

# PURSUING THE GUILTY AND PROTECTING THE INNOCENT THROUGH SMART PROSECUTION

AMY WEIRICH\*

Thank you so much to the Belmont Criminal Law Journal for giving me the opportunity to come and talk to you about what district attorneys do and also, the big question that was posed: “If I could change one thing about the criminal justice system, what would that be?” That is a big question to ask someone who has been doing this for twenty-five-plus years, as I have.

To answer to that question, I am going to start by providing you a little background on how our office in Shelby County, Tennessee, works and how most DA’s offices work around the nation. Our mission as prosecutors is to pursue the guilty and to protect the innocent. As needs increase within the communities we serve, while resources tend to be dwindling within the prosecutors’ offices, it is becoming incumbent upon us that we do that in a smarter way. Many of you have probably read the Michael Lewis book, *Money Ball*.<sup>2</sup> Applying that “*Money Ball*” philosophy from the baseball arena is, in my opinion, where we need to be heading in the next couple of years, and where our office is currently headed in a pilot basis.<sup>3</sup>

So, let me take you back a little bit to when I started in the District Attorney’s office in Memphis, Tennessee, in 1991. Our office, like any other across the country, was reactive. Police officers made arrests every night for a variety of things, from knuckle-heads drinking too much whiskey, to murder, and everything in between. And you had to work the next morning and you had a stack of files in front of you, and those of you that work currently as prosecutors know the image I am referring to. You

---

\* General Amy Weirich serves as the District Attorney General for the 30th Judicial District in Memphis, Tennessee. She became the first woman to serve in that position after Governor Bill Haslam appointed her in 2011. A graduate of the Cecil C. Humphreys School of Law at the University of Memphis, General Weirich has spent her legal career working to ensure safety in Memphis, Tennessee. She joined the District Attorney’s office as an assistant prosecutor in 1991, and served as the chief prosecutor in the Gang and Narcotics Prosecution Unit, as well as Division Leader of the Special Prosecution Unit in Criminal Court. While in those roles, she helped to create the Multi-Agency Gang Unit, designed to curb gang activity in Memphis. It is the first state, federal, or local law enforcement agency of its kind.

2. Lewis Michael, *MONEYBALL: THE ART OF WINNING AN UNFAIR GAME* (1<sup>st</sup> ed. 2004).

3. *Id.*

had a stack of files in front of you, and you had to figure out what to do with every one of those cases. All you knew was what was in front of you; in terms of the facts, in the terms of what the Officer put down, and in terms of the records of the person who was arrested. Perhaps this had been a knuckle-head you had dealt with just the month before with the exact same charges, but you handled that case and you moved on to the next pile the next day, and you began to learn as a prosecutor what the value of a case was. What is the case worth? Is it worth making the maximum offer on and pushing to trial? And what is that dog bite case that I have got to get rid of today? What about the cases that need to be dismissed because the victim is begging you not pursue charges?

So, we reacted and that was how things functioned for many, many, many years. Then we started seeing across the country, and within our office in Shelby County, the creation of vertical units. This is a concept that works very well because what it does is allow the prosecutor to get to know the victim. The vertical unit in our office, as referred to in my introduction, has several of those. We have a domestic violence vertical unit, as many of the DA offices across the state do. We have a gang and narcotics prosecution unit. We have a special victims' unit, just like the one on TV, but without the \$3,000 shoes. They handle everything in the arena of child abuse, both physical and sexual, every rape case in Shelby County, and every elder abuse case in Shelby County. We have a vertical unit that handles nothing but DUIs, vehicular homicides, and assaults that result from drunk and drug-influenced driving. We have a vertical unit that does nothing but public corruption, our white collar crime unit. And we have two vertical units that deal with the worst of the worst – the repeat, violent felony offenders who cannot seem to get it through their heads that we are tired of them victimizing the citizens in our community.

