobs, housing, and decent schools because their neighborhoods aren't safe.

HAYDEN: I'd like to follow up. For communities of color, community justice is either a blessing or a curse. Every solution that the justice system has come up with to solve the issue of crime and dispense justice in a fairer way always seems to have unintended consequences. We wind up with more people of color being arrested, more in the court system. So there are real issues of trust and respect that need to be dealt with.

RITTER: As a prosecutor, my biggest concern is that with community justice, you could end up with parallel justice systems, that there could be a separate community justice track where some practitioners work with communities but other prosecutors, defenders, probation officers just keep doing what they're doing in the traditional sense. The danger there is that you end up with people being treated differently depending on which track their justice system was operating on.

NEWMAN: The problem for community justice right now is definitional. We have to be careful to not let it get too broad a concept or to sweep too much within it, because at some point it will be such an umbrella that it won't mean anything.

## Going to Scale

HARTMANN: We've covered quite a bit of ground today. We've attempted to define community justice, looked at some of the forces driving its adoption, and examined the relationship between communities and the criminal justice system. We've also talked about some reasons to be skeptical about community justice. Now I want to ask a different question. What would have to be true in order for community justice to move from the margins to the mainstream of the justice system?

MURRAY: I think we first have to talk about the institutional objections to community justice. The institutions within which each of us work aren't famous for seeking out and nurturing innovation. Community justice kind of looks like and smells a little bit like an innovation. And judges dress funny, talk funny, and work in funny places. Most of them like it that way. Scott Newman has talked about holding court in a trailer. And I've actually been to community courts that look a lot like trailers. And those communities and those judges have done that on purpose. But it has caused a lot of weeping and gnashing of teeth among the judicial brethren in that community. What do we do about courts that have spent a hundred years centralizing? We're now talking about decentralizing them. We're talking about collaborating with defenders and prosecutors to address problems rather than simply move the maximum number of cases.

DICKEY: I think Tim's hit the nail on the head. He's asking, "Does the system have the capacity to do the things we're talking about?" For example, take drug courts. The things that drug courts do—monitoring an offender's progress through drug treatment—are exactly what probation and parole agents were supposed to do. Why do we think courts are going to be able to succeed where probation and parole failed?



NOISETTE: Following up on Tim Murray's point, I think what we haven't explicitly said is that community justice requires those of us in the criminal justice system to be prepared to change our role substantially. For community justice to be successful, it's going to require system players to step back and be prepared to do things differently.

STUART: I agree that community justice requires system players to change their roles, but changing roles raises some difficult resource issues. Let me give you an example. In Minnesota, we had a client named Angel Hernandez who was a minor leader of the Latin Kings and was supposed to go to prison for a number of minor crimes he had committed. Our social worker found a Latino fraternity at a local college. And they said, "We'll take Angel Hernandez, and he can stay at the fraternity and go to college and we'll supervise him." Now, that's the kind of resource that the people who work in the criminal justice system either don't know about or don't have time to find out about because they're doing 800 or 1,000 cases. So one of the things that would have to be true in order to make community justice work is that the people who handle criminal cases would have to have the skills and the time to get to know community resources on the same level the social worker did when she found the fraternity for Angel Hernandez.

NEWMAN: I think the one thing that I would say is most necessary for this effort is that we all need to be our best selves in order to make community justice work. It's not going to work without the good faith to be empathetic to each other's roles and to presume good faith on the part of other people. If someone was proposing that Angel Hernandez be placed in a fraternity instead of sent to prison, I would want someone to acknowledge what my problems as a prosecutor might be; that is, he may kill someone or open floodgates for similar cases. How is Angel's case different? Why is it fair to treat Angel in this way? Someone has to acknowledge my role and be empathetic in their style of collaboration.

KOVENER: One of the things we have to do is challenge the cultural assumptions that are implicit in our current system of justice. For example, in working with traditionally underserved communities in Denver for the treatment of domestic violence offenders, representatives of both Latino and African-American organizations told me, "Your standards aren't going to work if you assume treatment for victims and offenders can't happen in the same place. In our community, you can't do treatment unless it's in the context of family and couples." There is no such thing as one community, and we have to honor the identities of different communities and ask questions without already having our minds made up.

