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NEIGHBORHOOD JUSTICE PROGRAM

What have we learned?

***Year-One Analysis of a Restorative Justice Movement
Inside the Los Angeles Criminal Justice system***

Submitted on January 25, 2016 for:

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A husband and wife steal for the first time together...toothpaste, shampoo, shaving cream, lotion...all in the hopes of creating the semblance of life they once had together before they lost their permanent jobs. The couple have three children, the oldest is in the armed forces and the two younger ones are in college. The two were arrested last February (2015) in the San Fernando Valley. One year later, they still keep this arrest a secret from their family for fear that by telling their two younger children what happened, they would stop going to school and work full-time jobs to help with the household expenses.

These stories, born of the Country's recent economic downturns, are increasingly common and point to the need for a fundamental shift in thinking, not only of what society needs to do to prevent unemployment and crime but what role we, as prosecutors in Los Angeles, have in helping families like this become whole again.

Although Los Angeles' unemployment rate has dropped in the past few years, its poverty rate still exceeds the national level, contributing to hot spot environments where tensions and desperation run high, driving individuals to criminal activity, especially theft.

Coupled with the consequences of poverty is a justice system in need of honest and open minded self-examination, with an emphasis on redefining the goals of the system and exploring ways to shift the philosophy and focus to meet those goals. Countless studies point to the daunting realization that our habitual assembly-line representation, ineffectiveness, and retributive-oriented outcomes for offenders, with little or no focus on rehabilitation, threaten the very notion of "justice" and increasingly undermine the public's trust and confidence in our courts.

The result is a "perfect storm." The City Attorney is leading an effort in Los Angeles to compel our criminal justice system-- from judges, law enforcement, prosecutors, and probation, to the community stakeholders who experience the effects of crime daily -- to examine how each can individually and collectively respond to the dilemma caused by the interacting forces of poverty, quality of life crime and an overburdened justice system. Last year we launched the Neighborhood Justice Program (NJP) as one potential resolution to this paradigm. This report is a one-year analysis of NJP detailing:

- (1) The programmatic structure of NJP as it was formulated with the support of The California Endowment, the County's Dispute Resolution Program and the Department of Justice;
- (2) Our first-year goals and achievements;
- (3) A brief description of participants and their outcomes;
- (4) The impacts this new restorative justice strategy has upon the criminal justice system; and
- (5) Policy recommendations that will enhance NJP and support its expansion throughout criminal justice administration in Los Angeles.

NJP STRUCTURE

NJP was launched at the start of 2015 to offer individualized intervention for certain criminal offenders. The program was established as a voluntary and confidential pre-criminal filing process that

addresses the harm caused by the offender to the victim/community, while reducing the negative impact of a criminal record and providing offenders the assistance they need to prevent a future life of crime. The following principles are the building-blocks upon which we created and launched the NJP program.

NJP is comprehensive. NJP includes identifying neighborhood criminal justice issues, attempting to prevent those issues from recurring, intervening at early stages when prevention can be more effective, diverting offenders from incarceration to alternatives that address the drivers of criminal behavior, and provide the opportunity for offenders to take steps to restore themselves, as well as the individuals and communities that have been harmed by their conduct.

NJP engages community members and addresses community priorities. NJP recognizes the importance of community engagement in identifying and resolving the varied challenges facing Los Angeles' diverse and unique communities. Its neighborhood-based community justice panels are designed to encourage and empower residents to become part of the solution, improving effectiveness and ensuring sustainability.

NJP is tailored to offenders' particular needs. Many offenders are poorly-served by the existing "one size fits all," punishment-based systems. NJP offers meaningful, individualized intervention aimed at changing behavior, reducing recidivism, and providing opportunities for individuals to succeed.

NJP is data-based. NJP is founded on innovation and strives for success and sustainability--dictating consistent and in-depth program evaluation and introspection. NJP is committed to teaming with leading experts to employ metrics allowing for a robust evaluation, an identification of best practices, and enlightened sustainability efforts.

