

The Expanding Role of the Prosecutor in Juvenile Justice

By: James C. Backstrom, Dakota County Attorney

The traditional role of the prosecutor in dealing with juvenile justice has expanded greatly in recent years. No longer does the prosecutor serve merely as the gatekeeper to the juvenile court system by determining which juveniles should be charged with crimes, who is to be diverted from prosecution and whether or not efforts will be made to seek certification/transfer to adult criminal court. While these basic core functions remain for all prosecutors, to cope with the sharp rise in juvenile crime over the last decade and the foreboding predictions for the future, today's juvenile prosecutor must do far more. He or she must be an advocate for justice, the victim and community values as well as a negotiator and dispositional advisor. Even more importantly, today's juvenile prosecutor must go beyond the courthouse and become a community leader and teacher, working with civic, social, and church groups, as well as with schools, to prevent juvenile crime before it occurs. This article will address this new expanded role for today's juvenile prosecutor.

I. The Prosecutor is an Advocate for Justice, the Victim and Community Values

In carrying out the prosecutorial function, the prosecutor needs to be an advocate for justice, the victim and community values. It is easy in a juvenile justice system which has long looked to what is in the best interests of the child as its primary function, for a prosecutor to lose focus of his/her need to serve as an advocate for justice. While prosecutors should consider the special interests and needs of a juvenile in their handling of a case, the prosecutor should never lose sight of their primary duty to seek justice and protect the public safety and welfare of the community. As in adult prosecutions, juvenile prosecutors should ensure that the victims of crimes are kept properly notified of important decisions in the case, including charging and disposition matters. Victims should be notified of and offered the opportunity to attend all hearings in a juvenile case and should be contacted, if possible, prior to accepting a plea agreement. The prosecutor should also ensure that the victim has the opportunity to address the court prior to disposition. The prosecutor must also make efforts to ensure that restitution is paid so that the victim can, to the greatest extent possible, be made whole and not suffer financial losses as a result of criminal activity.

The prosecutor also must keep in mind that he/she serves the interests of all the citizens in the community. The prosecutor's actions should be consistent with community values. To ensure that prosecutors are aware of these values, juvenile prosecutors should take the opportunity to attend and participate in community meetings or other activities concerning juvenile crime or crime prevention. By doing so, they will hear first hand the feelings of the public concerning juvenile crime and consequences.

In reference to the pursuit of justice, the prosecutor must keep in mind the concepts of fairness and accountability. The punishment for an offense, whether it is through court disposition or is part of a diversion program, should be fairly applied to all under similar

circumstances, and should hold the juvenile offender accountable for his/her actions. The prosecutor may elect to exercise his or her discretion to dismiss a case that may be technically sufficient, but from a policy or economic standpoint lacks prosecutorial merit. The prosecutor may also dismiss a case at any point in time in the proceedings if this is determined to be in the best interests of justice. Care should be made, however, to conform to appropriate guidelines in making these decisions. Prosecutors should adopt written charging and disposition guidelines for their office which are available to the public to insure both internal consistency and public accountability.

II. The Prosecutor Serves as a Negotiator and Dispositional Advocate

Making a charging decision does not end the prosecutor's role and responsibilities. The prosecutor should take an active role in all phases of a juvenile case, including both adjudication and disposition. The prosecutor should ensure that decisions involving juvenile cases are made in a timely fashion so as to protect the right of the juvenile to a speedy disposition of his/her case. Cases requiring the detention of a juvenile offender should receive priority treatment. The timely resolution of juvenile cases is even more important than in the adult criminal system. Juveniles need to clearly understand the harmful nature of their actions and receive a disposition that holds them appropriately accountable in a timely manner. A disposition which occurs many months after the juvenile's act, will not have the same force and impact it would if handed down in a more timely manner. Prompt determinations also promote public confidence in the system and fairness to the victim and the community.

The juvenile prosecutor should assume the traditional adversary role in the adjudicatory hearing, recognizing, however, the particular vulnerability of child witnesses. All juvenile witnesses, including the suspect should he/she testify, should be treated fairly and with sensitivity in examination, cross-examination and throughout the process.

The prosecutor should also be involved in all plea negotiations entered into with a juvenile and/or the juvenile's attorney. In negotiating pleas of cases, take care to follow appropriate guidelines for the disposition of cases to ensure fairness and public confidence in the decision. As mentioned above, efforts should be made to contact the victim prior to entering into any plea agreement to obtain the victim's comments and/or concerns.

