ILLINOIS STATE'S ATTORNEY STUDY COMMISSION

June, 1975

Report to the Governor
and
79th General Assembly

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STATE'S ATTORNEY STUDY COMMISSION
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June 1, 1975

TO:

The Honorable Daniel Walker
Governor, State of Illinois

The Honorable Cecil A. Partee
President of the Senate

The Honorable William Redmond
Speaker of the House and

The Honorable Members of the
79th General Assembly

Submitted herewith is the report of the State's Attorney Study Commission created pursuant to House Bill 1515 of the 78th General Assembly.

This report incorporates tentative findings and conclusions of the Commission with regard to a study of the Office of State's Attorney in this State. In this connection the Commission reached tentative findings and conclusions after public hearings and a careful study of pertinent matters involving the presecutorial and other functions of this office.

In addition, the Commission also established and appointed members of an Advisory Commission comprised of criminal law professors in various Illinois law schools, and representatives of the United States Attorney's office, Southern District of Illinois and the Illinois State Bar Association.

We solicit your careful attention to this report and to the material contained therein.

Respectfully submitted,

ROMIE J. PALMER
Chairman

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I N T R O D U C T I O N

This report is the first known Legislative report of the operation of the Office of State's Attorney in Illinois.

The charge to the Commission amongst other things included "a thorough study of the Office of State's Attorney in this State".

In addition to staff sessions, research and conferences with various State's Attorneys, Illinois State's Attorneys Association and others interested in the criminal justice field, the commission held formal sessions on the following dates and places:

November 15, 1973 - Springfield
December 17, 1973 - Chicago
January 21, 1974 - Chicago
February 14, 1974 - Chicago
March 21, 1974 - Chicago
May 13, 1974 - Chicago
July 15, 1974 - Carbondale
December 16, 1974 - Chicago
March 17, 1975 - Chicago

The sessions were taped and minutes were made of each session.

Early in the hearings, the Commission became aware of the magnitude, scope of the legislative charge and on February 14, 1974 an Advisory Board of law professors and other interested persons were appointed.

The Commission has had the excellent services of Mr. Arthur Harrison, Esq., Mr. Thomas Sullivan, Esq., and Mr. Henry Fabian, Esq., of the House Judiciary Staff to help in its proceedings and report.

Detailed questionnaires mailed the 102 State's Attorneys in Illinois and follow through techniques resulted in a reply from all except 30 State's Attorneys who for reasons of their own did not respond to this Legislative Commission.

In addition, letters were addressed to the editors of various newspapers in Illinois requesting any comment or criticism on the operation of

the State's Attorneys Office. Relative few replies were received and those replies concerned the professional ability of State's Attorneys, plea bargaining, private practice of law, and lack of vigourousness in the prosecution of some cases.

The Commission heard testimony of State's Attorneys throughout the State. Much of their testimony concerned itself with lack of money for investigative services, Assistant State's Attorneys secretarial help, etc. This was especially true in the urban counties. All had praise for the Illinois State's Attorney Association in its sponsorship of training, prosecutorial services, and requested that such services be continued, to help fulfill the professionalism required of that office. Their attitudes on geographical consolidation of the office is set out in this report. A great concern was expressed for their inability to retain bright assistants because of salaries, pensions, etc.

The Commission has not had sufficient time to satisfactorily explore the impact of prosecutorial discretion in the areas of plea bargaining and immunity in the field of the criminal justice system. Nor sufficient time to explore the area of pre-trial publicity by prosecutors on the question of the right of a citizen to have a fair and impartial trial. These areas used serious consideration. The application of the Four Term Act on the constitutional right of the citizen to have a speedy trial needs re-examination within the context of the duties imposed upon State's Attorneys.

Greater indepth study of the following is also needed: 1) Divestiture of civil and administrative duties and minor traffic and misdemeanor prosecutions, 2) Alternatives to present financing of the prosecutorial function by Illinois State's Attorneys.

Finally, with a growing crime rate, with a need for more sophistication and personnel in the investigative and prosecutorial functions and with a need for more funds, Illinois citizens will at some time in the future have

to decide whether to retain 102 Illinois State's Attorneys or whether a smaller number of full time adequately staffed prosecutors for a larger geographical area will best suit the needs of this State in the criminal justice field.

AN ACT creating the Office of State's Attorney Study Commission.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. There is created the Office of State's Attorney Study Commission, hereinafter called the Commission. The Commission shall consist of 6 members of the Senate, 3 appointed by the President and 3 by the minority leader; and 6 members of the House of Representatives, 3 appointed by the Speaker and 3 by the minority leader.

The Commission shall select from its membership a chairman and such other officers as it considers necessary.

Section 2. Vacancies in the membership of the Commission shall be filled in the same manner as the original appointments. A vacancy occurs on the Commission if a legislative member is not reelected to serve in the house from which he was appointed.

Section 3. Members of the Commission shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

Section 4. The Commission has the following powers and duties:

(1) to conduct a thorough study of the Office of State's Attorney in this State;

(2) to study the feasibility of counties using Article VI, Section 19 of the Illinois Constitution;

(3) to evaluate the present salaries of State's Attorneys and their employees;

(4) to consider the State's role and interest in county prosecutions.

Section 5. The Commission shall report findings, conclusions and recommendations, including drafts of suggested legislation to the 79th General Assembly no later

Originated in the House of Representatives
Clerk of the House

PUBLIC ACT 78-572

than January 15, 1975.

Section 6. The Commission may, without regard to the Personnel Code, employ and fix the compensation of an executive secretary and such stenographic and clerical assistance as it considers necessary or desirable.

Section 7. This Act is repealed as of July 1, 1975.

Section 8. This Act takes effect July 1, 1973, or upon becoming a law, whichever is later.

Speaker, House of Representatives

President of the Senate

APPROVED

this 6th day of Sept., 19 73 A.D.

GOVERNOR

CHAPTER I

THE HISTORY AND PRESENT DUTIES OF THE OFFICE OF THE STATE'S ATTORNEY IN ILLINOIS

The Office of the State's Attorney in Illinois has an interesting legal history, having originated in the office of Attorney General and through the functions of that office.

Prior to Illinois Statehood, Territorial Attorneys-General, appointed by the Governors of the Northwest and Illinois Territories, had in turn assigned "deputies" to particular counties.[1] In 1816, a territorial statute renamed these deputies "district attorneys" to be appointed by the Governor, and in 1817, the title was changed to "circuit attorneys."[2]

With Statehood, provision was made in the 1818 Illinois Constitution[3] for election by the General Assembly of the Attorney General but there was no constitutional provision for the Office of State's Attorney. An 1819 statute enacted by the General Assembly provided for the appointment of "circuit attorneys" by the Governor with the approval of the Senate;[4] these circuit attorneys were delegated the authority to represent the State in the prosecution of criminal cases in the counties within their particular circuit.

During this early development of the office, responsibility was to the State as assistants or agents of the Attorney General.

In 1827, the title of "state's attorney" was applied to the office;[5] in 1835, the General Assembly was authorized to elect state's attorneys.[6]

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1 Pease, Laws of the Northwest Territory, Collection of the Illinois State Historical Library, Law Series, Vol. 1, pp. 171, 506-508.
2 Laws of the Illinois Territory (no date), pp. 43-44, 71.
3 Constitution of 1818, Art. III, sec. 22.
4 Laws of Illinois (1819), pp. 178, 204-206.
5 Laws of Illinois (1827), pp. 79-80.
6 Act of February 7, 1835.

During the debates preceding the adoption of the Illinois Constitution of 1848,[7] an amendment was proposed that would allow the Legislature to provide for the election of one prosecuting attorney for each county in lieu of circuit attorneys; such county attorney was espoused as the officer necessary "to represent and to attend to the interests of the people of each county" and to secure sufficient bail to ensure the subsequent court appearances of persons arrested on criminal charges, thus preventing the habitual escape of criminals for mere want of such an officer responsible for their detainment. Opposition to the amendment was expressed as a fear that the county attorneys would have "too much sympathy for the people." After further debate regarding the payment of a fixed salary amount versus the collection of a $5 fee from each convict as payment for services and comments that the circuit attorney's salary of $300 to $400 per year was inadequate to attract the best talent, the amendment was added to Section 21 of Article V.

The Constitution of 1848 did provide for election of State's Attorneys in each of the Judicial Circuits, a provision implemented by the General Assembly in 1849 through statute requiring the state's attorneys in each of the three grand divisions of the Illinois Supreme Court to assume the duties of the Attorney General, which office the 1848 Constitution accidentally failed to provide for. The Convention Committee on the Judicial Department had proposed that the Attorney General be elected by popular vote but this provision was eliminated by the Committee; another section of the new Constitution prohibited the election or appointment of any state officer by the General Assembly, and so the office simply went out of existence. A distinction was raised at this time between "State" and "county" legal officers

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7 Constitutional Debates of 1847, edited by Arthur Charles Coles, University of Illinois, published by Illinois State Historical Library (1919), pp. 793-797.

through a constitutional provision that "county attorneys" could be elected rather than "state's attorneys", a provision never utilized although the distinction was perhaps based upon intended differences in function.

The 1848 Constitutional provision for election of state's attorneys was partially the result of a bill drafted in 1835 by Steven A. Douglas[8] which repealed the old state's attorneys out of office and thereafter made them subject to election by joint ballot of both houses of the Legislature and provided for two year terms. The bill's precarious passage through both houses finally ended in success, although the bill was returned to the House by the Council of Revisions, which then held veto power, after which it was reconsidered and again passed over the Council's objection which termed the bill as "improper to become a law of this State."

Consequently, in 1835, the Legislature elected state's attorneys for the six Judicial Districts of the State; curiously enough, Douglas, although not a lawyer at that time, was elected in the First Judicial District over John J. Hardin, who had been serving as the appointed state's attorney and had later become the bone of contention in the political feud causing Douglas' revision of the method of selection of such officers. Since there was no requirement at that time that a candidate for state's attorney be licensed to practice law, Douglas found it necessary to study criminal law after his election.

In his new office, Douglas' own description of his responsibilities was "to prosecute all criminals in each county in the Circuit and also all civil actions in which the People are concerned, the Pres & Directors of the State Bank, any county, or the Auditor of Public &c."[9] His salary was $250 per year.

During this same period, Douglas also assisted in drafting legislation

8 Johannsen, Stephen A. Douglas, (1973), Oxford University Press, pp. 29-32.
9 Johannsen, Stephen A. Douglas, supra.

which succeeded in revision of the State's judicial system through the creation of a new set of circuit court judgeships. Although politically motivated, a benefit of the law was that the Supreme Court members no longer were required to perform circuit duty. The Legislature divided the State into four judicial circuits in 1819,[10] a fifth was added in 1824 but the total was reduced to four in 1827. The fifth circuit was again added in 1829, then in 1835 the sixth was created, and by 1848 nine circuits existed.

In a law passed on November 6, 1849, entitled "AN ACT to Enable the Auditor of Public Accounts to Prosecute Claims in Favor of the State,"[11] state's attorneys were given the duty of prosecuting claims on behalf of the Auditor to final settlement and collection of amounts due. Fees were to be paid on a percentage bases from collections. That year also, an act was passed extending the jurisdiction[12] of the circuit courts to the scheduling of special terms with jurisdiction over criminal cases, state's attorneys were given authority to act as prosecutor for the people at said special terms with compensation of $200 per term to be paid by the State.

Little is recorded in history referring to the duties of state's attorneys during the years between 1848 and 1870, although during the Constitutional Convention which met in 1862, and whose efforts met with defeat, a Resolution was entered regarding establishment of a court of common pleas in each county of the State having common law jurisdiction similar to that of the circuit courts, having also appellate jurisdiction; and "that each county should have its own State's Attorney, elected by the people of that county."[13] No reference was made to specific duties to be delegated to state's attorneys.

10 Laws of Illinois (1819), p. 378.
11 Laws of Illinois (1849), p. 6.
12 Laws of Illinois (1849), p. 8.
13 Convention Journal, State of Illinois (1862).