We created these vertical units and they have worked beautifully because it gives the prosecutor contact with the victim from the moment the crime occurs. That is really what the essence of the vertical unit is – when that domestic violence homicide happens at two o'clock in the morning, there is a prosecutor in our office who is getting a phone call and in many jurisdictions across the state, they may have an ADA that goes to the scene to see it for themselves. That prosecutor is contacted immediately and that contact with the victim starts immediately which became very apparent and important to us in the world of domestic violence; particularly because we were losing victims throughout the process. If you, finally, after being abused seven or eight times, have the courage to pick up the phone and call the police, imagine your frustration when, every time you went to court on this case, you had to retell what happened on that Friday night to a different prosecutor; a face you have never seen before because the case was moving

down an assembly line. So, we installed vertical units and we saw that they made for a better product. They kept victims engaged for a longer time period and they also shortened the life of a case. It was very frustrating to those of us in the criminal justice system, and more importantly the victims and the witness, how long it took cases to work through the system.

I often get asked: “Why do you all plea bargain everything?” Plea bargaining gets a bad connotation. If we tried every one of the one-hundred and eighty thousand-plus cases that my office handled every year, the system would shut down. Can you imagine a judge’s reaction if 185,000 cases of misdemeanors and felonies were set for trial? It would not work. So plea bargaining has a very real, important, and vital role in the entire criminal justice system. But there is a difference between plea bargaining a case and cheap-suiting a case—giving a case away because you just don’t want to make that big push.

So, we learned through the vertical unit that the shelf-life of a criminal case was shortened because you had the prosecutor engaged with the case officer from the beginning, and if there was some reason that the report had not been delivered to you, or if there was some piece of evidence that you needed that officer to get, you had that communication within the police department. You had the name and the number of someone in the police department you could call and say, “I need this. We can’t move forward with this matter until you get this information to me.” So, it helped cut down on that shelf-life.

Fast-forward throughout the years, and in addition to handling cases, for those of you who have never been to Memphis, those are some of our beautiful sites of our city. How many of you have been to Memphis? How many of you have been to 201 Popular? And I will not ask why. That is our criminal justice system. Shelby County has a population of 920,000. The city of Memphis has a population of 646,000. There are six police departments within Shelby County from which our office handles business. We have an elected sheriff, similar to what you have here at Metro Davidson, but we do not have a consolidated government, so our elected sheriff handles all criminal matters in the unincorporated parts of Shelby County and we have police departments from other municipalities. Of course, our big customer is the Memphis Police Department.

Our location also makes us prime territory for trafficking of drugs. They come up from Texas through Shelby County, and make their way across the rest of this state to the east coast or up on into Chicago and those territories. So, we have very active law enforcement that covers a huge geographical footprint because of the different criminal elements that find themselves attracted to our jurisdiction.

Here is 201 Poplar, our beautiful office space. So, any given day, all day long, twenty-one court rooms have to be staffed by our staff of the District Attorney General's office. Courts running anything from environmental court to the special prosecution unit I spoke of, the repeat violent offenders, and everything in-between. We have a designated court for domestic violence. We have a designated court for drug treatment. We have a mental health court. We have a veterans' court. We have a truancy court. We have a gun and prostitution court. We have a juvenile court. We have got it. But all of those, every day, have to be staffed by prosecutors in our office. We handle, on average, 180,000 to 200,000 cases every year. I have a staff of 115 lawyers and 210 total employees. You will see there the six environmental courts. Some of those are run actually out in our community and the work that is going on in those environmental courts for many, many years is what helped plant the seed for this community prosecution that I'm going to talk about in just a second.

That is a list of everything else that we do. So, I have given you a very quick sketch of criminal life within the District Attorney General's office in Memphis, but in addition to just going to court-handling cases, dealing with victims, trying to find out what the case is worth, what offer do I need to make, and what is the best outcome in this matter-we are called upon to do and so much more. That is a very consolidated list of some of the many initiatives and programs (whatever you may want to call them) that our office is either in charge of or participates in.