NJP aspires to long-term solutions. NJP stresses sustainability and long-term impact, through community investment and empowerment and engagement in the justice system, and collaboration with civic leaders and community-based organizations.

NJP is aligned with the evolving "Smart Justice" strategies. By aligning its focus and thinking with other local, state and national leaders around "Smart Justice" strategies, NJP is taking the opportunity to learn from, build upon, and reinforce what other justice system leaders are seeking to achieve in the prevention and incarceration reduction area.

Adult (18+), first-time offenders willing to take responsibility for their actions, are offered a chance to voluntarily participate in NJP before any charges are brought against them. The eligible offenses include:

1. *Penal Code § 484(a) - Petty Theft (less than \$250 or theft of necessities)*
2. *Penal Code § 594(a) – Vandalism*
3. *Muni. Code § 63.44B13 - Vandalism of park property*
4. *Penal Code § 415 - Disturbing the peace*
5. *Penal Code § 647(f) – Drunk in Public*
6. *Bus. & Prof. Code § 25662a - Possession of an alcoholic beverage by a minor*

7. *Bus. & Prof. Code § 25658b - Minor purchasing/consuming alcohol*
8. *Bus. & Prof. Code § 25661 - Using false ID to purchase alcohol*

Criminal Branch filing deputies determine if sufficient evidence exists to support a criminal filing for one of the above-mentioned offenses. If the filing deputy determines that there is insufficient evidence, the case is rejected, and the case goes no further. If there is sufficient evidence to support a criminal filing and both the offense and offender are eligible for NJP, the file is forwarded to Jose Egurbide, NJP Supervising Attorney.

Upon verification of eligibility, NJP staff contact offenders by phone, email, and/or regular mail offering a program description. To participate in NJP, the offender must return the call/respond to the letter within two weeks of the issuance of the citation to be further advised regarding NJP eligibility. Offenders will be advised that they may opt to participate in NJP. It is completely up to each offender as to whether his or her matter is handled via NJP or the courts. Similarly, participation by the victim is also entirely voluntary. Should the victim opt to not participate in the NJP process, the City Attorney's Office will decide whether to go forward with diversion of the offender's case without the victim's involvement.

Offenders appear before a panel of three community stakeholders and a mediator who is trained in community mediation and restorative justice through the City Attorney's Dispute Resolution Program.¹ The mediator facilitates a discussion of the circumstances surrounding the crime, the effect of the conduct on the victim(s) and the community, and potential appropriate responses to address the harm caused, while holding the offender accountable and providing him or her with a stronger footing to avoid re-entry into the criminal justice system. The panel determines the specific restorative obligations imposed upon the offender (some examples of such obligations include: community service, , parenting classes, anger management classes, AA or NA meetings, a reflective essay or a letter of apology to the victim(s), job training and counseling sessions). If the offender successfully completes the obligations set by the panel, the City Attorney will NOT file criminal charges.

A critical component of the program is linking offenders to appropriate services through their restorative obligations – services that are aimed at avoiding repeat conduct and address the root causes of the criminal activity. By aligning NJP with the following agencies, we obtained key partnerships to assure community and social service opportunities and competency development for NJP participants. The establishment of community-based panels coupled with the partnerships with community-based service providers decentralizes the criminal adjudicative process into neighborhood settings that have historically served as beacons of hope and restoration. This contributes tremendously to redefining ourselves as a restorative office rather than a punitive-based one.

El Nido Family Source Center - Since 1925, El Nido has strengthened and empowered disadvantaged children, youth and families through high quality case management, counseling, parent education,

¹ There are currently 6 NJP panel locations, in Pacoima, Van Nuys, Central LA, Hollywood, Watts and San Pedro, all of which were selected because of their outstanding reputation for empowering their communities. The Van Nuys Braude Building, which serves as an additional community panel location for the San Fernando Valley, is also serviced by the El Nido Family Source Center in Pacoima.

youth development, health promotion, and therapeutic services. El Nido specializes in addressing the causes of poverty, child abuse, teen pregnancy, violence and academic failure.