During the debates preceding the adoption of the Illinois Constitution of 1848,[7] an amendment was proposed that would allow the Legislature to provide for the election of one prosecuting attorney for each county in lieu of circuit attorneys; such county attorney was espoused as the officer necessary "to represent and to attend to the interests of the people of each county" and to secure sufficient bail to ensure the subsequent court appearances of persons arrested on criminal charges, thus preventing the habitual escape of criminals for mere want of such an officer responsible for their detainment. Opposition to the amendment was expressed as a fear that the county attorneys would have "too much sympathy for the people." After further debate regarding the payment of a fixed salary amount versus the collection of a $5 fee from each convict as payment for services and comments that the circuit attorney's salary of $300 to $400 per year was inadequate to attract the best talent, the amendment was added to Section 21 of Article V.

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7 Constitutional Debates of 1847, edited by Arthur Charles Coles, University of Illinois, published by Illinois State Historical Library (1919), pp. 793-797.

The office of Attorney General was restored by statute in 1867[14] and under the 1870 Constitution, the Attorney General again became a constitutional officer. The historical development of the Office of State's Attorney, then, appears closely allied to that of the Attorney General. The duties of that office, in fact, were delegated to state's attorneys for a 20 year period. This history apparently supports the proposition that the state's attorney is a state officer rather than a local officer. Origination of the office was at the state level. According to Fairlee and Simpson, authors of "Law Officers in Illinois,"[15] state's attorneys are "primarily agents of the State in the enforcement of State laws," a status consistent with their status in other states. In an early decision of the Illinois Supreme Court, state's attorneys were not to be considered as "county officers."[16] However, the same court in Cook County v. Healy, 222 Ill. 310, 316; 78 N.E. 623 (1906), stated that state's attorneys were "county officers," and this has since remained the generally accepted opinion and law of Illinois. At best, however, probably all that can be said is that a state's attorney exercises both state and local powers which are a mixture of judicial and executive powers. Perhaps a state's attorney is at the same time part "state officer" and part "county officer." It is this duality that has been the complicating factor in accurately defining the office.

Shortly after adoption of the Constitution of 1870, the General Assembly by law delegated certain powers and duties to the state's attorney,[17] which reflected the intent of the framers of that document that the state's attorney was a county officer. Specifically, the state's attorney was

14 Act of February 27, 1867.
15 Fairlee & Simpson, Law Officers in Illinois, 8 John Marshall L.Q. 65, (1942).
16 Wulff v. Aldrich, 124 Ill. 591, 595-598; 16 N.E. 886 (1888).
17 Laws of Illinois (1871), p. 90.

empowered to represent the county in all actions brought by or against the county; to represent and defend county officers; and to render legal advice to said officers.

The 1872 laws were repealed in 1874 and were replaced by Section 5 of "AN ACT in regard to Attorneys General and State's Attorneys"[18] which merely re-enacted many of the same provisions and which, although amended several times, has remained basically the same since 1874 and which did set forth in some detail the duties delegated to the state's attorney.

Under the Act of 1874 (as amended), the Attorney General was required to "consult with and advise the several State's Attorneys in matters relating to the duties of their office; and when, in his judgment, the interests of the people of the State require it, he shall attend the trial of any party accused of crime and assist in the prosecution." Also, each state's attorney was required "to assist the Attorney General whenever it may be necessary and in cases of appeal or writ of error from his county to the Supreme Court, to which it is the duty of the Attorney General to attend, he shall, at a reasonable time before the trial of such appeal or writ of error, furnish the Attorney General with a brief, showing the nature of the case and the questions involved."

Records of the debates of the 5th Constitutional Convention, which convened on January 6, 1920, and which produced a document failing approval by the people, show little discussion of the Office of State's Attorney. For the first time, a proposal was adopted stating that eligibility for the office required that a candidate be a licensed attorney-at-law.[19] This requirement would not become part of the law until it was again included

18 Rev. Stat., 1874, Ch. 14, par. 5; Ill. Rev. Stat. 1973, Ch. 14, par. 5.
19 Revised Constitution of Illinois, 1922 (Adopted in Convention at the City of Springfield, June 28, 1922).

in the 1970 Constitution.

Prior to the 1962 Judicial Amendment, Article VI, Section 25, of the 1870 Constitution read:

> "The judges of the superior and circuit courts, and the State's Attorney, in said county, shall receive the same salaries, payable out of the state treasury, as is or may be paid from said treasury to the circuit judges and State's Attorneys of the state, and such further compensation, to be paid by the county of Cook, as is or may be provided by law; such compensation shall not be changed during their continuance in office."

The Judicial Amendment,[20] which became effective in 1964, contained Section 21 pertaining to four year terms for the Office of State's Attorney and which stated that eligibility included United States citizenship and a license to practice law.

Article VI, Section 19, of the present Illinois Constitution, adopted in 1970, reads as follows:

> "A State's Attorney shall be elected in each county in 1972 and every fourth year thereafter for a four year term. One State's Attorney may be elected to serve two or more counties if the governing boards of such counties so provide and a majority of the electors of each county voting on the issue approve. A person shall not be eligible for the office of State's Attorney unless he is a United States citizen and a licensed attorney-at-law of this State. His salary shall be provided by law."

During debates on the proposals submitted by the Committee on the Judiciary, a variety of views was expressed on the Office of State's Attorney.[21]

Arguments were made for classification both as a state officer and a county officer. The principal debate, however, centered on the proposed provision for the "election of a single State's Attorney for two or more counties." At issue was whether the General Assembly should control the consoli-

20 Rolewick, A Short History of the Illinois Judicial Systems (1968), pp. 33-38.
21 II Verbatim Transcripts, pp. 730, 734, 735, 741-745.

dation of the office or whether the counties themselves should have that control. Delegate Ralph Dunn, in trying to resolve the situation, offered an amendment deleting the offending words and substituting a sentence stating that it would be permissible to combine the offices of two or more state's attorneys if the governing boards of each county approved the combination. Debate on Dunn's amendment concerned the merits of the Office of State's Attorney being given the status of a state office and, therefore, consolidation of two counties under one officer should be controlled by the General Assembly. Dunn insisted "the operation of the office of State's Attorney, we feel, is a local office," and thus consolidation should be controlled by the county boards and county electors.

The Dunn amendment was adopted. Otherwise, the 1970 Constitution made no change in the intrinsic nature of the Office of State's Attorney. Although there has been no distinctive change in the statutory duties of the office, the controversy continues over classification of the state's attorney as a State officer or as a county officer.

PRESENT POWERS AND DUTIES OF THE OFFICE

The State's Attorney's Office is generally accepted to have been unknown at common law. It was the office of Attorney General which existed at common law, although analogous enforcement powers to carry out his duties may be found in the State's Attorney.[22]

In the United States, the office is solely the creation of State Constitutions and statutes, which prescribe the powers and duties of that office.[23]

22 People v. Nagaria, 389 Ill. 231; 59 N.E. 2d 96 (1945).
23 For discussion, see 63 Am. Jur. 2d, Prosecuting Attorneys, sec. 1.

The Illinois Constitution does not address what a state's attorney shall do; it simply states that he shall be elected.[24] Thus, the source of our understanding of the present duties of the state's attorney is to be found in the statutes.

The major statute which defines the duties of the state's attorney is found at Illinois Revised Statutes, Ch. 14, sec. 5, which reads as follows:

(1) To commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for his county, in which the people of the State or county may be concerned.

(2) To prosecute all forfeited bonds and recognizances, and all actions and proceedings for the recovery of debts, revenues, moneys, fines, penalties and forfeitures accruing to the State or his county, or to any school district or road district in his county; also, to prosecute all suits in his county against railroad or transportation companies, which may be prosecuted in the name of the People of the State of Illinois.

(3) To commence and prosecute all actions and proceedings brought by any county officer in his official capacity.

(4) To defend all actions and proceedings brought against his county, or against any county or State officer, in his official capacity, within his county.

(5) To attend the examination of all persons brought before any judge on habeas corpus, when the prosecution is in his county.

(6) To attend before judges and prosecute charges of felony or misdemeanor, for which the offender is required to be recognized to appear before the circuit court, when in his power so to do.

(7) To give his opinion, without fee or reward, to any county officer in his county, upon any question or law relating to any criminal or other matter, in which the people or the county may be concerned.

(8) To assist the attorney general whenever it may be necessary, and in cases of appeal from his county to the Supreme Court, to which it is the duty of the attorney general to attend, he shall furnish the attorney general at least 10 days before such is due to be filed, a manuscript of a proposed statement, brief and argument to be printed and filed on behalf of the people, prepared in accordance with the rules of the Supreme Court. However, if such brief, argument or other document is due to be filed by law or order of court within this 10 day period, then the State's Attorney shall furnish such as soon as may be reasonable.

(9) To pay all moneys received by him in trust, without delay, to

24 1970 Illinois Constitution, Art. VI, sec. 19.

the officer who by law is entitled to the custody thereof.

(10) To perform such other and further duties as may, from time to time, be enjoined on him by law.

(11) To appear in all proceedings by collectors of taxes against delinquent taxpayers for judgments to sell real estate, and see that all the necessary preliminary steps have been legally taken to make the judgment legal and binding.

Essentially, then, the duties include the broadest of areas, ranging from criminal prosecutions to complete representation of the county (whether as plaintiff or defendant) in all civil cases. Such civil matters include any county business, collection of debts, and the prosecution of delinquent taxpayers to collect taxes owed. A further listing of specific criminal or civil duties is found in Appendix I.

CHAPTER II

ENCOURAGING PROFESSIONALISM AND CAREER ORIENTATION IN THE PROSECUTOR'S OFFICE

One of the Commission's objectives was to determine what were the factors discouraging professionalism and a career orientation in the prosecutor's office and to discern what remedies there might be to improve the situation.

The responses to the questionnaire mailed by the Commission to Illinois prosecutors and the reports and recommendations of various study groups -- including the American Bar Association, the President's Commission on Criminal Justice, and the National Advisory Commission of Criminal Justice Standards and Goals -- all seem to suggest a growing interest in developing a full-time, professional, career-oriented prosecutorial system.

One phenomenon indicating the unsatisfactory degree of professionalism and dedication to career is the fairly high turnover rate among the State's Attorneys of Illinois and a very high turnover rate among assistants. Paul Welch of McLean County cited a 200% turnover rate in his office among assistants in his term.[1] It is generally agreed that such a turnover is wasteful, expensive, inefficient and reduces the effectiveness and long-range competence of the prosecutor's office. The information received and examined by this Commission indicates that the turnover problem is caused or aggravated by some or all of the following conditions:

1) Salaries of prosecutors are not commensurate with the duties of the office nor do they approach parity with those earned by fellow lawyers in private practice who are of the same age and experience.

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1 Minutes of Commission Meeting, hereafter cited as Minutes, February 14, 1974, p. 13. State's Attorney Bode of Tazewell County reported that the average length of stay of his 12 assistant attorneys fresh out of law school was 19 months.

2) Pension, retirement, and employment benefits do not equal the arrangements available to those in private practice.

3) There is little or no security of employment, due to the system of elections we have for state's attorney, and this discourages complete commitment to the prosecutor's role -- by both chief prosecutors and their assistants.

4) The workload of many state's attorneys is unmanageable, while that of others is insufficient to offer a significant challenge.

5) Support services -- the provision of investigators or paralegals -- are inadequate.

6) Because of all the various factors, professional rewards are not as significant as they might be.

These various factors can be divided into two categories: a) financing, salaries, benefits, and tenure are in a group we can call financial and security factors and b) professional satisfaction which can include the effect of an overly heavy caseload and similar factors tending to diminish one's contentment with his job.