KIMBROUGH-MELTON: I'd like to switch our focus a little and encourage us not to forget rural areas in community justice. Rural areas are dealing with unique issues that are difficult to overcome and become much more magnified in a small context. For example, I work in a number of communities with deeply entrenched racial attitudes and power structures that have been in place for a long, long time. These communities are very difficult to change. I think there are also resource issues—rural areas often have traveling judges who affect the consistency of how we can implement community justice initiatives. These are issues that affect urban communities very differently.

STUART: I'd like to raise two points. The first is from the perspective of a public defender. I'd like to speak up for including public defenders on the ground level of trying to work with community justice, because we have some issues that I think if they can be addressed successfully will make the programs work better. Second, in terms of the most important step to move it forward, in the specific context of Minnesota, where we have a great deal of stuff going on at the grassroots level, the most crucial issue for us now is sustainability. People have started this up on enormous energy, a lot of it volunteer energy. The projects that do have funding have soft funding that will go away after a couple of years. We need to be able to shift resources to have system people stop doing some of the things that they're currently doing that are ineffective and get those resources to community-based groups that are doing these other kinds of things.

KOVENER: John Stuart mentioned the need to include public defenders in community justice. I also think the victim advocacy community has a ways to go to really embrace this concept. There are victim advocates who don't realize that victims want to have a voice in a different way, who don't realize that victim and offender issues in many communities are not separated. When I talk to victims and communities in Denver, they say it's not about splitting victim and offender, right and wrong, good and bad, help and punishment—it's about my family, my community, which has been traditionally been underserved by the justice system.

RITTER: Nobody has talked much today about community justice being a resource drain and how difficult it is to sell to local city councils or other funding authorities when other kinds of traditional prosecution are so expensive and so demanding.

LANDER: I'd like to see some experimentation that isn't led only by criminal justice organizations. There are somewhere between two and three thousand community development corporations in the neighborhoods that we're talking about, and almost none of them are involved in this.

FEINBLATT: I think that where we've made significant progress today is in defining why we are here, what drove this, why are we even having this conversation. I think that where we're still a bit stuck is where's the fit. Community justice is here, we can describe it somewhat, but is it a universal fix? Is it a fix for some things and not for others? What do we expect to get out of community justice? What are the results we are looking for? Are we looking for reduced recidivism? Are we looking at better allocation of resources? Are we looking at lowering costs? Are we looking at healthier communities? Or would it be enough to say that we're looking to establish legitimacy, and that part of establishing legitimacy is having a government that's responsive to its citizens and can actually interact with its citizens in a meaningful and honest way? Perhaps establishing legitimacy for justice institutions, which have long suffered now without it, is a goal in and of itself.

NEWMAN: When I started as a prosecutor fifteen years ago, as far as I was concerned, when I convicted a criminal, a trapdoor opened underneath him, they fell through, and they were never seen again. And I took a lot of joy in that, I'll admit. Over time, my view has changed to the point where I take great joy—I still take joy in convicting criminals—in going to a drug treatment court graduation and being able to address people who were cases and say, "Can I call you Tanya? Can I call you Bill?" I have on the wall of my office a letter from Chi Chi's restaurant commending one of the drug treatment court graduates as Employee of the Month. There's a lot to be said for harnessing the desire for positive connections with others as a core concept of community justice—both the community connecting to the justice system on a more egalitarian basis, and the offender having a more positive relationship with the community.

