

# ‘There Are No Victimless Crimes’

Community Impact Panels  
at the Midtown Community Court

*Written by*

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**About the Author**

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## Community Impact Panels at the Midtown Community Court

### 'Why Are You Here?'

In a simple white room in Midtown Manhattan, four men sit on one side of a large table. They fidget nervously, staring at their hands and peering out the windows. Soon, four more people enter and sit opposite the first group: a man and a woman in their 60s, a priest and an out-of-uniform cop.

As each group scrutinizes the other, the discussion facilitator, who is seated at the head of the table, begins speaking. He introduces himself, the policeman and the three other new arrivals, who live or work in the neighborhood. Then he turns to the four men. "I want to start," he says, "by asking you guys to explain the circumstances that brought you to court today."

One of the two young men, a student from a local university, shifts in his seat as all eyes turn to him. Like the three other men, he received his citation about a month ago. When he appeared before the judge earlier that morning he had expected, at worst, to pay a fine. Instead, he was sent upstairs to this room.

"I was cited for, uh, public urination," he mumbles.

The facilitator waits a moment for the young man to say more and then gently prods, "Where were you, and what time of day was it?"

"It was 2:30 in the morning. I was drunk, going to a club."

"Okay. Sir? How about you?" the facilitator turns to the next offender, a middle-aged man for whom English is a second language.

"The paper says 'public urination,'" the man begins. "It was not in public. It was dark. It was nine o'clock. No people, no vehicles, nothing."

"So it was nine o'clock at night," the facilitator says, echoing the man's words. "Where were you?"

"In front of Javits Center, on 38th Street. But there was no single person. Nothing!"

"What were you doing there? Going to a club, a bar?"

"I am a cab driver. I cannot find a men's room with cab. It was dark. Nobody there. There was nothing in that block. So."

"So you got out of the car to urinate. The police were there and they saw you?"

"Yes."

After soliciting similar stories from the other two participants, also charged with public urination, the facilitator leans back in his chair and looks across to the other side of the table. "It's time to turn to you guys," he says to the community representatives. "What kind of reactions have been percolating over there?"

## Midtown Community Court

So begins a Community Impact Panel — approximately two hours of facilitated conversation between perpetrators of low-level crime and representatives from the community. The Panels were developed by the Midtown Community Court, an experimental court in the heart of Manhattan, as a tool for combating quality-of-life offenses. They are called Community Impact Panels because the central goal of these conversations is to give community residents a chance to talk about the impact that low-level crime has on the community in and around Times Square.

Not long ago, this densely populated portion of New York City had a reputation as open territory for such activities. But in recent years the area has seen a decline in low-level offenses, which researchers have tied to increased commercial development, more vigorous law enforcement and the creation of the Midtown Community Court. The Court, founded in 1993 to address crimes like prostitution, shoplifting and drug possession, is guided by the principle that there is no such thing as a victimless crime. The Court views the community as the victim of quality-of-life offenses and, where appropriate, it sentences offenders to perform community service to repair the damage they've done. The sanctions are swift, often carried out the day of sentencing, and are designed to make clear to offenders that their behavior has consequences.

All this is in sharp contrast to previous practice in which the city's overburdened courts let low-level offenders slip through the cracks; cases were often dismissed or offenders were sentenced to "time served." In another departure from past practice, the Court provides offenders with social services — such as drug rehabilitation and job training — to address the underlying causes of their undesirable behavior.

Community Impact Panels are a recent addition to the Court's menu of sanctions and social service programs. This paper looks at how the Impact Panels evolved, how they work, and how they provide the community with a voice in the criminal justice process.

## Filling a Gap

Although members of the public have long complained that offenses such as public urination and vandalism hurt their quality of life, up until recently police, courts and local government struggled to craft meaningful responses. This was in large part because these institutions were understandably preoccupied with more serious offenses.

Even community members who complained about these offenses were often at a loss for how to deal with them. Sister Nancy Chiarello, a Community Impact Panel participant who runs a shelter for homeless women near the Lincoln Tunnel, had been bothered for years by men urinating on her building. "The limos and car services stop at our doorstep and men in three-piece suits constantly get out and urinate," she says. "It stinks and we have to clean it, especially in the summertime, when it's hot and humid." Yet she has never gone beyond posting a sign to try and stop the problem. "I would never bother the police with something like that," she says.

Community Impact Panels are an effort to give voice to these kinds of concerns. They are, in effect, an experiment in community justice, engaging the local neighborhood in the production of justice in an unprecedented way.