Coalition for Responsible Community Development - In 2005, a group of community leaders banded together and founded the (CRCD) in response to the opportunities and challenges faced by young people in South LA's Vernon-Central neighborhood. With an intentional focus on young people age 18-24, particularly Black and Latino youth, CRCD has been dedicated to improving the quality of life by providing services to unemployed youth and young adults including education, career preparation, jobs, housing, support services, and business assistance.

Toberman Neighborhood Center - Founded in 1903, the Toberman Neighborhood Center has been successfully providing critical social and educational services to children, youth and families. The Center is a non-profit community-based organization committed to assisting Harbor Area families and individuals by delivering life-changing services, specializing on families, that encourage, inform, educate and empower them to live healthy and purposeful lives.

Youth Policy Institute - The Youth Policy Institute (YPI) has been a leader in education and community empowerment over the past three decades. YPI created the first national anti-poverty program based on a community action approach, in which local organizations could operate federally funded programs with community input. YPI also published cutting edge research in youth and education policy and trained several generations of public policy leaders. YPI currently works to transform Los Angeles neighborhoods using a holistic approach to ensuring families have access to high quality schools, wrap-around education and technology services, and enabling a successful transition from cradle to college and career.

Watts Labor Community Action Committee - The Watts Labor Community Action Committee (WLCAC) was established in 1965, just months before the Watts rebellion. WLCAC was built to improve the quality of life in Watts by assisting people in need by providing a place to sleep, food to eat, and money to earn through job training and placement. WLCAC led and won the community fight to build King Medical Center, Watts' first credit union as well as its first major bank. WLCAC also spearheaded the launching of the first transportation, homeownership, and employment programs in the Watts Community. Over the last 45 years, WLCAC has helped more than 30,000 people.

FIRST-YEAR GOALS AND ACHIEVEMENTS

Our goals for the first year were designed in accordance with the desired outcomes of grants awarded to NJP by the California Endowment, the County's Dispute Resolution Program, and the Smart Prosecution Initiative of the Department of Justice. These goals are as follows:

- The hiring and placement of 6 case managers to support six NJP panels.
- 600 cases referred to NJP in Year One.
- 420 successfully completed restorative agreements.

- 85 percent compliance rate.²

The outcomes for Year One are as follows:

- NJP staffing currently includes one supervising attorney to review all program referrals for eligibility and to manage day-to-day operations, including scheduling volunteer panelists and facilitators and tracking/analyzing/reporting all program data and outcomes to the Executive Office and any/all grant sources. We have also hired and assigned six non-attorney, Administrative Coordinators (“ACs”) who serve as case managers, responsible for contacting all eligible offenders for participation in the program at the pre-filing stage, explaining the program, scheduling each participant for community panels, and assisting them throughout the process, including monitoring post-panel completion of any/all agreed-upon obligations.
- 839 cases referred to NJP in year One.
- 407 successfully completed restorative agreements. ***(It is important to note that not all panel sites were opened at the same time. Had all panels commenced at the beginning of Year One, it is highly likely we would have greatly surpassed the 420 completed restorative agreements goal).***
- 92 percent success rate, based on 407 successful restorative justice agreements.
- There are 113 program participants who have thus far reached their six-month recidivism check point after completing NJP, and only 2 individuals were subsequently arrested for another offense.³

The following example illustrates the hopes and expectations of the NJP process. The community’s involvement in determining a “justice” outcome is not only restorative to the participant, it engenders new modes of civic engagement and pride in the community’s role to enhance safety and address quality of life crimes.