Everything comes from LWS, a program that is called "Lives Worth Saving," a prosecution diversion program. A couple of years ago, our legislation decriminalized prosecution for juveniles, and the thought occurred to me, that if you are a victim at 17 and you get arrested for prostitution, how come when you get charged with prostitution at the age of 18, you are now all of a sudden a criminal defendant? That did not make much sense. If we know that 99% of women arrested for prostitution are truly victims of years of abuse, we need to be doing something about it. So, what we do is allow them to participate in this program. The charges are dismissed and expunged from their record. I mentioned mental health, veterans, environmental, U-visas, gang prevention and intervention, and juvenile detention – how can we make that process work better? Nuisance actions.

We cannot forget BWCs, which is "Body Worn Cameras." Our police department purchased over 2000 body cameras a year and a half ago, and they have been rolling them out on a pilot basis. Our best estimate is that about 53,000 hours of footage will have to be watched by our staff. 53,000

hours of body camera footage is going to have to be watched by someone because we cannot turn it over to a defense attorney until it has been redacted, and we cannot use it in the court until we have seen it. This is great evidence but we have to be able to find it, we have got to be able to organize it and use it in a way that best suits that particular criminal prosecution and helps the victims. So, it is one more responsibility on the shoulders of the already over-worked, underappreciated prosecutors and staff.

Some of these on this side of the list – VAPIT, for example, this is a recent legislation, this deals with elder abuse.<sup>4</sup> A lot of what we have learned in the arena of child abuse, which is bringing together the different agencies under one roof and reviewing cases on a regular basis, we are also applying this to the arena of elder abuse.

The Family Safety Center, drug task forces. Safe Streets task force, truancy mentoring, anti-trespassing, precinct teams, and everything in-between. This does not include the countless hours that we have provided to law enforcement or anybody who calls. This does not count the hours we spend out in the community talking to people about what our District Attorney offices do and how the community can help, because if you have heard any police officer or any prosecutor talk ever, you have probably heard them say we are not going to arrest and prosecute our way out of the issues we are dealing with. Every one of the major cities in our nation saw a spike in violent crimes last year. My beloved Memphis saw a record year in the number of homicides. And while the homicides get all that attention, when you dig a little bit deeper under that pyramid, it is the violent crimes of robbery and aggravated assaults that are moving that needle. But what we do not have time to do, and what we never had time to do is ask, “Why?” And ask, “How can it improve?”

Recently, our office was undergoing a major reformation. Under the big umbrella of community prosecution, it is not a concept I have invented, it is a concept that I have stolen from other offices across the country. You have heard of community policing. Community policing is not midnight basketball. That is part of it; coat drives, school supply drives, sports leagues in inner cities. That is a piece of community policing, but what community policing is at its essence, I heard it described today from the head of one of the major law enforcement agencies in the nation, is the community pulling the police officer out of the car and the officer voluntarily getting out of the car and patrolling and walking and interacting with the community that officer serves. This is effective because every neighborhood is different, every block within Shelby County and in the city

---

4. Tenn. Code Ann. § 71-6-125 (2016).

of Memphis has different needs than another community across town, but unless we are out in the community, we do not know those things, and it is very difficult within the walls of the architectural wonder to know exactly what the needs are in the Old Town community. To know exactly what the needs are in the Mt. Maria precinct. The police departments have been doing a very good job of that for many, many years by getting back out on to those streets and interacting with community members, getting to know the problem people, and knowing where the problem places are located. The piece that was missing was us. The piece that was missing was the prosecution.

I mentioned very briefly our environmental courts. One of the initiatives that came about from the creation of environmental courts, at least here in Memphis, Shelby County, is a group called Police Joint Agencies that is all very much grassroots driven. It involved laypeople getting together on a monthly basis with code enforcement and the police departments in various areas and going over an agenda of what I just highlighted—the problem people and the problem places.

For example: “This knuckle-head kid keeps driving up and down our street at 2:00a.m.,” “cars and everything else are blocking the streets,” “So-and-so is selling drugs, and there is lots of noise and lots of commotion,” “Here’s the license plate, what are you doing about it?” Or, “This abandoned home has been abandoned for nine years and we keep calling downtown to code enforcement and we keep trying to get some action, what are you doing about it?” So there was this laundry list of complaints and issues that particular geographical neighborhoods were concerned about, and that meant there was a sense of accountability. This was not your typical government meeting where everybody talked for a little bit, and everyone goes back to their turf after. They were expected to come back the next month with what they had done, and these models and meetings had been going on for many, many years, and working fairly well. But what came to my attention was that we, the prosecutors, were missing from that process.