**'It's Very Offensive'** In response to the facilitator's inquiry, one of the community volunteers cautiously leans forward, placing his elbows on the table. "There are two things that strike me," he begins, sounding a bit nervous at first. "In your case," he says to the taxi driver, "the fact is all taxi drivers don't urinate publicly. That no one was around doesn't mean it wasn't in public; 'private' is in your own home, or in a restroom. Obviously, everyone has to urinate. What do cabbies usually do? There has to be a procedure that you follow."

"That's an interesting question," the facilitator breaks in. "Is this the normal operating procedure for cab drivers?"

The cab driver hesitates.

"You can go to some places. But... in emergency cases. ..."

"I'm on a community board and I've heard a number of complaints about cabbies who open their door and urinate on the street," the community representative continues. "It's very offensive, it bothers a lot of people, it's not hygienic. It helps to change the quality of a neighborhood."

"How so?" asks the facilitator.

"It's sort of like there's a pact people have in society. You behave in a certain way or you find yourself in a community that's known for breaking the laws. I live in Chelsea. They were urinating in my neighborhood. ... Think of your own community. Do you want that going on where you live? If I were a cabbie, I would take that into consideration.

"Some people, before they leave their homes, they urinate. Because they know they're going to be out for a while and they don't want to be caught in a situation where they feel that they're in a position to do it publicly. You have to think ahead. Of course, if you're drinking, sometimes your thoughts aren't so clear and that compounds the problem."

## **How the Panels Work**

Each Community Impact Panel is composed of community representatives, a facilitator, and offenders. The community representatives are volunteers, recruited by the Court from the neighborhood. They include people who live or work in the area, merchants, activist citizens, social service providers, the police and representatives of the faith community. The facilitator is a trained mediator from Safe Horizon, New York City's leading victim assistance agency, who is stationed at the Court.

The offenders have usually received a summons from the police for a misdemeanor crime or violation. The summons requires them to appear in Court, usually within a month. In the courtroom, the judge will make a determination about whether the Impact Panels are an appropriate sanction as part of the standard plea bargain process. Typically, those linked to the Impact Panels are first-time offenders with no previous record. In many cases, the Impact Panels serve as a sanction for a range of quality-of-life offenses — including public urination and violations of the open container law — which are too minor to merit a full day of community service but too significant for a fine or "time served." Offenders (and community residents) receive a basic, one-hour training and orientation prior to each Panel.

Participation in the Impact Panels is mandatory. For offenders who complete the requirement, their cases are dismissed after six months so long as they aren't re-arrested.

## **Communities As Victims**

The Community Impact Panels have roots in two related national trends. The first is the victims movement, which over the past generation has worked to increase the criminal justice system's acknowledgment of, and respect for, victims of crime. The second is the community justice movement, a relatively new phenomenon that seeks to bring criminal justice agencies and citizens together to develop collaborative approaches to neighborhood problems.

The Impact Panels borrow elements from each to craft a unique response to low-level crime. From the victims movement, the Impact Panels have taken the basic framework of victim-offender reconciliation, where a perpetrator and a victim meet face to face. From the community justice movement, the Impact Panels take an emphasis on the types of offenses — vandalism, public urination, prostitution — that affect the quality of life in a community on a daily basis.

In Impact Panels, offenders don't meet with an individual victim, but with a panel of community representatives. That's because, for the offenses handled by the Midtown Court, the community itself is the victim. "Low-level crime affects the lives of citizens every day, as they go to work or pick up their children from school or go to dinner," says Julius Lang, coordinator of the Midtown Court. "Shoplifting, turnstile-jumping and graffiti may feel insignificant compared to crimes like murder, robbery and rape, but they place a heavy weight on communities, shaping their sense of safety and their perception of justice." What makes Community Impact Panels unique is that they acknowledge this impact in a tangible and productive way.

Another unusual wrinkle is that participation in the Panels is mandatory for offenders. Other experiments, such as the Patronizing Impact Panels for "johns" in Indianapolis, are essentially run as diversion programs, where offenders opt in as an alternative to formal prosecution. Still other experiments, such as Vermont's Reparative Probation Boards, are not used as a sanction, but rather to determine a punishment for non-violent criminals.

## **Testing the Panels**

The Impact Panel model did not emerge by accident. The Court first tested Impact Panels in 1996. Hoping to discover whether the basic structure of standard victim-offender reconciliation programs — the face-to-face interaction between perpetrator and victim — could also be effective in so-called "victimless crimes," the Court brought together three female volunteers and three women arrested on charges of prostitution. The result was a frank yet respectful conversation that James Kornbluh, who facilitated the event, described as "a room full of six women talking about their community."