Participant was referred to NJP in February 2015 for vandalism. At the panel, he expressed that he always wanted to use his photography skills and volunteer at an animal shelter. He was given community service hours and it was suggested by a panelist that he complete those hours in an animal shelter using his skills as a photographer to promote adoptions of the animals. Participant completed his community service hours using his photography skills at an animal shelter and expressed he would continue volunteering for the animal shelter even after he had completed his obligations with NJP

NJP participants completed a total 4,669 hours of community service just like this, as a way to both repair the harm caused to their communities and cultivate the personal empowerment needed to discontinue criminal behavior. Additional obligations included reflection essays, letters of apology to the victim(s), counseling sessions and, as a mandatory obligation for all Petty Theft/shoplifting participants, participation in a live four-hour theft prevention class taught by Los Angeles Police Department and retail store representatives.

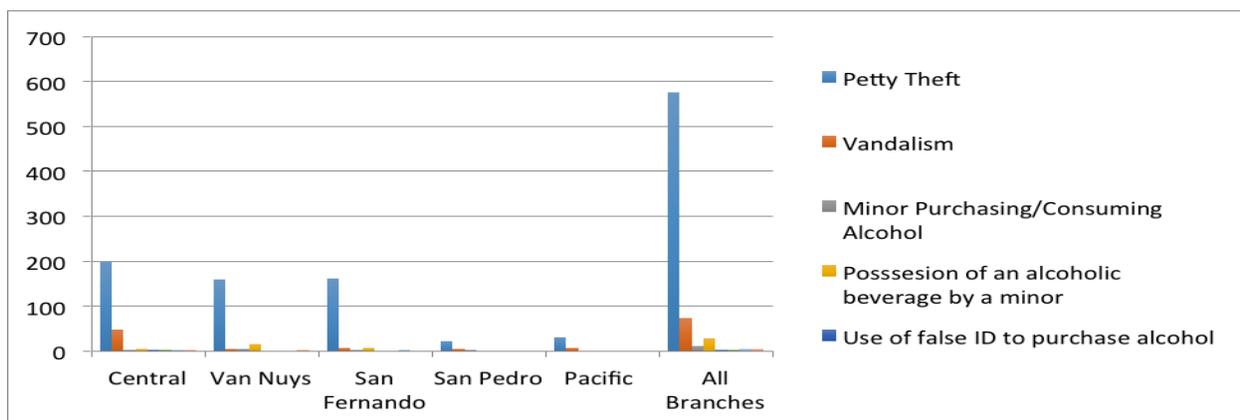
² The compliance rate is calculated based on the percentage of initiated diversions that successfully complete the community panel process by having the participant sign a restorative justice agreement.

³ Of the two participants re-arrested, one was the same offense (PC 484 petty theft), the other for an unrelated offense.

The type of hands-on, custom-tailored, outcomes for offenders is lacking inside a traditional courtroom. The process of community engagement resulting in restorative justice is in-and-of-itself a needed innovation within justice administration. But when coupled with data revealing overwhelming success in lowering recidivism, the power and potential of NJP becomes all the more evident.

DESCRIPTION OF PARTICIPANTS

As seen below, the overwhelming majority of NJP referrals, across all filing branches were made up of Penal Code section 484/491.5 (petty theft/shoplifting).



According to National Criminal Justice Reference Center, behavioral indicators of shoplifting are a more reliable predictor of shoplifting than demographic characteristics of shoplifters. For example, men and women shoplift about equally as often, as evidenced in national data, and in the NJP Program we mirror that trend. Fifty-two percent of the petty theft offenses in NJP were committed by females and 48 percent by males.

As far as the racial and ethnic composition of NJP participants, 53 percent self-identified as Hispanic, 22 percent identified as White (Caucasian), 10 percent as African American, and 5 percent as Asian. Most NJP participants speak English as their first language (78 percent), while 17 percent identified Spanish as their primary language. The remaining 5 percent of the participants had as their primary language(s) Russian, Farsi, Armenian, Chinese, Korean, and Tagalog.