So, I began meeting with the Police Joint Agency heads and getting more familiar with how the process worked and what they did. In law school you are taught to never ask a question on cross-examination that you don’t know the answer to, and that’s fine and good in the courtroom, but as District Attorney, I ask questions all day, every day that I don’t know that answer to. And so I asked, “Would it be helpful is there was a prosecutor that came to your meetings?” and the answer was, “Of course it would be.”

We did that on a very small scale, and about that same time I had gotten to know several district attorneys across the country, and had been reading

about, and was very intrigued by this idea of community prosecution. And as I said, I did not invent it. It was invented by Eric Holder when he served as the District Attorney in the District of Columbia.<sup>5</sup> It meant getting prosecutors back out into the community and it was something that different jurisdictions had adapted to their certain needs across the nation. I began talking with some of the DAs that had community prosecution models, figuring out what worked, what was a train wreck, and what did not work. It took me a while, a lot of reading and research, to finally get up the nerve to mention to my senior staff, the people that I rely on, depend on, and trust with my life, “I kind of have this crazy idea, or it may be the greatest idea in the world, I’m not really sure.” However, when I mentioned it to them, the reaction was overwhelming. You could immediately sense this energy. Because, as you can image with the case load that we have in our office, with the violence that we see on a daily basis in our office, that something new was just what was needed. It delivered an energy to the staff that we had not seen in a while. We broadened the circle of people that we began talking about it with. We brought in a national expert to conduct a two-day site visit and talked with the sheriff, the police department, and basically to my entire staff and say, “Your boss isn’t crazy, this is a good idea and it could work here in Memphis and Shelby County.” Of course, as with everything, the devil is in the details. So, we then spent the next couple of months working out those details, what would it look like, and how would we make it work.

January 1, here (referencing presentation) is a picture of the prosecutors taking the oath that we all take, being sworn in after my last election. Alright, so January 1, 2017, we rolled out the program in the Old Allen area, and that is a big area that I showed you on the map that I highlighted. That is in the middle of it and that is the Old Allen Precinct in Memphis, which is, on any given year, where all the action is. I believe in 2015 that precinct alone issued over 10,000 arrests and that was for everything from misdemeanor citations to felony arrests and everything in-between. It is very violent, it has poverty issues, and it has a huge geographical footprint. It used to be a thriving community when there was more industry there, but when the industry pulled out, it became deserted and much criminal element began to fill that void. So, we started looking at crime maps. The schools that are in that area are very important partners for what we are talking about, and here is the Shelby County, District 7, that is in the Old Allen area. But this graphic gives you a run-down: the green is the aggravated assault, red is burglary, home burglary, and blue is motor vehicle thefts. Purple is other larceny, brown is for robbery of an individual, pale purple is theft from a building, and that pretty blue is theft from a car. Vandalism felony and vandalism misdemeanor. So, that gives you an idea

---

5. Eric H. Holder, Jr., *Community Prosecution*, 49 U.S. ATTY’S BULL. 1, 3-5(2001).

of what the sheriff's office, alone, deals with in that geographical area. We started looking at these maps, and we started drilling down, and figuring out if we could make this work in Old Allen.