FINANCIAL AND SECURITY FACTORS

In its Project on Standards for Criminal Justice, the American Bar Association provided the following in its standards:

> "In order to achieve the objective of professionalism and to encourage competent lawyers to accept such offices, compensation for prosecutors and their staffs should be commensurate with the high responsibilities of the office and comparable to the compensation of their peers in the private sector."[2]

In its commentary, the A.B.A. provided the following rationale: "The salary attached to the prosecutor's office should befit the dignity, responsibility, and importance of the position. The compensation of the chief

2 A.B.A. Project on Standards for Criminal Justice, hereafter cited as A.B.A. Project, Standard 2.3(e), 57-8 (1971). See also National Advisory Commission on Criminal Justice Standards and Goals, hereafter cited as Nat'l Adv. Comm'n, Standard 12.1, which recommended that prosecutors' annual salaries be no less than that of the presiding judge in the trial

prosecutor and his assistants should be comparable to that paid for similar services in the private sector of the economy.....We should expect the compensation of those whom we entrust with high responsibilities and authority in government to bear some reasonable relationship to that received by their peers in private life. This expectation, however, is not now being met."[3]

We can see that the feeling about inadequacy of salaries and funding of other aspects of the state's attorney's position is also shared in Illinois.

Although the State presently contributes substantial amounts of money toward the salaries of chief state's attorneys and some assistants in certain areas,[4] most of the problems regarding salaries and benefits are the result of the increasing inability of counties to bear the cost of a modern prosecutorial system.

The Commission generally found a belief that state's attorneys' offices were inadequately funded to provide for adequate staff (including assistant state's attorneys and investigators). The comments of state's attorneys on the retention of their assistants, for instance, was that the typical attitude was: "Well, I'll get as much experience as quickly as I can and get out!"

Obviously, such an attitude does not encourage professional performance or a self-conceptualization as a career prosecutor. As Paul Welch, State's

court. See attached Appendix 2: Number of Cases Begun and Terminated in the Circuit Court; from 1974 Annual Report to the Supreme Court of Illinois - A Decade of Progress - Administrative Office of the Illinois Courts, pp.98-123.

3 A.B.A. Project, Commentary to Standard 2.3.

4 Compensation for state's attorneys or their assistants comes within limits set by the General Assembly. The State pays $12,000 of the state's attorney's compensation. Ill. Rev. Stat., Ch. 53, sec. 7. Assistant state's attorneys are also partially financed by the State where certain state institutions (mental, penal or educational) exist which would increase the state's attorney's office's workload. Ill. Rev. Stat., Ch. 53, sec. 7. The State also disburses nominal funds in "reward" for certain convictions obtained or for each day spect at trial in certain cases. Ill. Rev. Stat., Ch. 53, sec. 8.

Attorney of McLean County, stated to the Commission: "There has to be a realistic reflection of the fact that in Illinois the prosecution of criminal cases is no lesser a specialty than probate law, or any other aspects of the practice of law.....I think we have to be competitive with private practice in terms of what we pay law school graduates."[5]

An apparently typical example of the results of inadequate funding is that of St. Clair County, where the city of East St. Louis alone accounts for 7,500 major crimes annually. Funding problems are two-fold: retention and expansion of staff. The St. Clair County state's attorney has a staff of 15 assistant state's attorneys of which only four are full-time. And to keep an assistant in that county after one year of practice, the assistant reportedly must be paid a minimum annual salary of $18,000.[6] Without such a salary, staff can be neither attracted nor retained; yet not only are funds not forthcoming to pay present assistants but insufficient funds are forthcoming to pay for needed additional assistants.

The problem -- which relates not only to encouraging professional careerism in general but involves issues as to the geographical unit needed to achieve it -- is then, once we have concluded that funding must be substantially increased, what is the source from which such funding is to be obtained?

The problem with obtaining funding through the counties was characterized by St.Clair County State's Attorney Rice in testimony before the Commission in which he said: "I think the problem is that county government never really takes the problem seriously, and they are always behind in what they need to do."[7]

5 Minutes, February 14, 1974, p. 13.
6 Minutes, February 14, 1974, p. 8.
7 Minutes, February 14, 1974, p. 9.

Similarly, Will County State's Attorney Martin Rudman stated: "(T)he office would be in better shape with State rather than local funding..... many members of a county board are in a situation where they really don't know what's going on in the state's attorney's office, even if you sit down with them.....thus things run more or less on the 'Peter Principle'.....a continuing level of mediocrity."[8]

As a result, said Rudman, "good guys have to leave because the money is not there to keep them."[9]

It was the feeling of most state's attorneys with whom the Commission had contact that financing of the prosecutor's office should be the direct responsibility of the State. The rationale was often provided that state's attorneys pursue justice in the name of the People of Illinois, not of their counties. Therefore, it was argued that all the people should bear the costs,

8 Minutes, March 21, 1974, p. 7. State's Attorney James Carr of DeKalb County noted: "As a result of my budget limitations for assistants and adequate staffing, overworked prosecutors tend to go into court less prepared than normal or engage in excessive plea bargaining to avoid accumulating a backlog of untried cases. Understaffing of the prosecutorial function weakens the entire criminal justice system. Law enforcement agencies have been consuming a considerable amount of local, state, and federal expenditures, while the prosecutorial function accounts for only a token portion of such expenditures. It is not economical to invest heavily in police services and inadequately in the means to prosecute effectively in the criminal justice system."

Carr sounds a complaint echoed by many of his colleagues, i.e., that he and his staff are severely limited in support functions, and that his office has continually been turned down on budget requests for investigators and paralegal assistance. Another common and recurrent criticism of the prevailing structure of the office is the friendly but inevitable appeal to county boards for operating funds, money needed to supplement the state salary grant and keep the office in working order.

"Mythically," Carr state, "the state's attorney is one of the few positions in the criminal justice system that is directly elected by the people and therefore is responsible to the others and not to other elected officials. In reality the state's attorney is governed by the County Board through financial influence in the form of the County Board's budget." Reply to State's Attorney Study Commission's Questionnaire, July 24, 1974, pp. 6 and 9. See also Appendix 3: Schedule of Reimbursement for State's Attorneys and Assistants, Fiscal Year 1974.

9 Minutes, March 21, 1974, p. 9.

not just some people. The argument is that it is more reasonable that all the people bear the costs rather than having some of the people bear disproportionate costs or receive greater or lesser justice based only upon the happenstance of the county of their residence. A poor county may have a high crime rate but a low tax base, thus being unable to support the prosecutorial staff needed to properly fight all the crime in their area.

Besides salaries, it should be noted that there are other conditions of employment which are not satisfactory to prosecutors. It was suggested to the Commission, for instance, that a state's attorney's pension plan should be established as a means of providing security to both state's attorneys and assistant state's attorneys.[10] The objective here would be to guarantee that prosecutors will be assured of receiving a certain percentage of their former salaries, thereby inducing some to remain in prosecution for their whole legal career.

There is one final element of this discussion of financial concerns in working conditions which bears consideration: that of tenure and employment security for both chief and assistant.

The state's attorney himself must always worry about losing the next election; the assistants must worry about their political allies losing the next election. As Paul Welch said on the problem of losing his assistants: "There is no way they can look to the future and find security. In private practice, of course, they do. Hence, we are losing a great deal to other fields, including the federal area where security is assured."[11]

Thus, prosecutors are always so aware that the next election may put them back in the job market that they are already thinking of their next employment when they become prosecutors.

10 Minutes, March 21, 1974, p. 9.
11 Minutes, February 14, 1974, p. 13.

The A.B.A. Study comments on the tenure of both chief prosecutors and their assistants. Noting the division of opinion of chief prosecutors,[12] it still suggests the possibility of having the prosecutor run on his record without opposition, on retention like Illinois judges now do.[13] Other possibilities for consideration include merit appointment by the Governor with advice and consent by the State Senate, a procedure similar to the federal system, or a system of review by the local bar for competence. Each has advantages and disadvantages; however, if careerism is to be a factor to be encouraged, a system maximizing uncertainty (whatever be our other democratic values) cannot be looked at completely favorably.

The A.B.A. Project, as do other studies, also emphasizes the need for some sort of merit or civil service system for assistant prosecutors.[14] It is generally considered detrimental to have assistants wondering how long their employment will last or where they might end up next. Such a phenomenon means that more time is spent thinking of where to head for some security than in developing the skills needed for prosecution. If prosecution is looked on by the traveler as only a temporary stop on a long journey, he is not going to master the geography of the place.

JOB SATISFACTION

The state's attorneys who offered testimony or comments to the Commission indicated that there were some serious problems with job satisfaction and a professional orientation due to other working conditions than salary. The primary one mentioned seemed to be the great variation in workload throughout Illinois. (See Appendix 3 for a comparison of various counties.)

State's attorneys and assistants in small counties have such a small

12 A.B.A. Project, Commentary to Standard 2.3.
13 1970 Ill. Const., Art. VI, sec. 12.
14 A.B.A. Project, Commentary to Standard 2.3.

and routine caseload that prosecutors find few opportunities for the kind of professional challenges and experiences which are likely to encourage prosecutors to think in terms of a long range commitment. A great deal of the prosecutor's work in small counties involves the fairly uninteresting and unrewarding task of adjusting marital disputes, doing civil work for the County Board, or taking guilty pleas in ordinance or traffic violations.

In the larger counties, the handling of major felonies and substantial misdemeanor trial work is greater and the opportunities for professional growth and rewards are greater. However, prosecutors in the larger counties told the Commission that their workload is unmanageably heavy and a large portion of it consists of traffic and ordinance violations which prevents the allocation of time and resources to the significant criminal cases which deserve it.

Many of the prosecutors in both large and small counties who made their views known to the Commission suggested that it is difficult, if not impossible, to develop a career orientation or even long-term commitments from state's attorneys or assistants when they feel forced to do less than a totally professional job because of time and workload constraints largely caused by the press of minor matters.

The A.B.A. pointed out the following in its commentary to its standards: "There has been increasing recognition of the desirability of transferring drunkenness offenses, minor traffic offenses and other similar matters out of the traditional criminal processes and into some form of administrative process. Thus, the American Law Institute's Model Penal Code recommends the creation of a category of 'violation' below that of misdemeanors and not subject to either the consequences or the procedures of criminal law.....Even where this has not yet been done, such matters often

can be prosecuted without the aid of a professional public prosecutor."[15]

The prosecution of a traffic offense was viewed as an especially negative factor in encouraging career conceptualization. It was suggested that traffic cases be handled either by the municipal attorney or through some administrative procedure by the Secretary of State.[16]

Chairman Palmer asked the Winnebago County State's Attorney if any authority has been given in the Rockford area for the local authorities to prosecute traffic offenses with the consent of the state's attorney. Mr. Reinhard replied that he already had that authority but didn't feel it would help as the city attorney did not need to accept the responsbility but could decline it.[17]

In any determination of the proper reorganization of the prosecution function in Illinois, there should be a consideration of how to eliminate the criminal prosecutor's responsibility for traffic offenses. Whether the prosecutor of Illinois can be a county state's attorney, a district attorney, or a circuit attorney, he should be a prosecutor of criminal cases and develop his expertise in that area.

There are other factors than workload which influence the professional attitude of prosecutors. These relate to supportive services and facilties. The National Advisory Commission on Criminal Justice Standards and Goals noted that prosecutors' offices should have supporting staff and facilities comparable to private law firms.[18] Personnel should be available -- such as paralegals -- so that prosecutors don't have to spend scarce time in tasks not requiring their expertise.[19]

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15 A.B.A. Project, Standard 2.1, p. 50.
16 Minutes, January 21, 1974, p. 22.
17 Minutes, January 21, 1974, p. 22.
18 National Advisory Commission, Standard 12.3.
19 Ibid.