In comparison, it is interesting to note that the vast majority of NJP participants (78 percent), identified as having a household income of \$20,000 or less. The 2015 poverty threshold in the United States for an average household with three children under 18 is 19,096 per year, so having an income that just hovers above the poverty line in a high cost city like Los Angeles is an alarming statistic. This data points to a trend of people, "previously law abiding," but like the family noted above, resort to stealing items of necessity in order to provide for themselves and their families – so while driven by the demographic of income, it is the behavioral indicator, the need to provide necessities for one's family, that is most relevant in identifying and being able to address the root cause.

Moreover, in addition to above average poverty levels, the communities in which NJP panels are located have a penchant for crime.. Front and center in these fragile environments is a criminal justice system that needs to focus less on assembly line justice and more on solutions to the problems that cause crime in the first place.

Prison has become an expected life experience for young men, especially men of color, in underserved and impoverished communities such as those in which we have situated NJP. Nearly 80 percent of NJP participants self-identified as being age 18-35, with the average age being 26. Because so many NJP participants are young adults, there is a powerful opportunity for us to redirect lives.

Research shows that youth and young adults are at greater risk of developmental delays and behavioral problems when their parents and neighbors are in prison. And, these youth are more likely to end up in prison themselves. Home environments such as these, coupled with the poverty that characterizes our target neighborhoods, drives criminal behavior, derailing whole communities and generations of young people who would otherwise have a successful path if not for the hardships of their upbringing. These dynamics propel our emphasis shift from prosecution/prisons to community settings/restorative justice that preserve important social bonds to family, peers, school and community as demonstrated by the following example from NJP.

A local college student was arrested for stealing diapers and formula. She had a 2-year old daughter and no job. The participant had just graduated and was in the process of being evicted. NJP staff had to reschedule her panel twice. When she attended the panel she was an hour late and very frustrated. The participant pulled it together and told her story. She explained that she was now homeless and was not receiving any type of aid. A panelist suggested that she seek services at a local work source center and NJP staff find solutions to her housing issues. Within a week of signing up for employment services, the participant received multiple job offers and is in a better living situation.

IMPACTING THE CRIMINAL JUSTICE SYSTEM

Stories of success and restoration can only happen if the office as a whole embraces restorative justice and establishes the mindset of referring cases to NJP. As the City Attorney, Mike Feuer has focused on transforming the role of “traditional prosecutor” to that of a “community leader” and “problem-solver.”

Initially, line-prosecutors appeared to be either reluctant or simply overwhelmed by existing high volume criminal filings to develop this mindset and make NJP referrals. In conducting our first-year data collection, we began by looking at the total number of “potential” NJP cases received for filing, starting on the date of the first NJP panel (October 14, 2014) and ending on October 31, 2015. Potential NJP cases are defined as any investigative report forwarded for filing determination where Count 1 equals one of the eight NJP-eligible offenses.

The total number of potential NJP cases during the review period was substantial. Almost 8,000 reports listing one of the eight NJP-eligible offenses as Count one or equivalent were submitted to the Criminal filing deputies. But only 10 percent of all potential NJP cases were actually sent to NJP. As seen below, NJP referrals account for a relatively small percent of the total cases received by the Criminal Branch for filing, suggesting that we consider additional education, and adjustment of the originally-set eligibility criteria, within the Criminal Branch in order to widen the NJP “net.”

POTENTIAL NJP CASES - FILING BRANCH OUTCOMES FROM OCT. '14 TO OCT. '15											
POTENTIAL NJP CASE OUTCOMES:	Central		Van Nuys		S. Fernando		San Pedro		Pacific		ALL BRANCHES
TOTAL POTENTIAL NJP CASES	3,551	100%	2,280	100%	1,150	100%	441	100%	575	100%	7,997 100%
FILINGS	2372	67%	1575	69%	811	71%	317	72%	358	62%	5,430 68%
REJECTS	710	20%	423	19%	134	12%	35	8%	147	26%	1,449 18%
NJP REFERRALS	293	8%	207	9%	168	15%	62	14%	50	9%	780 10%
HEARINGS	144	4%	72	3%	27	2%	19	4%	20	3%	282 4%
APPS	32	1%	3	0%	0	0%	8	2%	0	0%	43 0%