The precinct in District 7 was ranked number one in part one crimes. Part one crimes include murder, rape, robbery, and aggravated assault. The big-ticket items in the terms of the violence that they leave behind in the community and the big-ticket items in terms of the length of time those cases take to make and to prosecute and to see to completion. They were number one overall in aggravated assaults in all precincts, there are nine Memphis police department precincts. Number one in aggravated burglary, seventy-four percent higher than the next highest precinct, third overall in forcible rape for all precincts, fifty homicides, over 1000 robberies of individuals, and any other reason we could think of. And one of the big reasons that we picked that area, not just because of this plethora of violence, but the other side to this, and the only way it could work, was to pick the community with a strong moral voice. And you may, at this point, think I am crazy when you look at these statistics and look at the violence I have just told you that has been going on in this community for so many years. But, trust me when I say, there is a strong moral voice in that community because, as with every neighborhood, no matter where it is or what the socioeconomic break down of that neighborhood is, there are mainly good people who go to work every day, who attend school, and who do what they are supposed to do to live their lives—And they are just as sick and tired of this violence as the rest of us are. Within this Fraizer/Old Allen area there were many grassroots organizations that had taken life and spread their wings over the last five to ten years to try to combat these issues. The problem was us. We were not connected with them because we were back at that ugly building at 201 Poplar, going to court every day, cussing and screaming, and carrying on and trying to figure out, “How am I going to get through this pile of cases, how am I going to get ready for that murder trial next week, and how am I going to deal with the personnel issues?” And, “Oh, by the way, my kid's school is calling because he is throwing up in the lobby.” All of those things that we deal with on a daily basis distracted us so we were not connected with those community people. We kept doing what we do and they were doing what they do.

These are some of the great community partners that we have— after looking at the ugly maps and meeting with the community people, we started to put a plan in place. This is what it is, and this is my answer to that question — “If I could change one thing, what would it be?” It would be getting us out into the community through community prosecution and being smarter about what we do. So, I have a prosecutor every day who goes to work at the precinct. Instead of coming to the big ugly brown building, 201 Poplar,

she drives to the precinct, she has an office there, and she works side-by-side with officers. She has gotten to know the principles in the areas, the business owners, and the faith-based partners, who are such an integral part of everything that we do. She has gotten to know the retired teacher who lives on the corner, on the street that is being taken over by open air drug markets, because that teacher can tell you exactly who is involved and where they stand every afternoon to sell drugs in that community. That teacher is scared to death to make that information known to the law enforcement, but by us going to the community, we get to know this information, and what we do with those prosecutors in the precinct is deliver that information back to 201 Poplar. I took fourteen of my best and brightest Assistant District Attorneys, pulled them off of their existing responsibilities and I have assigned them to this pilot program. And what I said to them is, “You are responsible for all of this, everything, for every arrest in this area, whether it is a misdemeanor, whether it’s a citation for driving on a suspended license, whether it is a six victim homicide, it is going to be on your shoulders,” and they now handle these matters on a vertical basis. Because we know vertical prosecution makes for a better product, we know through vertical prosecution that victims like that consistency, that continuity, and we know through vertical prosecution that we get better results from law enforcement.

We will learn through this community prosecution many things that have been proven in other jurisdictions. There was a study done by the University of Chicago on the Cooke County community prosecution model, and theirs is much different than my model.<sup>6</sup> They actually have courtrooms in the community where all of these matters are heard—misdemeanors through felonies. That takes a lot of money and a lot of brick and mortar, but the one thing that this study found was that one of those unexplained and unintended consequences was that community prosecution moves the needle down on aggravated assault. And you heard me say in the beginning that, while our homicide rate in Memphis and Shelby County gets a lot of attention and we zero in on it, it is really that aggravated assault that we need to keep an eye on because today’s aggravated assault is often next week’s homicide. If we can get a handle on that piece of it, we start to see the homicide needle move down as well. That hasn’t really been proven in Cooke County as of late, but the community prosecution that they have implemented did have a very positive impact on aggravated assaults.

We have got the prosecutor at the precinct and we have an A-Team of prosecutors back at the ranch at 201 Poplar who have been charged with handling everything. In addition to that, we also have two judges who have

---

6. See, Thomas J. Miles, *Does the “Community Prosecution” Strategy Reduce Crime? A Test of Chicago’s Experience*, 16 Am. L. & Econ. Rev. 117, (2014).

agreed to be a part of this pilot program—Judge Gerald Stalin, in general sessions court and Judge John Campbell of our criminal courts. They have agreed to be the judges for this model. In December we had a huge community roll out; we brought the judges, we brought the team of prosecutors, we brought the investigative team, we brought the support staff that we aligned to this pilot program, and we took them out to the community center. We invited all of our community friends and partners to come and hear from us, and what we said to them was, “This is your team, these are your judges, these are your prosecutors, these are your victim witness coordinators, get to know them, get to know their names, get to know their phone numbers. Because none of this, none of the ills that my community is facing, none of the ills that most major cities are dealing with right now, are going to be fixed on the shoulders of my 150 best of the brightest prosecutors anywhere in the world, no offense to any other DAs in the other jurisdictions, but you have to have the community engaged in this.”