DICKEY: I happen to think that if community justice has a future, it's really going to be because of its problem-solving quality. I don't know that it will stay a problem-solving endeavor only, but that seems to me to be the most likely place for it to take root. Now, what would have to be true for community justice to thrive, if it is basically a problem-solving model? First of all, you have to listen. I'll bet everybody in the room has had the experience of going out into communities and discovering that what's on their mind is not necessarily what we expected. We did this exercise in Milwaukee where we went into the area of the city with the highest homicide rate. And we found out that what was on people's minds were kids stealing screen doors. I also think leadership is required. One of the interesting questions for community justice is the tension between community and government. Sometimes problems are of such concern to a community that they start to yell "screen doors," but an awful lot of this stuff is below the level of visibility. A final element is imagination and a certain amount of flexibility because sometimes the obvious answers don't work. I happen to believe there's enormous energy in communities and the agencies we're talking about. What's needed is a system that's organized to release that energy and not keep it bottled up. jsj

# About the Authors

**Sharyn L. Roach Anleu** is an associate professor in the Department of Sociology at Flinders University, Adelaide, South Australia, and immediate past president of The Australian Sociological Association. She recently collaborated with Kathy Mack on a national study of guilty plea negotiations in Australia.

**Greg Berman** is deputy director of the Center for Court Innovation, New York, a public-private partnership that works to promote new thinking about how courts can solve difficult problems like addiction, delinquency, child neglect, and domestic violence.

**Saul Brenner** is a professor in the Department of Political Science at the University of North Carolina, Charlotte. He is the author or coauthor of three books and over fifty journal articles.

**Hon. Bobbe J. Bridge** has served as a justice of the Washington State Supreme Court since January 2000. Justice Bridge has been active in many efforts to improve the administration of justice for children and families, including Washington State's Department of Social and Health Services' Children, Youth, and Family Services Advisory Committee and the Child Protection Roundtable.

**Robert A. Carp** has taught at the University of Houston since 1969, and his areas of specialty include judicial process and behavior, constitutional law, and law and society. He has written over thirty articles for refereed journals.

**Lief H. Carter** is the McHugh Family Distinguished Professor at Colorado College. The sixth edition of his *Reason in Law*, coauthored by Thomas Burke of Wellesley College, has just been published by Longman.

**Bradley Stewart Chilton** is an associate professor in the Department of Criminal Justice of the University of North Texas, Denton.

**George F. Cole** is professor of political science, emeritus, at the University of Connecticut. A specialist in the administration of criminal justice, he has published extensively on such topics as prosecution, courts, and corrections. He is the author, with

Christopher Smith, of *The American System of Criminal Justice*, ninth edition, and *Criminal Justice in America*, third edition, and with Todd Clear, *American Corrections*, fifth edition.

**Aubrey Fox** is senior consultant at the Center for Court Innovation, New York.

**Sally C. Gertz** is a clinical professor at the Florida State University College of Law, Tallahassee. She presided over labor and employment cases as a member of Florida's Public Employees Relations Commission, a quasi-judicial administrative agency, and practiced law in Florida as counsel to a teacher's union.

**Elizabeth Ellen Gordon** is an assistant professor of political science at Kennesaw State University, Georgia. Her research primarily focuses on the implementation of mandatory dispute resolution programs in state courts.

**Robert M. Howard** is an assistant professor of political science at Georgia State University. Dr. Howard researches in the areas of courts and public policy and judicial decision making. He has published articles in leading political science journals on Supreme Court decision making, courts and the Internal Revenue Service, and attorney regulation.

**Kathy Mack** joined the Flinders University Law School in 1996 from the University of Adelaide. Her interests are feminist legal theory, dispute resolution, evidence, legal education, and criminal law and procedure.

**Stephen Meinhold** is associate professor of political science at the University of North Carolina at Wilmington. His research focuses on how young adults use and feel about the legal system, in particular their use of attorneys.

**David W. Neubauer** is professor of political science at the University of New Orleans. He is the author of several books, including *America's Courts and the Criminal Justice System*, seventh edition; *Debating Crime: Rhetoric and Reality*; and *Judicial Process: Law, Courts and Politics in the United States*, second edition.

**J. Mitchell Pickerill** is an assistant professor of political science at Washington State University. His current research interests involve interactions among courts and other branches of government.

**Christine H. Roch** is assistant professor of public administration and urban policy studies at the Andrew Young School of Policy Studies at Georgia State University. She has written articles on school choice and social networks and public policy. Her work has appeared in the *American Political Science Review* and the *American Journal of Political Science*.