The discussion broke down stereotypes on both sides, made the offenders aware of how their activities disturbed others, and taught the community members about how prostitutes decide where to ply their trade. In short, the experiment indicated that a

face-to-face meeting between offenders and community members could be useful as a sanction for offenders and a reparative experience for community participants.

It took several years to secure money to launch the program, but finally, in January 1999, with funding from the U.S. Department of Justice, Community Impact Panels made their formal debut as a sanction at the Court. While the initial experiment with prostitutes had been encouraging, it was decided that the focus of the Impact Panels would be offenders with less complicated problems. "You can't really resolve prostitution by having a community member say, 'I don't want you doing this in my neighborhood.' There are so many deep issues involved [including domestic violence and drug abuse]," explains Judge Eileen Koretz, who presides over the Midtown Community Court. "But if you're drinking a beer on the street, that's easily within your control. If you're urinating in front of somebody's house, that's within your control."

### **Confronting 'Johns'**

Some of the earliest Community Impact Panels dealt with "johns," men arrested for soliciting prostitutes. Although these meetings were sometimes contentious, they showed that letting community members express the impact of quality-of-life crimes can correct common misconceptions held by offenders. What follows is an excerpt from an early Impact Panel:

Male community member (addressing offenders): "Think about your neighborhood. Imagine that wherever you live, you walk out to the driveway to get your mail from your mailbox with your six-year-old niece and there's a guy [engaged in a sex act] in a car right in front of your house. How do you explain that to a kid?"

Female community member: "I would just like to add that Manhattan is no different from any other town or village or city, that it is a network of small neighborhoods and communities that are struggling against many, many odds to raise their families."

Offender: "I wouldn't let the fact that 100 percent of us are from out of town skew you. I think Manhattan people are using the prostitutes, too. They just don't get themselves caught; they have apartments, so they go inside."

Female community member: "That's another conversation. This is about misconduct in community space, which has a huge adverse impact — littering and condoms in the morning, and all that really great stuff we see on the way to work."

Male community member: "I have no problem with people having sex with whomever they want to have it with, if the place and time [are appropriate]. But this really happened: When my niece was in town, I walked down from my apartment with her and there was prostitute activity going on right in front of the door. I don't know what effect it will have on her over time. When she grows up I'm sure she will learn to understand. But it kind of put a damper on our evening, you know, trying to explain what that was all about."

Female community member: "Do you really perceive that there are people who live here? That there are people in neighborhoods and communities? I truly believe that neither of you three are truly aware of that."

Offender: “I think I am, to an extent. But I also think, I guess, that Manhattan is a lot more impersonal. That it’s a huge city and who is going to notice?”

Female community member: “I think that’s a false perception.”

Offender: “It is ignorance. I understand what you are saying, yes. But I just thought it was more of an impersonal kind of thing.”

### **‘A Fine is Too Easy’**

“For a lot of offenders, paying a fine is too easy,” says Judge Koretz. “They just pay and get out. They don’t really understand why the police are bothering to pick them up; that police don’t just arrest people, they respond to the community’s concerns.” Compelling offenders of low-level offenses to go to Court and attend an Impact Panel is an alternate form of punishment that expresses the community’s disapproval.

“Just coming in and sitting down — it’s a very intimidating process,” says a police officer familiar with the program. Yet Panel participation is ultimately intended to be a positive experience for everyone involved — which is why skilled facilitators are essential to ensure that disapproval doesn’t degenerate into shaming.

“If you speak to people with respect, you’re liable to get respect back,” says Stuart Sears, a mediator from Safe Horizon who helps coordinate the project. Sears, who facilitates many of the Panels and who also helps attract community volunteers, has learned that offenders say more when the process is not overly judgmental of them. “If what you want is respect for your neighborhood, you can help that process out by giving some respect up front.”

Community members also profit from focusing on the facts, rather than deciding whether they think the offenders are good or bad people. When this distinction had not been made clear at one early Panel — in which all the offenders were johns — some community representatives became uncomfortable with the procedure. “They felt they were being asked to judge the people sitting across the table from them, and they reacted against that,” Sears recalls. “That really made us rethink what we were doing in terms of training participants. We don’t want the community representatives to do something that two hours later they feel badly about.”

Overt apologies from the offenders are not a required result of the program. The Panels’ primary goal is to inform the offenders of the impact of their behavior on others so that their heightened awareness will guide their future behavior. Nevertheless, it is not uncommon for offenders to express remorse for what they have done.