And so, that is the next piece. We have done the community policing and we are doing the community prosecution on a very limited scale right now. The next level I would like to see happen is the community probation piece. You have heard me mention that most communities have this plethora of smiling faces, of people who want to step up, and do what is right for their members of the community. But we, as prosecutors, do not know who they are. We deal with state probation, we deal with a couple of private probation companies, and that is it. But what would it look like if the “Blight Patrol” that you all see there, the guys in green, that organization is run by a man who has a felony record as long as this room, who has gotten his life turned around and made it his life’s work to make sure others do not make the same mistakes that he made? My office does an amazing job filing gang injunction on a regular basis. The gang injunction statute allows us to tell a group of gang members that they are not allowed to be here because any time two or more members get together in a neighborhood, really bad stuff happens, and we are tired of it.<sup>7</sup> So, if two or more members are seen together out in the neighborhood by the police, the police have the right to take them downtown and hold them in contempt. But all they’re served with is a civil piece of paper that says, “Stop standing out in public.” The other piece of that legislation that is fascinating to me is the “Opt Out Provision.”<sup>8</sup> It gives any one of the 150 gang members that we have served over the last three years, the option to get out of gang life. If you want out, if you want a new life, raise your hand, and we are going to help you. Do you know how many have raised their hands in the last three years? One.

---

7. Tenn. Code Ann. § 29-3-110(b)(3) (2014).

8. Tenn. Code Ann. § 29-3-110(b)(4) (2014).

That is the piece that is going to be the challenge. How do you the teach initiative? How do you teach the drive? Because you can have the greatest programs in the world, and we can have the strongest community in the world, but who wants to move the needle. We can have the strongest police department in the world that is there fighting crime and making arrests, but these individuals that we need to get off the ramp have got to want it themselves. One of my assistants describes it in a way that I cannot repeat, but basically you cannot teach, “give a \_\_\_\_.” Fill in the blank. And that is what it boils down to. How do you teach that drive, that initiative, and that desire to make a new life? I don’t know the answer to that, but that is one of the challenges we are going to be facing through this community prosecution model and hopefully within the next piece of it—the community probation.

Okay, you are eighteen years-old and you have never been in trouble before. You were out with the wrong group and you did a really stupid thing, but I am going to take a chance on you and put you on probation and I will send you back to your community. What we typically do now is cross our fingers and hold our breath, and if you are an Assistant District Attorney, you pray to God that this knuckle-head does not kill somebody and it end up on the front page of the newspaper. You hope that your boss does not call you, and say, “Why did you let this knuckle-head out on probation? How am I going to explain this?” We do that thousands of times a day—we take chances on people. 99.9% of the people we send off to prison are coming back to our communities and we, as prosecutors, have got to do more to be smarter about the people we are prosecuting. We have gotten very smart about the cases, about the laws of evidence, about how to try cases to a jury, about how to put a rape victim on the stand, about how to try a domestic violence case, about how to get that proof in that ten years ago would have been challenging. We have gotten excellent at that. Where we need to get better is knowing the people that we are prosecuting and the lives behind the piece of paper in front of us. What is it going to take to get you on that off ramp?

The first screen on this presentation was these three words: public, safety, value. What is the public safety value of what you’re doing? What is the public safety value of sending a habitual thief back to the penal farm on a class A misdemeanor for nine months? Because when he gets out, he is going to go back to it. What is it going to take to get him to stop? Those are the questions that the community prosecution model, I think, are going to begin to answer in a better way than we have been able to do in the past.