The difficulty in financing such services was noted by State's Attorney Reinhard of Winnebago County. "Our county is fairly well fixed financially, but all counties are now operating under the strain of the new Constitution where they took away the 3% that was being used as a collector's fee, and quite frankly, I have a difficult time in obtaining the money to keep up the salaries of my personnel and supportive services throughout the office."[20]

Job satisfaction is related to one's capability to get involved in one's work in sufficient depth and breadth, to have time to develop one's skills and the time to apply them to each challenge faced. The overly heavy workload and the lack of supportive staff limits the development of professionalism. It was a frequent statement to the Commission that continuing legal education be permanently funded. The Illinois Law Enforcement Commission for several years has been financing a training operation through the State's Attorneys' Association. The "seed-money" grant terminates this year. A bill to set up a permanent State's Attorney's Advisory Council, whose primary function would be training, is being considered by the Illinois House at this writing.[21]

One last factor to be mentioned in office organization which some feel might encourage a more professional self-conceptualization is the ability to do appeals within the office. Presently, the State's Attorney's Association has an I.L.E.C. grant of several more years duration to provide appellate services to various state's attorneys. The Attorney General also provides some appellate services.

But most county state's attorneys do not do their own appeals. Some of these prosecutors wish to handle cases from beginning to final disposition, even through all stages of appeals. Appellate procedures not only serve to enhance an attorney's perception of his job, but such activities serve as a valuable educational tool enhancing the competency of all attorneys involved.

Phil Reinhard of Winnebago County noted that, if he had the personnel, he would like to have his own man doing the appeals, because he would be working in the local office. A man with appellate experience, he noted, could help attorneys at the trial level, as well.[22]

FULL TIME PROSECUTORS

Another factor limiting the development of professionalism -- a consequence of the size and financial base of the county -- is the part-time prosecutor. There are presently 102 individually elected state's attorneys in Illinois. The vast majority of that number need not legally devote their entire working time to state's attorneys function. Only if he is serving a county with a population of more than 80,000 is the state's attorney expressly prohibited from engaging in any private practice.[23] Thus, of the 102 state's attorneys in Illinois, only 19 are legally required to be full-time prosecutors.

Of course, there are other individual state's attorneys who do spend full time at their professions, even if not required to do so.

All studies emphasize that the chief prosecutor and at least his top assistants should be full-time.[24] In its commentary, the A.B.A. noted that many undesirable problems arise from the lack of spending full time on the job: "Apart from the problem of conflict of interests which raises ethical

20 Minutes, January 21, 1974, p. 22.
21 House Bill 2477 (79th General Assembly, 1975).

22 Minutes, January 21, 1974, p. 23.
23 Ill. Rev. Stat., Ch. 53, sec. 17.
24 A.B.A. Project, Standard 2.3(b), pp. 57-8; Nat. Adv. Comm., Courts, Standard 12.2.

problems there is a great risk that the part-time prosecutor will not give sufficient energy and attention to his official duties. Since his salary is a fixed amount, and his total earnings depend on what he can derive from his private practice, there is a continuing temptation to give priority to private clients."[25]

Issues as to full-time prosecution inevitably relate to other factors discussed here, such as workload and financing. The problem also relates quite clearly to the size of the jurisdiction of the prosecutor: Is it large enough to require full time services yet small enough to give him a reasonable workload?

The geographical factor must be kept in mind as perhaps the most critical element in encouraging professionalism in prosecution. But the final system must discourage any division of professional interests, attention to complete development of prosecutorial skill being mandatory.

ILEC SUPPORT PROGRAM FOR STATE'S ATTORNEYS WITH FEDERAL FUNDS

The Illinois State's Attorneys Association is a not-for-profit corporation comprised of the 102 elected State's Attorneys. Prior to September of 1970 the Association had been mainly a social organization that met twice yearly for a conference which consisted of an educational program combined with social activities.

Since 1970 a number of "Supportive Services" have been provided State's Attorneys under a Federal funding program directed by the Illinois Law Enforcement Commission (ILEC) and administered by the Illinois State's Attorneys Association. The program is an outgrowth of the Omnibus Crime Control of Safe Streets Act of 1968 and is commonly known as the Model Circuit State's Attorneys Office.

25 A.B.A. Project, Comments to Standard 2.3.

When funds totaling $1,665,000 were made available to the Association in 1970 the executive committee and members established offices in different areas of the state designed to provide support services to state's attorneys on three levels: (1) investigative; (2) trial assistance; and (3) appellate assistance. In addition the project provides a training program for state's attorneys and their assistants.

Although the project covered a three year grant program, requests were filed requesting specific funds to continue as an active agency during the current 1974-75 fiscal year.

A substantial portion of the funds have been allocated to Cook County with the balance districuted for assistance to downstate counties. Totals allocated thus far have been $1,006,655 for 1970-71, $1,915,600 for 1972-73, $2,001,754 for 1973-74, and unknown for 1974-75.

Cook County is operating separately in the current fiscal period and has filed a formal request for $1.9 million. In that county the project created a staff of 90 persons, including 39 assistant state's attorneys.

Offices have been established in Elgin serving thirteen counties in the Second Appellate District, in Bloomington serving five counties in the Eleventh Judicial Circuit, and a third office in Cairo serving five of the smaller counties in that area -- Union, Alexander, Massac, Pulaski and Johnson.

The functions of attorneys paid by project funds were directed initially by the Cook County State's Attorney. In Elgin, the office concentrated on appellate services and in writing appellate briefs not only for prosecutors located within the judicial district, but for others throughout the state on an emergency basis.

The office in Bloomington has concentrated primarily on trial assist-

ance, doing appellate work only on a limited basis, and only on request from the Elgin office when it has an overflow of cases.

Both investigative and trial assistance have been provided in the Cairo office because of a lack of adequate police facilities in that section of the state.

The association formulates policy and makes a determination of how funds are spent under direction of a managing board comprised of eight incumbent state's attorneys. In addition the board includes the Director of the Illinois Law Enforcement Commission and the President of the Association.

At the administrative level, the board selected an executive director and the latter has hired key attorneys and staff assistants for the project.

In testimony presented to the Commission, officials of the Association said the need for staffing different offices was determined by the managing board and at the request of the state's attorneys in each area.

Other facts offered in testimony include concern about experienced personnel and a high turnover in state offices.

The executive director termed the appellate assistance office a successful venture and indicated the association had urged ILEC to provide sufficient funds in the current fiscal year to establish a system of retional offices in each appellate district devoted exclusively to the handling of appeals for state's attorneys but with the capability of offering some assistance at the trial level in serious cases.

During the course of Commission hearings many members noted that federally funded projects offering some form of assistance to local or state governments usually terminate at some unpredictable time, and as a result

the program is halted abruptly unless a specific program or project gains support thereafter to pay for its continuance from non-federal sources.

It is evident from the record that a cutback in federal funds has been made in the 1974-75 request. For instance, in the prosecutorial assistance program the association sought $360,000 and received $270,000; it also requested $800,000 for statewide appellate services providing for an Appellate Court brief writing service with a principal attorney located in each of the four Appellate Court Districts outside of Cook County, and received $515,000.

Funds requested for two other components of the project -- trial strike for capability and other prosecutorial programs -- for expenditures of $200,000 each, were disallowed. Thus, the total request of the 1974-75 prosecutorial assistance program, separate requests for and in behalf of Cook County, were reduced from $1,560,000 to $585,000.

Funds for the Illinois State's Attorneys Association executive office which administers the training aspect of the grants will expire in 1975 and no further federal assistance is expected.

Legislation designed to appropriate sufficient state funds for this purpose is expected to be passed by the General Assembly (House Bill 2477.)

Funds for the statewide Prosecutors' Appellate Assistance Service supplied by ILEC grants will expire within a few years.

The reports of the Illinois State's Attorneys Association filed with the Commission are set forth in the Appendices 4 and 5.

Thus federal grants now funding training and appellate assistance services will necessarily have to be funded on the state and/or local level within the near future in order to encourage professionalism in the office.

THE CRESAP REPORT -- A MANAGEMENT STUDY FOR STRENGTHENING OF THE ILLINOIS STATE'S ATTORNEYS' OFFICE

At the request of the Illinois State's Attorneys Association, a comprehensive study of the office covering 13 counties was undertaken and completed in December 1972 by Cresap, McCormick and Paget, Inc. (CMP), a Washington based management consultant firm.[1]

The offices studied were selected on the basis of size, location, county population and unique crime characteristics of their respective jurisdiction.[2]

The Cook County State's Attorney's Office, while not a subject of the initial study, was the basis of a separate project "because of its unique position in the state." Subsequently, Phase I of that report was submitted on April 1, 1974.[3]

The Commission has not had sufficient time to study the report of Phase I of CRESAP relative to the Cook County State's Attorney's Office and no commentary will be made thereon.

Some of the overall objectives outlined in the downstate CRESAP report explored by this Commission, i.e., the identification of day-to-day problems confronting prosecutors, shortcomings and weaknesses in the prosecutorial processes and possible ways to achieve needed improvements.

Some of the basic conclusions complement or support a portion of replies received by the Commission in its questionnaire dispatched to incum-

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1 Strengthening State's Attorneys Offices in Illinois, A Report of a Management Improvement Project for the Illinois State's Attorneys Association (December 1972), Cresap, McCormick & Paget, Inc., Washington, D.C. Counties included in the study were: Adams, Bond, Cass, Edgar, Jackson, Lake, Madison, McLean, Peoria, Sangamon, Stephenson and Winnebago.

2 Letter of Transmittal to Members of the Illinois General Assembly (Febuary 1, 1973), Robert N. Hutchison, Executive Director, Illinois State's Attorneys Association.

3 CRESAP Project for the Cook County State's Attorney's Office, Phase I; submitted to State's Attorney Bernard Carey, April 1, 1974.

bent state's attorneys or otherwise by testimony given to the Commission that:

1) State's attorneys' offices in Illinois are generally understaffed and underpaid.

2) Substantial financial support from the State is needed in funding prosecutorial functions.

3) Centralized supportive services are needed.

4) Career opportunities for prosecuting attorneys with provisions for job security and retirement are needed.

5) Greater understanding of the prosecutorial functions by the public is needed.[4]

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4 Strengthening State's Attorneys' Offices in Illinois, supra.

CHAPTER III

THE STRUCTURE AND COSTS OF THE PROSECUTORIAL SYSTEM AND CONSOLIDATION

Chapter II on Encouraging Professionalism and Career Orientation indicated that there are difficulties in the Office of State's Attorney in part because of the inability of the counties to properly finance modern prosecutorial services, because of the variance in workload, because prosecutors are forced to spend scarce time on civil or minor "criminal" matters, and because many state's attorneys are not full time prosecutors.

One of the key variables in the solution to the problem is the determination of the geographical unit which the chief prosecutor will serve.

The issues are to define a unit which will, among other things:

a) allow him to be a full time prosecutor not engaging in any private practice;

b) give him a reasonable workload; and

c) allow proper financing for the functions of his office.

Of course, this is not the only factor to be considered. The source of financing -- additional state or county funds -- is a related but separate issue.

But one clear issue is: To maximize professionalism and efficiency, what geographical unit or general arrangement is most desirable?

In future decades, the overall criminal justice knowledge of the prosecutor will be required to be broadened. As the criminal justice system becomes more conscious of studying, and perhaps developing alternatives to, the traditional sanctions of prisons, limited supervisory probation, and fines, the discretion and the role of the prosecutor becomes even more important. Deferred prosecution, drug dependency counseling, the availability

of social service resources in his area, and the welfare of the defendant's family are becoming key factors in prosecutorial strategy. The prosecutor must be increasingly aware of and help develop the resources of other elements of the criminal justice system.

Such knowledge requires, as we noted, full time dedication to the duties and principles of a developing and expanding criminal justice system. Hence, there may not be enough time for the state's attorney to handle civil work or minor traffic offenses, misdemeanors and local ordinance offenses. The prosecutor, we must assume, should be a prosecutor. This discussion assumes that the prosecutor will not have to handle civil matters and that the workload in traffic and municipal ordinance work will be transferred.[1]

COMPARISON WITH OTHER STATES

If we take a look at other states for insight into possible alternatives, we are most concerned with the area served and the manner selected.