The prosecutor should be consulted in all decisions in reference to the disposition of a case. No case should be dismissed without providing the prosecutor with notice and an opportunity to be heard. Juvenile prosecutors should take an active role in the dispositional hearing in a juvenile case, including making recommendations to the court as to what an appropriate disposition would be in the case. The prosecutor should review all reports prepared by the corrections department and others before making this recommendation. The prosecutor should also take into consideration what the penalty for the crime would be if it had been committed by an adult. The prosecutor should periodically evaluate the effectiveness of dispositional programs used for juvenile offenders within their jurisdiction from the standpoint of both the public's and the

youth's interests. A dispositional decision which places a juvenile in a program that is not accomplishing the goals for which it was created, would be a waste of taxpayer resources and is not in the best interests of the juvenile offender or the public. The prosecutor should be involved in the decisions of what dispositional program alternatives are available within their jurisdiction. The prosecutor's dispositional recommendation, in the final analysis, should focus upon the prosecutor's primary role of protecting the public safety and welfare, while at the same time meeting the needs and interests of the juvenile offender. In making a recommendation on a disposition, the prosecutor should seek a just result, one that holds the juvenile appropriately accountable and protects the public and victims' interests.

The prosecutor should take steps to educate the court on the availability and appropriateness of existing disposition resources within the jurisdiction. This requires the prosecutor to take steps to educate him/herself of the available dispositional resources within their community. The prosecutor should also seek out new and more appropriate resources, and may actually create such resources through diversion programs coordinated by the prosecutor's office.

The prosecutor's role does not end with a disposition hearing. The prosecutor should continue to represent the state's interests in all appeals, as well as in hearings conducted concerning revocation of probation, modification of disposition, or other collateral proceedings attacking orders of the court. The prosecutor should also take steps to let the juvenile court know if its orders are not being properly followed, if the prosecutor becomes aware of such information. Such follow-up by the prosecutor to ensure that dispositions are properly being carried out also helps maintain public confidence in our system of juvenile justice.

III. The Prosecutor Should be Involved in Community Outreach Efforts to Address Juvenile Crime

Perhaps the most important role for a juvenile prosecutor today is one which does not even involve work in the courthouse. If we are ever to solve the juvenile crime crisis facing our society, education and prevention are the keys. The prosecutor can and should become directly involved in these activities. Law enforcement and prosecutors can't solve the juvenile crime problem alone. It will take the united efforts of everyone to solve these problems including parents, youth, teachers, school administrators, faith communities, business and civic leaders, community based organizations, as well as law enforcement officials.

The prosecutor can serve a valuable role in educating the public concerning juvenile justice issues, by taking the opportunity to address these important matters in public speeches and presentations. The prosecutor also can serve a valuable role by participating in juvenile crime prevention programs within their community. As a public leader, the prosecutor is in an ideal position to help coordinate such efforts. Education and prevention go hand in hand with effective law enforcement and prosecution efforts.

In Dakota County, Minnesota there are hundreds of committed volunteers willing to get involved in organizations to help reduce juvenile crime and make our community a healthier and safer place in which to live. I am sure this is true in many jurisdictions in this Country. As a prosecutor you can help facilitate the creation of these organizations or become involved as a leader with them. One such effort that I have become involved in this past year is a tri-county initiative in my region focusing on youth gang and violence prevention. Through this project we have trained hundreds of law enforcement officers, provided community forums, trained school administrators and other professionals and prepared informational brochures for citizens concerning youth gang and violence issues.

Other prosecutors throughout this Country have also developed innovative juvenile crime prevention projects.

- Sandra O'Connor in Baltimore County and Jack O'Malley in Chicago have pioneered annual anti-drug poster contests for young people to make their own positive statements about the dangers of drug and alcohol abuse. The winning posters are made into a calendar and distributed to thousands of young people each year. I have adopted a similar program in my jurisdiction.
- Bill Ritter, the Denver District Attorney, has spearheaded the development of an innovative project entitled "Courtrooms to Classrooms." This is a project in which a prosecutor goes into schools to help middle school or junior high students understand how our criminal justice system works and provides them with a positive role model to relate to. I have also adopted the Courtrooms to Classrooms Program for use in my jurisdiction.

These are the types of efforts that you as a prosecutor can and should become involved with. Such efforts can pay many dividends in the long run by helping to reduce crime. They will also enhance your role as a community leader within your jurisdiction. Today's prosecutor must think and work beyond the traditional parameters of the courthouse and become a key player in community crime prevention efforts.

Anyone interested in copies of the charging and disposition guidelines of my office, or in further information on my community outreach efforts in crime prevention, should contact James C. Backstrom, County Attorney, Dakota County Judicial Center, 1560 Highway 55, Hastings, MN 55033-2392. Telephone: 651-438-4438.