Feedback from offenders has been, for the most part, positive. In describing why an Impact Panel is better than a fine, one offender wrote in the standard exit survey conducted after each Panel, “a fine would not make me think.” Another wrote that the Panels were eye-opening, confessing, “I truly did not consider the impact on the community.” A third, arrested for soliciting a prostitute, wrote, “I regret the entire incident and it won’t be repeated.”

## 'It Was My Fault'

After a lengthy discussion of why some taxi drivers urinate in public and what might be done about it, a female community volunteer poses a question to the younger men, both college students, across the table.

"I was wondering, wherever you live there must be hallways and whatever. At night do you object if people use your hallway [to urinate in]?"

"Of course," replies one of the young men. "It's not something you want people to do, believe me."

The facilitator interrupts: "Imagine for a second that you're on [the community] side of the table. ... How would you respond?"

"I don't know what to tell you. I definitely would not want anybody in my doorway using it as a bathroom. But I understand it because I'm on this side. I think the best thing to do is try and find a solution. There are a lot of clubs in the area, and a lot of people have the same problem. And it's not a problem that's going to go away by just talking about it; if you have to go and you're drunk, you're going to go."

"It's been suggested that you could plan ahead," the facilitator says. "Is that something that ever would occur to anybody?"

"I don't think it's realistic to expect that to happen. That's why something is going to have to be done."

"What sort of thing?" the woman asks.

"Public toilets."

The discussion focuses on public toilets for a few moments before the other student speaks up.

"What I did was completely my fault," he says. "No one else's fault. I was really drunk. Public bathrooms, yeah, that would be great. ... But basically, it was my fault. It's not your fault. It's something that I did."

## Experimentation

Each Community Impact Panel is unique. Different types of offenses and different types of personalities yield dramatically different conversations. The Court is continuously exploring ways of improving the program's effectiveness, which is monitored by research questionnaires given to offenders and community volunteers before and after each session.

One example of this evolution concerned the question of whether or not the police should participate in Impact Panels. Soon after the program began, the Police Department representative on the Court's advisory board suggested that a police officer would be able to contribute an important perspective to the conversation, allowing offenders and community members to understand how police make decisions related to the topic at hand. Others feared, however, that a police officer would intimidate offenders and inhibit their candor. And some also worried that a police officer's presence would be a distraction, turning the Panel into a cop-bashing session. The Court determined that having a cop present out of uniform satisfied all concerns: the police perspective was integrated without sabotaging the spirit of trust and honesty or diverting conversation.

Another experiment involved altering the ratio of offenders to community representatives. The Court learned that if there are not comparable numbers of people on both sides of the table, the quality of the discussion may suffer. When there are significantly fewer offenders than community members, for example, the offenders may feel besieged and become overly defensive. And the quality of conversation also suffers when offenders outnumber community members.

Even now, the Court continues to experiment, tailoring each Panel to the community's changing issues and concerns. Among the experiments the Court is contemplating, is having former offenders participate as community representatives. "It might be interesting to test how easily one can go from transgressor to defender of the community's interest," says Julius Lang, coordinator of the Court.

### 'They Got the Message'

"The thing that's important about this program," says Lang, "is that it gives a role to the community and underlines that there are no victimless crimes. And that's really what it's for."

"We've even had cases where the community asks what would prevent the crime," explains Judge Koretz. "For instance, the johns have told community members, 'If we see a police car driving by, it doesn't really cause us to leave the neighborhood. But if there are cops walking around, we won't stop to pick up a prostitute.' Some of the community members picked up on that and broached the subject with local police."

The Impact Panels yield less tangible benefits as well — such as satisfaction from being involved in the legal process. And for many, the Panels are an opportunity to confront unexamined stereotypes about low-level offenders. "I was surprised that they reacted so positively," says community volunteer Gene Glaberman, after participating in a Panel. "The offenders all seemed to have taken it very seriously. I think they got the message that what they did — something seemingly unimportant at the time — really had an impact on the community. Also, I personally found it gave me a sense of what's happening in the community — who's coming in and for what reason — and I think that's helpful. It gave me a glimpse into problems I didn't totally appreciate before."

Mary Brendle, another community volunteer, says, "You don't know what the ripple effect might be for offenders. Even if they don't get the point, I think that the fact that this was their sentence — instead of a fine — could have an effect in terms of creating a greater sense of community."

Joan Gallo, a resident of Long Island who works in Times Square, first became involved with the Midtown Community Court after a delivery man from the restaurant she manages received a summons for not having a license on his bicycle. A month later, she participated in a Community Impact Panel as a community representative.

"I didn't know what it was going to entail, but it was only two hours. So it didn't interfere with my day," Gallo says. "The offenders were just ordinary people in the wrong place at the wrong time. I found it useful, and I think that they did too."