The following table is useful:[2]

(Table follows on next page)

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1 A 1973 national survey of local prosecutors showed the median time spent by a prosecutor on criminal matters was 75% of his work week, with 10% the median time spent on civil matters, 10% for administration, and 5% on miscellaneous matters. National Association of Attorneys General, Survey of Local Prosecutors, 54-7 (1973).

Statements to the Commission in questionnaires sent out or gratuitous comments indicated frustration at the amount of civil work done. Dale Allison, State's Attorney of Wabash County, noted in a letter to the Commission, dated August 12, 1974: "I for one, did not realize when I ran for the Office of State's Attorney the amount of county advice and non-prosecutorial work that was involved in the Office of State's Attorney." He goes on to relate the workload created by county board meetings, filing suits against delinquent taxpayers, mediating contract disputes, preparing a zoning ordinance.

The job of giving advice to the county should be a county function.

2 Nat'l Ass'n of Attys Gen'l, The Prosecution Function: Local Prosecutors and the Attorney General, 2-3 (1974).

LOCAL PROSECUTORS WITH CRIMINAL JURISDICTION

State	Title	Area	No. of Units	How Selected	Term (Years)
Alabama	District Attorney	Judicial District	37	Elected	4
Alaska	(No Local Prosecutor)	(N.A.)	(N.A.)	(N.A.)	(N.A.)
Arizona	County Attorney	County	14	Elected	4
Arkansas	District Prosecuting Attorney	Judicial District	19	Elected	2
California	District Attorney	County	58	Elected	4
Colorado	District Attorney	Judicial District	22	Elected	4
Connecticut	State's Attorney - Chief State's Attorney	County	8 1	Chief State's Attorney	4
Delaware	(No Local Prosecutor)	(N.A.)	(N.A.)	(N.A.)	(N.A.)
Florida	State Attorney	Judicial District	20	Elected	4
Georgia	State Attorney	Judicial District	43	Elected	4
Guam	(No Local Prosecutor)	(N.A.)	(N.A.)	Elected	4
Hawaii	County or City Atty	County	4	Elected or Appointed	4
Idaho	Prosecuting Attorney	County	44	Elected	2
Illinois	State Attorney	County	102	Elected	4
Indiana	Prosecuting Attorney	Judicial District	87	Elected	4
Iowa	County Attorney	County	99	Elected	2
Kansas	County Attorney	County	105	Elected	2
Kentucky	County Atty Commonwealth Atty	County District	120 51	Elected Elected	4 6
Louisiana	District Attorney	Judicial District	34	Elected	6
Maine	County Attorney	County	16	Elected	2
Maryland	State Attorney	County and State	24	Elected	4
Massachusetts	State Attorney	Judicial District	9	Elected	4
Michigan	Prosecuting Attorney	County	81	Elected	4

State	Title	Area	No. of Units	How Selected	Term (Years)
Minnesota	County Attorney	County	87	Elected	4
Mississippi	District Atty County Prosecuting Atty	County	20	Elected	4
Missouri	Prosecuting Attorney	County	115	Elected	2
Montana	County Attorney	County	54	Elected	4
Nebraska	County Attorney	County	93	Elected	4
Nevada	District Attorney	County	17	Elected	4
New Hampshire	District Attorney	County	10	Elected	2
New Jersey	County Prosecutor	County	21	Governor with consent of Senate	5
New Mexico	District Attorney	Judicial District	13	Elected	4
New York	District Attorney	County	62	Elected	3
North Carolina	District Attorney	District	30	Elected	4
North Dakota	State Attorney	County	53	Elected	4
Ohio	Prosecuting Attorney	County	88	Elected	4
Oklahoma	District Attorney	District	27	Elected	4
Oregon	District Attorney	County	36	Elected	4
Pennsylvania	District Attorney	County	67	Elected	4
Puerto Rico	District Attorney	Judicial District		Governor	
Rhode Island	(No Local Prosecutor)	(N.A.)	(N.A.)	(N.A.)	(N.A.)
Samoa	(No Local Prosecutor)	(N.A.)	(N.A.)	(N.A.)	(N.A.)
South Carolina	Solicitor	Judicial District	16	Elected	4
South Dakota	State Attorney	County	67	Elected	2
Tennesse	District Atty General	Judicial District	26	Elected	8
Texas	State Atty District Atty	County District	222 91	Elected Elected	4 4
Utah	County Attorney	County	29	Elected	4
Vermont	State Attorney	County	14	Elected	2
Virgin Islands	Assistant Atty General	Virgin Islands		Attorney General	Indef.

State	Title	Area	No. of Units	How Selected	Term (Years)
Virginia	Commonwealth Attorney	County or City	122	Elected	4
Washington	Prosecuting Attorney	County	39	Elected	4
West Virginia	Prosecuting Attorney	County	55	Elected	4
Wisconsin	District Attorney	County	72	Elected	2
Wyoming	County & Prosecuting Atty	County	23	Elected	4

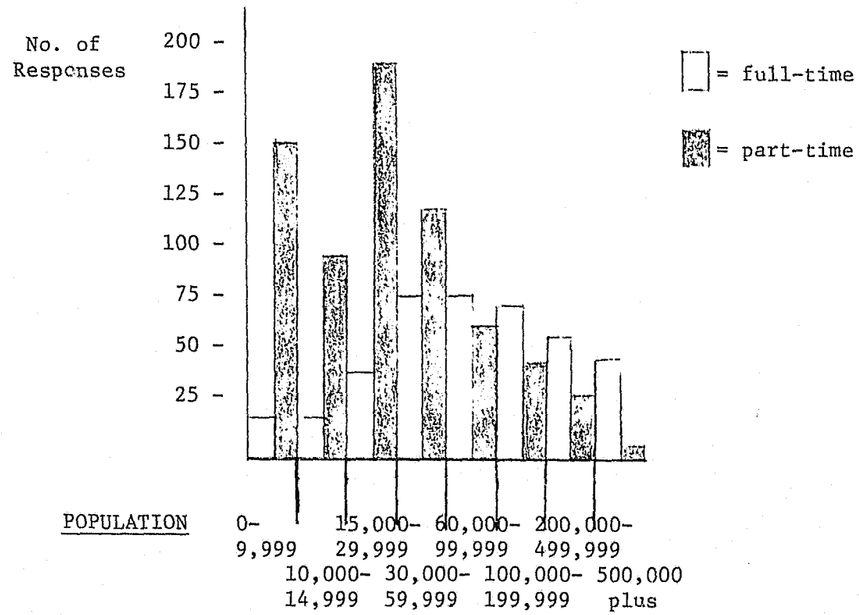
The county is obviously the most common prosecutorial unit, although this does not justify its use as such. Of the 48 jurisdictions which have local prosecutors, 31 have county prosecutorial units, thirteen have districts (including the following states which are comparable to Illinois outside of Cook County: Florida, Georgia, Massachusetts, Tennessee and Louisiana), and four have some combination of the two (notably Texas, with about the same population as Illinois and with counties of even smaller population than Illinois: 222 county prosecutors and 91 district attorneys). The 1974 Report of the National Association of Attorneys General noted that, over the whole country, 62% of the prosecutors serve county jurisdictions, 13% serve districts, and 25% serve in some combination system.[3] It is to be noted, however, that county prosecutors perform civil functions which district prosecutors usually will not.

In its comparison of the various states, the report notes that the National Association of Attorneys General recommends that, to encourage full time prosecution, "(l)ocal prosecutorial services should be organized in districts sufficiently large to require full time prosecutors with adequate staff."[4] It noted, however, that most of the nation's prosecutors serve

3 Ibid., 8.
4 Ibid. There is certainly a correlation between the population served and

relatively small populations, the median served by county prosecutors being between 20,000 and 30,000.[5] District prosecutors serve areas with a median population of 60,000 to 100,000.[6] Only 22% of all prosecutors held office in densely populated areas of over 100,000.[7]

The standard for full time prosecutors, as we noted, is generally favored. However, few prosecutors around the country serve as such. The majority, some 65%, are only part time; and these serve a median of 26 hours per week.[8] Where the population is over 60,000 people, the majority of prosecutors are full time, more so as the population figure increases. The Attorney General's 1974 Report obtained the following results:[9]



salary earned per hour. The Attorney General's study noted that a prosecutor serving an area of between 30,000 and 45,000 people earns between $8 and $10 per hour, while the salary per hour of a prosecutor in an area between 60,000 and 100,000 is in the $10 to $25 bracket.
5 Ibid.
6 Ibid.
7 Ibid.
8 Ibid.
9 Ibid., 9.

The figures indicate the Illinois statutory county requirement[10] of 80,000 population is within reasonable limits for requiring a full time state's attorney based on the 1974 National Association of Attorneys General Report, supra.

THE COST OF THE PROSECUTORIAL FUNCTION IN ILLINOIS

The Commission obtained the following figures on the moneys appropriated and granted to the offices of state's attorneys for the year 1974. The amount includes salaries for state's attorneys, assistants, secretarial and other operating costs. The amounts also include supplemental payments by the State to the various county boards and ILEC grants for training and prosecutorial services hereinbefore discussed.

It should be noted that the appropriation year for most counties is not the same as the calendar year and some allowance should be made for this factor.

It is also assumed that the amount appropriated is the amount spent for the purposes of this study by reason of the difficulty in obtaining actual expenditures by counties.

In 1974, with the above qualifications, the cost was $20,555,716: see Appendix 7 for a breakdown on the figures.

County appropriations	$16,299,245
State salary reimbursement	1,477,387
ILEC grants:	
Downstate	1,061,704
Cook County State's Atty	1,717,380
Total:	$20,555,716

State Salary Supplement to state's attorneys include $12,000 paid annually to each county in the State for the salary of the state's attorney as well as additional compensation paid to each county for the services of an

10 Ill. Rev. Stat., Ch. 53, sec. 17 (1973).

assistant state's attorney(s) where a state university, state penal institution or state mental health institution is located.[11] (See Appendix 8.) Illinois Law Enforcement Commission grants include training and prosecutorial services to the Illinois State's Attorneys Association in the amount of $876,704 for its Model State's Attorney Project; $115,000 for the 1st Judicial Circuit (Cairo, Ill.), and $70,000 for miscellaneous projects. The Cook County State's Attorney grant was for a number of purposes concerning the operation of that office.

Appendix 9 sets out costs of the counties within the various judicial circuits within the State.

Inasmuch as the state's attorney's duties include civil and administrative duties, the figures are imprecise as to the cost of the prosecutorial function. However, using the yardstick set forth by the National Association of Attorney Generals (see footnote 1 of this chapter) on a time and dollar basis, it is reasonable to assume that 75% of the dollars set forth in the total amount of costs by the Office of State's Attorney in Illinois would be the costs of the prosecutorial service.

The total cost of the prosecutorial function in Illinois would have to include the costs expended by 1,252 municipal attorneys in prosecuting traffic, misdemeanor and ordinance violations. This figure is unavailable.

The total cost would have to also include the prosecutorial functions costs of the Attorney General in the limited area that this office has original jurisdiction with the state's attorney. This figure is likewise unavailable.

Salaries of states attorneys vary in Illinois depending upon population factors and volume of prosecutions, civil, administrative and other

11 Ill. Rev. Stat., Ch. 53, sec.6 (1973).

duties of the office. In counties of less than 20,000 population, the salary range including the state reimbursement is a minimum of $20,000 and a maximum of $27,000 per annum; in counties of less than 80,000 population but more than 20,000, the salary range is from $22,000 to a maximum of $27,000. In counties over 80,000 population, the salary is $32,000 per annum. In Cook County, the salary of the state's attorney is $42,500 per annum.

In the urban counties with rapid population growth, the state's attorneys regularly exert pressure on the county boards for additional financial support to hire extra assistants and augment secretarial and investigative staffs. In expanding urban areas, litigation increases in direct proportion to construction of additional apartment complexes, condominiums and other dwelling units as well as shopping centers, schools and commercial establishments.