As a result of these findings, Criminal Branch Chief, Mary Clare Molidor, Ellen Sarmiento (Deputy Chief of Branch Operations), and Jose Egurbide (Supervising Attorney, NJP) held numerous discussions with Branch operations about this concern and concluded that a lack of information had caused the lower percentage of NJP referrals. In other words, prosecutors who are already overwhelmed by high volumes of criminal filings were oftentimes forgetful about this new NJP option. Consequently, Criminal Branch management has recommended to the City Attorney, and he concurred, that **ALL** future misdemeanors to be considered for NJP, with supervisor approval and with the specific exclusions noted below:

- Any offense involving family violence
- Any offense involving sexual abuse
- Any crime of violence involving an injury or use of a weapon
- Any vehicular/driving offense
- Any drug offense
- Any gang-related offense
- Forgery-related offenses
- Crimes against police officers

This policy shift will enable us to test the efficacy of our restorative justice method on a broader scale and perhaps compel other prosecutorial and justice agencies to explore restorative justice as an option.

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POLICY RECOMMENDATIONS TO SUPPORT THE EXPANSION OF NJP

While the NJP concept is not the first of its kind, there are several promising practices of the Program (?) that have implications for the replication of the NJP model in other jurisdictions still intent on using retributive justice to solve the problems of crime.

At each one of the NJP panels, there is demonstrated and strong involvement of community members and community-based organizations in the outcomes produced through NJP. At all levels, the community is engaged in this justice effort: (1) the facilitator is a community member, not a government employee, who is trained in community mediation and restorative justice through the City Attorney's Dispute Resolution Program; (2) the three panelists who conduct the proceeding, ask questions of the participants, and determine the restorative obligations are all community members, not government employees; (3) the NJP proceeding is decentralized as the panels are co-located at community-based agencies away from government settings; and (4) NJP obligations are supervised by community service agencies and all obligations are rooted in social and community services that help address the root causes of criminal behavior while repairing the harms caused to the community.

Although there is significant involvement of community stakeholders in the outcomes of NJP, more needs to be done to engage victims in the process. The majority of current "victims" are the big-box stores which are the frequent target of shoplifters and yet for various reasons these stores are not compelled to engage in NJP proceedings, where victim-offender reconciliations may occur. Because the number of eligible offenses have been expanded, future crimes will present unique opportunities for testing our abilities to foster the development of system-wide restorative justice involving the participation of victims.

The stories of thefts of necessity from numerous NJP participants illustrates the fragile conditions associated with families living in poverty and the need to incorporate opportunities for participants to emerge from poverty - compelling us to bolster any and all job development, competency skills, and educational services we can, enhancing the effort to connect our NJP panels to agencies that specialize in restoring individuals and families like the ones we have highlighted earlier. NJP leadership should organize discussions and educational activities for staff and panelists regarding the needs of the poor, available services/support and the creation of restorative obligations that specifically combat the roots of poverty. This is especially the case as a continued focus of NJP will likely be on young adults, petty thefts and their increasing occurrence related to "items of necessity."

NJP has also demonstrated what can be achieved through public-private partnering. The California Endowment (TCE) awarded our Office nearly \$1 million toward the planning and development of the program, as well as to fully cover the costs of two NJP staff members. This award was a first-of-its-kind for the Los Angeles City Attorney's office, in that a private foundation was actively supporting the transformation of misdemeanor adjudication, a court system process not traditionally associated with philanthropy.

This type of private foundation support is critical, not only for the dollars needed to support our operations, but in helping to build a stronger nexus between the fields of health, safety, and criminal

justice. The justice system is indeed a 'patient-based' system and the valuable partnership with TCE may result in increased awareness of the need and effectiveness of focusing on the larger justice community as an ecosystem of health.