“I think they saw that what they did affected the community to a certain degree. Perhaps it was the group — five or six people sitting in a room who all got along very well — but I think everybody left there with an understanding of what the other person’s point of view was. I think there’s been a breakdown in civility. If you make people who do things aware, a certain percentage are going to reform. I would do it again.”

## **Work in Progress**

The Court has had to confront a number of operational challenges in implementing the Community Impact Panels. For one thing, the Panels are sometimes difficult to arrange. The Court tries not to use community members more than once or twice in order to keep the voices fresh and to involve over time as many community members as possible. Finding new community members and scheduling the Impact Panels at a mutually convenient time, however, has kept the number of Panels relatively small — 16 over the course of the year, involving 44 community members and 59 defendants. This represents only a small fraction of the Court’s annual caseload of over 15,000 cases.

Recruiting community members has gotten a little easier over time as word of mouth about the Panels has grown. “Once you reach a critical mass, people start calling you up and volunteering. You don’t have to look as hard because past participants refer friends and neighbors,” Lang says.

To extend the message of the Impact Panels, the Court has experimented with substituting Court personnel for community members. These new panels, which the Court calls “Quality-of-Life Groups,” are not as dramatic as the Impact Panels. But using court-based mediators and service providers to express the impact of low-level offending has enabled the Court to reach a far broader audience of offenders (1,200 in the first year) with the message that their behavior has a negative effect on the community. Future plans include producing a video of the Impact Panels, which could be shown to all offenders sentenced at the Court.

The Court has also been fine-tuning its one-hour training of community members to help them prepare for the unpredictable nature of the conversations. In addition to explaining the basic purpose of the Impact Panels, the Court provides participants with tips for defusing anger and using non-judgmental language.

## **Results**

Exit surveys with participants tell an interesting story. Nearly 70 percent of participants — both offenders and community members — reported that the Impact Panels were “worthwhile” or “very worthwhile.” All 59 offenders answered affirmatively when asked whether they felt the community members had treated them with respect. When asked what they learned from the process, answers included: “It enlightened me that people live in this area,” “It drives home the point of personal responsibility very effectively,” and “I learned that specific acts can have a ripple effect.” These responses are particularly significant given the offenders’ attitudes toward their offenses prior to the Panels: 60 percent said that they thought their actions were “not harmful.”

As for community participants, 96 percent felt that the Impact Panels had given them the opportunity to present their point of view. And 84 percent felt that the offenders who participated had learned that their actions had a negative effect on the surrounding community. This response was typical: “It’s an opportunity for the offenders to see the faces of the people they have affected. It makes it real.”

The challenge these preliminary findings pose is clear: where do the Impact Panels go from here? How far can the model be pushed? While the Midtown Court will continue its experimentation, answering these questions may fall to the next generation of community courts, which are opening in Harlem, the Red Hook neighborhood of Brooklyn and other places across the country. Unlike Midtown, in Harlem and Red Hook, a large percentage of offenders will actually come from the neighborhood. This represents a unique opportunity: perhaps the Impact Panels could be used to integrate offenders back into the community, linking them to social services, neighborhood activities and networks of support. Perhaps the participants in the Panels could be broadened to include family members, service providers and clergy who could be engaged in thinking through reintegration strategies. And perhaps the focus of the Panels could be expanded to include not just low-level adult offenders, but youth engaged in delinquent behavior to the detriment of their families, their peers and their communities. These are all possibilities worthy of further exploration in the days ahead.

## Parting Thoughts

After two hours of discussion have ended, and the post-meeting questionnaires are complete, one of four offenders nearly springs from his seat toward the door. The others rise more slowly. One goes so far as to walk around the table to shake hands with each of the community representatives, who have been asked to remain in the room for a short post-meeting debriefing with the facilitator.

Outside in the hallway a few moments later, the taxi driver reflects upon what he has just experienced as he waits for the elevator. “It’s very nice,” he says. “We learned to keep the community clean.”

One of the students, standing nearby, steps forward. “It was nice,” he says. “Well, not really ‘nice,’ but we got to experience the other side. We got to meet with the people, and that was good. We got a sense of the community.”

Asked if the experience will influence his decision to urinate in public again, he pauses to think before answering. “I went in there knowing I did something wrong. I pissed in the street. Having to face these people made me feel worse. It gets to you more on a personal level than just having to pay a fine.”

Then the elevator door opens, and just before he steps inside, he adds a final thought: “Who wants to go to court again and deal with this?”

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**Notes**

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**Center for Court Innovation**

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