Read as a whole, the picture reflects in urban areas and counties, more arrests, arraignments, grand jury sessions, preliminary hearings, plea bargaining and trials. The net result is now and will continue to be an increasing workload on the prosecutorial function of the state's attorney's office with a higher cost factor not only for the office of state's attorney, but for courtrooms, judges, clerks, bailiffs and supportive personnel necessary in the criminal justice field.

THE PRESENT SYSTEM AND POSSIBLE ALTERNATIVE FORMS OF CONSOLIDATION

I. ILLINOIS TODAY AND THE ILLINOIS STATE'S ATTORNEY

As we know, Illinois today has a system of county prosecutors. There are 102 counties and 102 State's Attorneys.

What are the principal arguments for retaining the county structure? The main ones heard by the Commission are:

1) The county is near the people and its state's attorney is aware of local conditions, including local court and law enforcement personnel; and is responsive to local opinion.

2) The county, being a small unit geographically, is easy to travel through and does not require a prosecutor to waste time in getting around.

3) The state's attorney is concerned with the legal welfare of his county.

State's Attorney Rudman of Will County stated the typical opinion on closeness to the county: "I think the prosecutor has more connection with the county and knows what is happening...he has a pulse on what is going on...this would be different with a prosecutor coming from outside or having been appointed a deputy...the District Attorney handling three or four counties is primarily going to be an administrator."[12]

On the efficiency of operations due to travel, State's Attorney Hoogasian of Lake County told the Commission: "If you had a circuit attorney covering three counties, for instance, who had to travel in an area...more than 2,000 miles geographically in his district, and the distance from each county seat would be roughly 45 miles (you have to go 45 miles each way to find a traffic light in my area)...even with a light caseload, that would be physically impossible for one man, to travel, prepare his cases adequately, maintain his court docket with a variety of judges who may or may not be in the same circuit, and who may or may not be sympathetic to the other man's problems and to do justice to the job..."[13]

Thus, the arguments for the county system are efficiency and ties to the locality. In fact, one can reasonably argue that neither is necessarily defeated by a larger geographical system. The chief prosecutor and his

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12 Minutes, March 21, 1974, p. 7.
13 Minutes, March 21, 1974, p. 13.

assistants can be located strategically in place and time; and if their workload is reasonable, they can still get to know judicial and law enforcement personnel. As to travel, the chief prosecutor can administratively set up his schedule to minimize travel or effectively place his assistants to both properly cover all areas consonant with an efficient use of time. This is an administrative problem which one can argue is solvable as easily on the multi-county or district level, given the proper staff. In fact, the proper administration might allow for better use of time and of full time assistant prosecutors in whatever multi-county system might be adopted.

Generally, it is well to remember in evaluating the arguments on both sides that only 19 state's attorneys are required to be full time in Illinois. Nineteen full time state's attorneys does not necessarily provide evidence of maximum efficiency through county prosecutors. Much of the time of the 83 other state's attorneys is spent in private practice.

It would seem more efficient to pay a fewer number of people to handle all criminal prosecutions in a few counties as the need in those several counties arises. The efficiency to be obtained by a full time criminal prosecutor with a reasonable but full criminal workload would seem to militate against the county system.

II. STATE COORDINATION OF PROSECUTION OR STATE SUPPORTIVE SERVICES

Should the prosecutorial services, to maximize professionalism and efficiency, be coordinated on the state level by the Attorney General?

Presently, the Attorney General is to "consult with and advise the several state's attorneys in matters relating to the duties of their office; and when, in his judgment, the interest of the people of the State requires it, he shall attend the trial of any party accused of crime and assist in the prosecution."[14]

14 Ill. Rev. Stat., Ch. 14, sec. 4 (Fourth) (1973).

The Attorney General today does not coordinate or control local prosecution policy; the state's attorneys are independently elected and exclusively in charge. The Attorney General investigates and participates in criminal prosecutions only as noted above.

The Attorney General also handles some appeals on request of the state's attorney in the Appellate Courts; however, he is required to be the attorney presenting the argument to the Illinois Supreme Court.[15]

It has been suggested by some that the Attorney General control all state prosecutions to coordinate prosecution policies but, more importantly, efficiently handle all prosecution duties and personnel.

In three states, the Attorney General is responsible for initiating all prosecutions -- Rhode Island, Delaware, and Alaska. It is to be noted, however, that these are all small states in terms of population and Rhode Island and Delaware are quite small area-wise.

The President's Crime Commission Task Force Report on the Courts came out quite firmly against state-wide centralizatlion of prosecutorial services.[16] And the State's Attorney Study Commission found no support for this position in its testimony. It is believed that although state-wide centralization of all prosecutorial services, in the Attorney General would be a benefit in an efficient use of time, it is quite generally felt that, in a large population state, like Illinois, efficiency would be lost with state-wide coordination. The size of the operation would create too many layers with people at the top being unfamiliar with people below or with docket problems.

Thus, actual state-wide control of operations is unnecessary. However, the offering of special services by a state agency might not be. It was

15 Ill. Rev. Stat., Ch. 14, sec. 4 (First) (1973).
16 President's Commission on Law Enforcement and the Administration of Justice, p. 149 (1967).

often argued that, whether there was any change in structure, some state agency might be developed to provide training, more complete special trial assistance or appellate services, information on prosecutorial responsibilities and the latest in criminal law, crime laboratories, and information on other aspects of the criminal justice system (e.g., probation services or deferred prosecution programs).

Presently, the Illinois State's Attorneys Association provides some of these services, as discussed in Chapter II.

The Commission found general support for increased state participation in training and providing other prosecutorial services.[17]

Training programs are being sponsored in 43 states, some by the Attorneys General and some by a prosecutor's association such as the Illinois State's Attorneys Association.[18] Fifteen states assist prosecutors in attending sessions by reimbursing them for expenses.[19]

In any case, the Commission generally received strong endorsement for some sort of state-supported services to any prosecutorial system.

III. CONSOLIDATION: THE MULTI-COUNTY APPROACH

One idea favored for increasing efficient yet professional prosecution offices is to let the counties decide freely to join in multi-county state's attorneys' offices.

The Illinois Constitution allows counties to join together in multi-county state's attorneys' offices. As hereinafter discussed many state's attorneys favored the multi-county approach to consolidation.

The Illinois Constitution allows counties to join together in multi-

17 Besides numerous statements to the Commission on providing such services, see also Nat'l Ass'n of Attys Gen'l, supra note 2, pp. 12-20, in which the Association for State Attorneys General supports some sort of centralized services operation.

18 Ibid., 18.

19 Ibid., 18. See also Nat'l Adv. Comm'n, Standard 12.4, p. 237 (1973).

county units. It reads: "One state's attorney may be elected to serve two or more counties if the governing boards of such counties so provide and a majority of the electors of each county voting on the issues approve."[20] Both county boards and citizens are to approve. The Illinois General Assembly in 1972 implemented this constitutional provision legislatively to require a majority of those voting in the joing election for state's attorney to select the winner.[21]

20 1970 Ill. Const., Art. VI, sec. 19 (1970).

21 Ill. Rev. Stat., Ch. 14, sec. 21 (1973), provides for citizen approval of the resolutions to go to a multi-county system. Ill. Rev. Stat., Ch. 14, sec. 22 and Ch. 46, sec. 22-7, provide for the selection of the state's attorney, the latter provision stating that a majority of those voting is required for election.

It should be noted that if the chief prosecutor is elected, some care must be taken in developing or choosing the electoral system. Chairman Palmer noted that it was possible that a specific electoral system might violate the "one man-one vote"doctrine. Minutes, July 15, 1974, p. 47. It is not the question of each district having to be the same size, since the prosecutor is to serve solely that district; the issue is the appropriate treatment of votes within the consolidated area which might cause problems.

The general principle on the equal treatment of votes may be found in Hadley v. Junior College District of Metro. Kansas City, Mo., 397 U.S. 50 at 56-7, 90 S. Ct. 791 at 795 (1970), in which the United States Supreme Court stated: "We therefore hold today that as a general rule, whenever a state or local government decides to select persons by popular election to perform governmental functions, the Equal Protection Clause of the Fourteenth Amendment requires that each qualified voter must be given an equal opportunity to participate in that election, and where members of an elected body are chosen from separate districts, each district must be established on a basis that will insure, as far as is practicable, that equal numbers of voters can vote for proportionately equal numbers of officials."

The multi-county system presently meets this test, as each vote is treated as any other throughout the multi-county area.

If Illinois goes to a district or circuit approach, the voting similarly will have to be over the entire area. It was suggested that a majority of counties might be required for election of the state's attorney. However, it can be easily shown that this would clearly be unconstitutional. Suppose there were 5 counties in a district or circuit, one with 30,000 people and the other 4 with 5,000 each. If all 4 of the smaller counties supported Candidate X, he would be elected even though the county not supporting him had more votes than the others put together. Thus, despite the dislike of some county officials, there can be no county boundaries affecting any multi-county system adopted.

Of course, it is almost unnecessary to point out that circuits or districts do not have to be of equal size, as long as each vote therein is

The advantages here are that counties themselves get to decide whether they value such a procedure. They can decide if they wish to have a full time prosecutor after answering such questions as: Does the workload warrant it? Do we want to give up our local prosecutor? Are we risking losing the closeness of the state's attorney to us?

The Commission's findings would seem to indicate that the target should be a combination to provide a caseload "sufficient to warrant at least one full time prosecutor and the supportive staff necessary to effectively prosecute."[22]

Disadvantages must exist or appear to exist, as no counties have chosen to go this route so far, perhaps fearing loss of county control or the failure to spend sufficient time in their counties or the need to hire an additional attorney for civil matters.

If the Commission's determination that professionalism in criminal prosecution and full time prosecutors are highly desirable values, how can the State encourage the use of procedures to establish multi-county units?

First, it could provide additional funding for such state's attorneys, perhaps jumping from the $12,000 portion of his salary to the full amount or at least a larger portion. In fact, the State has adopted this approach. The statutes provide that each county may receive toward its reimbursement, not simply a pro-rata percentage of the $12,000 from the State's share of the state's attorney's salary but <u>each</u> county may receive 75%, as long as the total paid to all the counties doesn't exceed the total salary of the state's attorney.[24] Obviously, this goes a long way toward

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treated equally. Also, state's attorneys are elected as individuals holding one office, (like city mayors) not as members of some collegial body like a legislature.

22 A.B.A. Project, Standard 2.2.

23 Ill. Rev. Stat., Ch. 14, sec. 23.

24 For discussion of electoral system, see note 22, supra.

picking up the entire salary when two counties could have $18,000 of one salary paid for.

Secondly, the State could provide additional funding where appropriate for additional assistant prosecutors, although this might be of no value where the workload does not warrant it.

Thirdly, the State might provide that only criminal functions are to be handled by the state's attorney but help subsidize additional civil assistance to counties to make up for their loss of counsel.

Fourthly, the state could provide special incentives for training or assistance from state agencies, perhaps special training scholarships.

IV. <u>CONSOLIDATION: THE DISTRICT OR CIRCUIT APPROACH</u>

The Commission feels that full time prosecution is desirable, but no counties so far have chosen to opt for the multi-county approach. Should the General Assembly take the initiative and move for a constitutional referendum on going to a larger unit -- a circuit system, a judicial district system, or some other form of district (not meaning one of the five appellate districts of this state)?[25]

If a circuit system was instituted, it would be based on the judicial circuit system now in effect in Illinois as a convenient geographical as well as an administrative prosecutorial circuit.

Pursuant to Article VI, section 7, of the 1970 Constitution of the State of Illinois, there are 21 judicial circuits including the County of Cook County (see Appendix 6).

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25 See, for example, testimony of State's Attorney Rice of St. Clair County, who stated: "I think the District Attorney concept would better serve the people...and the concept would further career professional prosecution. I think this is the national trend...I think the problem is that county government never really takes the problem seriously and they are always behind in what they need to do." Minutes, February 14, 1974, p. 4. See also submitted statement of State's Attorney Burgess of Champaign County, p. 3. See also response to questionnaire by State's Attorney Greanias of Macon

Based on the 1970 census figures, if the judicial circuits were used as a basis for a prosecutorial circuit, ther would be 20 downstate circuits which would vary in population from 170,717 in the 15th Judicial Circuit to 494,193 in the 19th Judicial Circuit. The population in the Cook County Judicial Circuit was 5,492,369. (See Appendix 7.)