A powerful measure of our success was our ability to engage external stakeholders in the goals of safety and justice. Throughout Year One, we constantly held ourselves to the expectation that community members and governmental organizations have an equal voice in the creation of restorative outcomes for offenders. For instance, in order to support our partner agencies' ability to help additional clients via the NJP panels, we used the resources of our office to secure grant funding for CRCD from the VERA Institute of Justice. This was done to demonstrate a true commitment from the City Attorney to share equally in the responsibilities associated with restorative justice and new modes of civic engagement.

Public partnerships were also instrumental as evidenced by the City Attorney receiving a grant of \$137,810 from the County of Los Angeles for a 12-month period to conduct victim/offender mediation using restorative justice. The grant also provided funding for two NJP staff. Moreover a grant of \$435,000 from the Department of Justice, Bureau of Justice Assistance, was awarded to us as part of the Smart Prosecution grant to cover a two-year period to create and maintain NJP panel sites for referrals generated out of four LAPD divisions (Hollywood, 77th, Southeast, Southwest]. Three of these target divisions lead the City in violent and gun-related crimes.

The Smart Prosecution grant provided us an opportunity for the development and execution of Project Intercept, a pilot program utilizing a risk assessment tool in conjunction with the NJP model in order to evaluate additional eligible offenses, offenders and corresponding appropriate levels of engagement for each particular circumstance. Under this grant, NJP will gather criminogenic data and examine how best to address participant needs and obligations within four Los Angeles Police Divisions including Hollywood, 77th Street, Southeast, and Southwest.

The results of this risk assessment may drive the future growth of NJP throughout the rest of the City and, because DOJ designated the City Attorney's Office as a national mentor site, Project Intercept will serve as a Smart Prosecution alternative justice model that can be replicated throughout the United States. In addition to providing funding for the use of a Needs/Risk assessment tool, this grant also provided technical assistance and funding of two additional NJP staff to support panel sites that came online in September 2015 in the Watts and Hollywood communities. The implementation of this work is being done in conjunction with two very important strategic partners: LAPD Smart Policing consultant Justice and Security Strategies, Inc. and the NY non-profit Center for Court Innovation.

Project Intercept reflects this office's continued commitment to combining restorative justice philosophies and evidence-based best practices to develop science-based approaches to misdemeanor offender rehabilitation (through the use of competency development, cognitive-behavioral therapy and targeting offender characteristics associated with reoffending) and to allow us to expand our target diversion populations beyond well-motivated/low-risk offenders.

CONCLUSION

We expect to double our outcomes in Year Two (2016), which the California Endowment award outlines as 800 cases referred to NJP in year two (already met in Year One), with 560 successfully completed restorative agreements and 90 percent compliance rate. The NJP team intends to do this by utilizing its federally-funded pilot as an incubator wherein we will combine the use of a Needs/Risk Assessment tool with existing NJP processes to allow NJP staff to predict what other quality of life offenders/offenses may be better served by participating in NJP diversion in lieu of the traditional criminal justice system.

It has been proven that transactional-based justice and incarceration are limited strategies in the reduction of crime and promoting safety. Due to an increasing awareness about the ineffectiveness of mass incarceration, several alternative approaches have taken root recently in criminal justice nomenclature. Terms such as “restorative justice,” “therapeutic justice,” “collaborative justice,” “procedural justice,” “problem solving justice,” “social justice,” “community justice,” and more recently, “patient-based justice,” reveal that our justice system is willing and able to fashion outcomes that lead to results that are much more creative and effective than traditional punitive means. The City Attorney’s Office has taken bold steps to prioritize and institute within a prosecutorial culture the workings of “neighborhood justice.” But what is neighborhood justice? The NJP milestones in Year One reflect what can become the blueprint for defining “neighborhood justice” in a prosecutorial setting.