Just yesterday as I was driving here for a meeting, I got an email from another prosecutor telling the team back at 201 Poplar about a habitual criminal there that had been arrested, that was a problem to law

enforcement. The prosecutor went on and on about the history that this criminal had built up in the neighborhood and what a problem he was to the police and to everybody else. But without that backdrop, without that inside baseball information, the prosecutors back at 201 would never have known what a challenge he was or that he was destroying the block of businesses that he liked to victimize. But, by having that communication and getting this background into the hands of the prosecution, what we are really doing is taking a big city DA's office and making it a bunch of tiny, little, small prosecution offices skilled at getting to know not only the good people, which are the majority of the ones that we are privileged to serve every day, but knowing who those problem people are and where those problem properties are and how we can better get them on the off ramp.

With that, I am going to open it up to any questions, gripes, complaints, or suggestions you may have.

**Audience.** Within the team you have created, do you still have the vertical prosecution?

**Amy Weirich.** Yes, because nothing is easy, particularly at 201 Poplar, we, if it's a DV case, there is a DV designated member of the team. If there's a gang, there is a designated member, environmental courts, domestic violence.

**Audience.** It may be too early for this because you just started the program, but have you noticed any effect at all on the recidivism on people coming back?

**Amy Weirich.** It is a little early to tell, but that is one of the many goals we would like to accomplish. His question was about recidivism. Typically, within the state, and within Shelby County, we have about a forty percent recidivism rate; it's staggering. What we hope to accomplish by having that prosecutor in the precinct, is that case that might have been a charge, that might have become a case down the docket two months ago, might be something we can avoid an arrest on. It might be a situation where there is a fourteen-year-old acting out because of something else that is going on in his life. He may have mental health issues, it might be that mom has mental health issues, but we hopefully are going to be able to cut unnecessary charges off at the pass.

We spend a lot of time as prosecutors dismissing charges. We probably dismiss more than we actually get convictions on. We hope to see some movement in that regard, and we hope by zeroing in and knowing who the frequent flyers are in that community, the judge will begin to know who the people are, and the prosecutor will begin knowing who these people are.

That will allow us to begin to sit down with his or her lawyer, and say, “What’s it going to take, we are tired of this, the community is tired of you breaking into homes, the police are tired of chasing you through back yards, dogs are tired of biting your ankles, what is it going to take to get you to stop?” For some of these knuckle-heads, the answer is “nothing.” The answer is, “you just need to be removed and sent away,” but for the vast majority of them I have great hope that with the right community partners and the right attention on our end, we can move that need.

**Audience.** You talked about *Money Ball* in the beginning, and that is a really novel way to think about prosecution.<sup>9</sup> Clearly recidivism is going to be one of the metrics to measure the success of the programs. What are some of the other metrics you’re looking at?

**Amy Weirich.** The question is how we are measuring the metrics. Obviously, the recidivism rate is something we are going to look at. Are we lowering the number of arrests that are being made? Are we making things worse? At the six-month mark I don’t want to see that the police departments are bogged down, arrest are skyrocketing. We’ll track arrests, recidivism, and the shelf-life of a case. How much time is there from when the cuffs are put on, to when it is disposed of in the criminal justice system? How long does it take for the police to get us a statement before the grand jury and indict it? Hopefully this timeframe will be less than in other courtrooms. Truancy is something we are going to work on – there is a map I showed you of the different schools. We’re going to look to see if we can help in that regard. Last year in Shelby County there were over 20,000 students that missed ten percent or more of the academic calendar year. That’s unacceptable, and that is something we want to change.

**Audience.** Does Judge Dwyer still run the drug court? What are the recidivism rates in drug courts opposed to others?

**Amy Weirich.** Yes – he does. The recidivism rates are currently much lower than the forty percent. I will say the Veterans’ Court, which is two years-old, has had one person that has been re-arrested. That’s just amazing. Another thing that we have been astounded by is the Youth Court. I don’t know if you are familiar with this, or if Davidson County has a similar model, their recidivism rate is four percent statewide. I believe in Shelby County it is a little higher at seven percent, but this is huge because this involves juveniles being the prosecutors, the defense, and judge for other juveniles that have committed a crime, and they have had outstanding success. So, we are plugging in our community prosecution model in that regard as well.

---

9. Michael, *supra* note 1.