Of 70 total replies by State's Attorneys, 24 favored multi-county consolidation; 9 favored the circuit concept; 2 favored circuit or multi-county consolidation; 3 favored district consolidation; 19 were opposed to any consolidation and 10 expressed no opinion or recommendation. Thus 41 state's attorneys favor some type of consolidation. It could be argued that the 10 state's attorneys that had no recommendation would also favor consolidation. It could also be argued that 32 state's attorneys not replying to the questionnaire sent by the Commission did not think the question of sufficient importance to reply and were therefore indifferent to the question of consolidation.

Only six State's Attorneys favored a referendum and then only to the multi-county concept.

The terms "circuit" and "district" attorney in the hearings were used interchangeably. However, the questionnaire used both terms. In any event, a geographical consolidation larger than a county was meant.[26]

If the Office of the State's Attorney is to cover an area larger than one county, the question of state financial incentives is extremely germane.

County in which he "would prefer any consolidation plan to be on a judicial circuit bases to coincide with the judicial system."

26 Ill. Rev. Stat., Ch. 37, sec. 72.1 (1973).

C H A P T E R IV

LEGAL ISSUES: EFFECT OF SOME LEGAL ISSUES ON THE OPERATIONS OF THE STATE'S ATTORNEY'S OFFICE --- GRAND JURY

Besides studying the structure and functions of the prosecutor's office in Illinois, the State's Attorney Study Commission has undertaken to study some facets of substantive and procedural law that bear directly on the workload and operations of the prosecutor's office in Illinois.

The Commission has asked witnesses their opinions on such questions, in fact holding one special meeting with its Advisory Council of law professors on the grand jury due to that issue's currency. The Commission has had its staff and members of the legislative staff doing legal and policy research in such prosecution-related problem areas as:

1) The charging process: including preliminary hearings and grand jury proceedings.
2) Speedy trial reform.
3) Plea bargaining.
4) The effect on the workload of the prosecutor's office of having to prosecute "victimless crimes" and the value of eliminating such offenses.

These and other similar issues will be studied and reports helpful to the General Assembly in its deliberations on issues related to the prosecution function should be forthcoming.

Final substantive and procedural law conclusions will be made in the future. However, as the issue of grand jury reform has been of great concern recently and a subject of General Assembly consideration, the Commission felt that it would be useful to offer this preliminary commentary on the grand jury, its use and problems, and its impact on the prosecution system.

Much of the material in this chapter is derived from the Commiaaion's March 17th meeting with its Advisory Council of law professors specifically on the grand jury.

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THE GRAND JURY IN ILLINOIS

During the last several years, the issue has been raised in the General Assembly as to whether to eliminate the grand jury in Illinois or to alter the system in some way, either because of speedy trial or civil libertarian concerns.

Presently, Illinois law provides that no person may be tried for a felony except upon grand jury involvement, unless the person has waived such a right.[1]

Unlike the 1870 Constitution, the 1970 Constitution allows more flexibility to the General Assembly in deciding in which cases and in what manner to use the grand jury. The 1870 basic law provided not only indictment by a grand jury was required but, curiously, permitted complete divestment of this constitutional right by the General Assembly. The provision read: "the grand jury may be abolished by law in all cases."[2]

It is not certain whether this meant that the grand jury had to be abolished in all cases or none or whether it meant that the indictment requirement could be eliminated in any case in which the General Assembly chose to eliminate it.

In any case, for purposes of clarification, Con-Con decided that the

1 1970 Illinois Constitution, Art. I, sec. 7; Ill. Rev. Stat., Ch. 38, sec. 111-2 (9) (1973).
2 1870 Illinois Constitution, Art. II, sec. 8.

new Constitution would be amended so that "(t)he General Assembly by law may abolish the grand jury or <u>further limit its use</u>."(emphasis added).[3]

Illinois' legislature, then, clearly has the constitutional authority to eliminate the grand jury or limit its use in any way it sees fit.

Whether to do so or not has been a recurring issue for over a hundred years, with many legislators apparently fearing that they would be removing, or at least appear to libertarian voters to be removing, a basic protection to accused citizens. It is only in recent years that sentiment has begun to swing in the opposite direction: that the grand jury is an impediment to basic liberties. Or that it is essentially useless as a protective device, either in its indictment or investigative aspects. Recent General Assemblies have seen legislation introduced to greatly revise the system.[4]

What Illinois should do is open to question: Eliminate the grand jury altogether? Eliminate the indictment requirement but retain an investigative grand jury to be called at the state's attorney's option? Require the indictment in a limited number of cases, such as serious violent felonies or sensitive official misconduct cases?

Related to these are the issues of how to reform or make fairer the remaining grand juries as alternative procedures which may be chosen, either as to potential defendants to be charged or to any witnesses called in the investigative stages of the proceedings.

It should not be thought that eliminating the grand jury altogether is a new idea. In England, where the institution had been born and lived a life

3 1970 Ill. Const., Art. I, sec. 7. Some Con-Con delegates argued that the Illinois Supreme Court in <u>People ex. rel. Latimer v. Randolph</u>, 13 Ill. 2d 552, 150 N.E. 2d 603 (1958) stated in dictum that the General Assembly already had the power to require a grand jury in a limited class of cases. VI Record of Proceedings, Sixth Ill. Constitutional Convention 39-41 (Dec. 8, 1969 - Sept. 3, 1970), hereinafter cited as Proceedings.
4 In the 78th General Assembly: House Bills 890, 2372, 2374, 2375, 2376, 2377. In the 79th General Assembly: House Bills 62, 63, 64, 65, 66, 541, 1444; Senate Bills 99, 100, 101, 286.

of approximately 800 years, the grand jury was abolished in 1933 in all cases except a limited category of public malfeasance cases.[5]

In the United States, about one half of our sister states have eliminated the general requirement of an indictment, although they retain it as an alternative method of charging at their prosecutor's discretion.[6] The other half of our states and the federal system[7] retain the requirement of an indictment.

Before evaluating the grand jury, we should understand its basic functions, which are two: indictment and investigation. The indictment function exists for the intended purpose of protecting the citizen from unwarranted prosecution; thus, it is supposed to act as a shield.[8] It also acts as the prosecutor's sword in his effort ("nominally the people's") to investigate suspicious conduct and to obtain information which is otherwise not available to him[9], especially important in major economic cases such as anti-trust cases or in investigating organized crime or political corruption.

In this discussion, we are concerned with the impact of the institution on the state's attorney's office. Does it help or hinder speedy trials by increasing his work load? Is it worth retaining for him for any reasons? If so, in what forms and with what reforms?

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5 Admin. of Justice Act of 1933, 23 & 74 Geo. 5, c. 26, sec. 1.

6 A compilation of what states have what systems may be found in Dash, The Indicting Grand Jury: A Critical Stage?, 10 Am. Crim. L. Rev. 807 at 812-813, n. 24 (1972).

7 U. S. Const. amend. V.

8 As old as the grand jury is, perhaps beginning as early as 1166 as an investigative device, its modern image is initially derived from its performance in the Earl of Shaftesbury Trial of 1681 in England, 8 How. St. Tr. 759 (1681), in which an English grand jury refused, probably for political rather than evidentiary reasons, to grant the request of the King's prosecutor for an indictment against a nobleman accused or treason. The mythology around this function has grown since. See Schwartz, Demythologizing the Historic Role of the Grand Jury, 10 Am. Crim. L. Rev. 701 (1972).

9 Advocates contend that the grand jury's investigative functions cannot be replaced by the state's attorney alone under present law. The scope of the investigation is not defined; neither the exact nature of the offense nor the identity of the offender need be known, since the grand jury's job is to determine who the offender is and what the offense was. Blair v. United States, 250 U.S. 273 (1919).

Also, there is no limitation to the evidence which can be considered, Costello v. United States, 350 U.S. 359 (1956), and few on what can be used for leads. People v. Adams, 51 Ill. 2d 46, 280 N.E. 2d 205 (1922).

The grand jury can compel witnesses to testify and to produce books, records, or other evidence under penalty of contempt. See People v. Allen, 410 Ill. 508, 103 N.E. 2d (1951).

Also, the grand jury can grant a witness immunity from prosecution, eliminating his right not to testify for fear of self-incrimination. Ill. Rev. Stat. Ch. 38, secs. 106-1 to -3 (1973).

EVALUATION OF THE USEFULNESS OF THE INDICTMENT FUNCTION

Because of its currency as an issue, Chairman Palmer called a special meeting of the State's Attorney Study Commission's Advisory Board for March 17, 1975, primarily to discuss the role of the grand jury.

The basic issues were: Is the grand jury's indictment function of any real value to the accused or the people? What negative consequences are there for speedy trials, prosecutorial workload, and the accused? In balance, should the grand jury be retained for indictment? If at all, should it just be used in a limited class of cases?

The primary purpose of the indictment function, again, is to screen cases and protect citizens from overzealous or even malicious prosecutors. At the Advisory Board meeting, it was the consensus of both professors and practitioners that, generally, the grand jury did not and could not fulfill this function in Illinois. As Professor Melvin Lewis of John Marshall Law School stated: "If a prosecutor wants an indictment he will get it."[10]

It was the general feeling that the grand jury was not equipped or structured to act independently. And, as a result, the grand jury was of no protection to the accused and thus a waste of time in most cases for the prosecutor. There was also a feeling that the grand jury, in fact, could and might be used by some prosecutors with personal or political motives to actually obtain indictments they should not be able to obtain.

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10 State's Attorney Study Commission, Minutes of the March 17, 1975, Meeting, 15 (hereinafter cited as Minutes).

Generally, the arguments were along the line that the grand jury is an ineffective screening device because it was and could be nothing but a state's attorney's rubber stamp. As such, it was harmful to both the accused and people's interests in that it caused unnecessary delay in bringing defendants to trial speedily.

IS THE GRAND JURY A USELESS RUBBER STAMP?

Senator Wayne Morse once called the grand jury a "fifth wheel of justice," implying its uselessness. In a study he did in the 1930's of twenty-one states, including Illinois, in about 6,500 cases in which the prosecutor expressed his own preferences in any way, the grand jury disagreed in only about 350 or 5 percent of the cases.[11]

Similar statistics are available for Cook County. In a 1964 study by Oaks and Lehman, out of 4,239 indictments sought, the grand jury returned 337 no bills and 3,862 true bills, thus apparently screening out about 10 percent of the cases presented to it.[12] However, even such a large percentage as 5 or 10 percent could indicate that the grand jury had some significant use. Nonetheless, a look at the phenomena behind the no-bills indicates other reasons than useful screening: either there are housekeeping no-bills or those returned in controversial cases where the state's attorney wants to "pass the buck."

Oaks and Lehman cited the assistant state's attorney of Cook County who was at the time responsible for the grand jury as noting that 90 percent of the no-bills returned -- accounting, then, with true bills for 99 percent of all indictments sought -- were returned for housekeeping reasons.[13] A defendant is often bound over to the grand jury on several charges, and some

11 Morse, A Survey of the Grand Jury System, 10 Ore. L. Rev. 101, 153-4,(1931).
12 Oaks and Lehman, A Criminal Justice System and the Indigent: A Study of Chicago and Cook County, 44-5 (1968).
13 Ibid.

of the additional unnecessary charges are asked to be dropped in a formalistic manner.

There is, in any case, a very small percentage of no-bills which must be explained some other way than by housekeeping in order to undermine the feeling of some that the grand jury can act as a protective screening device. The explanation usually given is the desire of prosecutors to pass the buck and be able to say -- perhaps to the police, to the media, or to irate citizens concerned with that case -- that it was the grand jury, not the prosecutor, who did not want the case pursued.

At the Constitutional Convention in 1970, the Bill of Rights Committee heard the testimony of one state's attorney who openly advocated the retention of the grand jury so that prosecutors might avail themselves of it in order to get out from under difficult situations where they couldn't prosecute but didn't want to state that themselves. One illustration the state's attorney gave was of an "All-American boy" in a small community who was found with marijuana but whose father was superintendent of the local school system. Said the state's attorney:

> "(The boy was) an All-American boy, president of the Senior Class, president of the wrestling team, dad is superintendent of the system, caught with some raw marijuana in his house. We think he picked it up along the tracks, processed it and used it. There was....nothing in his background though it was not provable, that he was not selling it to his friends but being a supplier to his friends. Now at that point in time the law was that if we were to prosecute him, it would have to be by felony. Now the Legislature has, if less than twenty-five grams, (said) that it is a misdemeanor. But it wasn't on the books at that time; and with this All-American boy, we had one of two choices -- let the people of a small farm community of our area know that if you're an All-American boy, you can use marijuana and not be indicted, or attempt to indict. And we presented it to the grand jury, gave them the full facts and and the boy's father testified (actually it was the boy's step-father), and the grand jury in the community, we think it is a nice community, refused to indict that boy."[14]

14 III Proceedings 1466 (June 3, 1970). Read into the transcripts of the

Essentially, the state's attorney is concerned with his image, as are all elected officials who desire to be re-elected or to seek higher office; he does not want to look lax in his duties.

But for whatever reason, the grand jury does not serve as a significant screening device statistically against a state's attorney.

Abolishing the requirement of a grand jury indictment would place the responsibility for prosecution where it belongs: on the state's attorney, making the process of bringing or dropping charges more visible and the state's attorney more accountable. As Professor Lockyear noted at the Commission meeting, "Who is prosecuted? Who is not prosecuted? ....the decision (should be)....the responsibility of a single official and the electorate can quite easily review that."[15]

CAN THE GRAND JURY BE INDEPENDENT OF THE STATE'S ATTORNEY?

It is usually stated by commentators that the grand jury "is a flock of sheep led by the prosecutor across the meadow to the finding he wants."[16] Why is the grand jury inevitably a rubber stamp in which only the poorest of prosecutors could not succeed in obtaining any indictments they wish? One law review article analogizes the grand jury's shield as being held by the enemy.[17] There is no opportunity for grand juries to obtain much information on their own. The situation is essentially one where the wolf is left to guard the flock.

The grand jury normally considers only the cases presented to it by the

full convention by Delegate Raby. The State's Attorney gave other examples, such as not wanting to drop charges against a public official accused of corruption even if there were no evidence of it or dropping charges against prominant citizens (one example was of such a citizen who negligently in driving backed up over a little girl) who become unpopular because of some unfortunate but not criminal conduct.

15 Minutes, p. 9.

16 F. Bailey, The Defense Never Rests, 256 (1971).

17 Doff and Harrison, The Grand Jury in Illinois: To Slaughter a Sacred Cow, (1973), U. Ill. L. For. 635, 644.

State. In fact, Illinois cases have held that any attempt by an outsider to present a case to the grand jury except through the state's attorney is grounds for contempt, as an attempt to incite the grand jury.[18]

There also exists no Illinois authority which would permit the grand jury to expend any money to pay for its own attorneys or investigators, an alternative which was discussed by the Commission.[19]

In the grand jury itself, no defendant even has the right to be present to contest the State's case.[20] He has no right, then, to cross-examine state witnesses or present his own evidence. It is only one side of the case

18 People v. Sears, 49 Ill. 2d 14, 273 Ill. 2d 380 (1971); People v. Doss, 382 Ill. 307, 46 N.E. 2d 984, cert. den. 320 U.S. 702 (1943); People v. Parber, 347 Ill. 524, 39 N.E. 2d 11 (1940), cert. den. 313 U.S. 560 (1941).

19 Minutes, 29-59.

20 People v. Vlcek, 68 Ill. App. 2d 178, 215 N.E. 2d 673 (2d Dist. 1966). One of the arguments for not allowing defendants to be present is the desire to maintain grand jury secrecy. Rationales for such secrecy may be found in People v. French, 61 Ill. App. 2d 439, 441-2, 209 N.E. 2d 505, 506 (1965). Arguments against the needful secrecy may be found in Calkins, The Fading Myth of Grand Jury Secrecy, 1 John Marshall J. Prac. & Proc., 18 (1967). It should be noted here, however, that most grand jury indictments occur after preliminary hearings so that such rationales as usually are given, such as protection of an accused's reputation, are not applicable. Similarly, in those few others commenced by a grand jury, a target's reputation is besmirched by news leaks in any case.

Publicity and image building may be a factor in some investigations of official misconduct, vote fraud, organized criminal activities, a major economic crisis -- most publicity seeking being in legitimate cases, however. Other times, indictments may be woven out of weak threads. In M. Brennes, The Garrison Case: A Study in the Abuse of Power, the author, a former assistant district attorney in New Orleans, relates several incidents of what he claims was Garrison's abuse of the grand jury. Claiming that one of Garrison's major motives was publicity, he discussed how Garrison succeeded in building a favorable image despite there being no substance to his charges in many cases. According to Brenner, Garrison once had a prior district attorney indicted for malfeasance due to his quite routine dismissals of cases during the former D.A.'s administration, the indictment later being thrown out for failure to state an offense at law. St. 15.

Brenner also cites an instance which he claims illustrates Garrison's use of the grand jury for personal motives, for "getting" an enemy. In this case, it was Judge Bernard Cocke whom he got cited for contempt of the grand jury and alleged violations of grand jury secrecy because the judge had asked a witness in an open preliminary hearing if the witness' prior grand jury testimony had been the same as that at the preliminary

which is heard. The state's attorney can therefore present his version of the facts or interpret the laws in almost any manner he wishes without challenge by defense counsel. And the state's attorney may use hearsay or any other evidence he desires almost without limit.[21]

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hearing. Also, according to Brenner, Garrison once sent an assistant with a voucher for undercover work in connection with some vice raids by his office to Judge Cocke for his signature. The various local judges had stated their position that such expenses were not authorized by law. A second assistant was sent as a witness. Cocke refused to sign, and an indictment for malfeasance in office followed. While the acquittals which came were expected, "the humiliation to his antagonist of being forced to sit at the bar as a common criminal was apparently sufficient satisfaction." Ibid at 21.

21 Costello v. United States, 350 U.S. 359 (1966); People ex. rel. Sears v. Romiti, 50 Ill. 2d 51; 277 N.E. 2d 705 (1971). The discussion of evidentiary rules is of some extra interest. As noted, the grand jury is generally free to consider any evidence presented to it which would be inadmissible at trial. People ex. rel. Sears v. Romiti, supra. This generalization is apparently limited when a judge has issued a suppression order prior to the consideration of an indictment which the State has failed to appeal, in which case the State may not utilize the suppressed evidence in the grand jury. People v. Gaslowski, 34 Ill. 2d 456; 216 N.E. 2d 669 (1966).

The grounds on which a court can quash an indictment are mostly technical or procedural, leaving substantive issues to trial. Some technical grounds include: presence of improper persons in the grand jury room if the defendant is prejudiced thereby, People v. Munson, 319 Ill. 596; 150 N.E. 280 (1945) (dictum); failure to allege a substantial element of an offense, People v. Lund, 382 Ill. 213; 46 N.E. 2d 929 (1943).

On sufficience of evidence, the grand jury's determination is generally not reviewable as to sufficiency. Costello v. United States, 350 U.S. 359 (1956); People ex. rel. Sears v. Romiti, 50 Ill. 2d 51; 277 N.E. 2d 705 (1951). The grand jury may return a true bill without any evidence being submitted to it which would be admissible at trial, provided that all the witnesses called are not legally incompetent. People v. Myers, 46 Ill. 2d 270; 263 N.E. 2d 113 (1970); People v. Jones, 19 Ill. 2d 37; 166 N.E. 2d 1 (1960); People v. Price, 371 Ill. 137; 20 N.E. 2d 61 (1939).

Generally, pre-indictment conduct in the grand jury room is not reviewable. However, one case held that it was, although its facts make it unlikely that it would be a common occurrence. People v. Sears, 49 Ill. 2d 14; 273 N.E. 2d 380 (1971), in which the Supreme Court held in the Hanrahan-Black Panther case where news reports indicated harassment of the grand jurors by the Special Prosecutor that the circuit court under its supervisory powers over the grand jury could review the transcripts of the grand jury before indictment and meet with the entire grand jury in camera to check on the conduct of the special state's attorney. The court, recognizing the possibility of serious damage to the reputations of the defendants, noted that "a wrongful indictment inflicts substantial harm on a defendant not entirely remedied by acquittal." Id. as 36, 273 N.E.

This is not to say that state's attorneys purposely distort information frequently, only that they can.

It should be noted also that the one-sidedness of the grand jury is accentuated by the number of grand juror votes needed for indictment. Only 12 of the 23 panel members need support an indictment or probable cause finding, unlike the unanimous verdict required for a guilty finding at trial.[22]

There is also no restriction on the prosecutor from making a second, third, or even subsequent attempt to indict, subject to the statute of limitation or speedy trial rules.

The final limiting factor occurs in Cook County where the number of cases which must be processed makes it impossible to spend much time on the

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2d at 392. Whether this case provides much precedent value practically speaking is open to question. While in Sears, petitioners were able to quote news accounts of the special state's attorney's statements and the identity of the targets was well known, the great majority of cases do not receive massive news coverage sufficient to indicate prosecutorial misbehavior.

Post indictment review of prosecutorial misconduct presents an even clearer rule. There can be no court evaluation of his misconduct. People ex. rel. Sears v. Romiti, 50 Ill. 2d 51, 277 N.E. 2d 705 (1971). After the indictment was returned in the Black Panther cases, the same issue was raised of possible harassment. The presiding judge gave the accused the right to interview members of the grand jury to see if the special prosecutor had engaged in harassing the grand jury. Even though several grand jurors signed affidavits that he had, the Illinois Supreme Court held that indictments were not open to review. Justice Schaeffer criticized the desire to re-open indictments, arguing: "There has been an increasing tendency in criminal cases to try some other person than the defendant and some other issue than guilt." See also Costello v. United States, 350 U.S. 359 (1956) in which Justice Black noted: "If indictments were open to challenge on the grounds that there was inadequate or incompetent evidence before the grand jury, the resulting delay would be great indeed. The result of such a rule would be that before trial on the merits a defendant would always insist on a kind of preliminary trial to determine the competency and adequacy of evidence before the grand jury." At 363.

It would seem that the elimination of the grand jury indictment requirement would eliminate in most cases the need to make the difficult choice between efficiency and fairness to the defendant inevitable with the grand jury system.

In any case, with the rules discussed here, there seems to be a greater likelihood of an unfair or wrongful indictment issuing than before a judge even with the lax evidentiary rules at the preliminary hearing.

22 Ill. Rev. Stat., Ch. 38, sec. 112-4 (c) (1973).

average case, rendering the grand jury a "prosecutorial assembly line."[23] It has been determined by one study that a single Cook County grand jury hears 36 indictments per day.[24]

Delegate Robert Canfield at the 1969 proceeding of Con-Con stated: "One man presents forty grand jury indictments and completes them in one day. You can really see who runs the show, how many people are involved."[25]

The points made in this section must be considered in light of the likely background and skills of the grand jurors. Even assuming all of them are literate and educated, which is quite an assumption, they are not trained in the law, substantive or procedural. As one eastern judge noted in a sarcastic commentary on the grand jury, the screeners or protectors "must, paradoxically, look to the very person whose misconduct they were supposed to guard against for guidance as to when he is acting oppressively. In short, the only person who has a clear idea of what is happening in the room is the public official who these twenty-three novices are supposed to check."[26]

Professor Lewis stated to the Commission, along tese lines, that the grand jury is told: "Okay, sheep, here is your function for the next thirty days. You will eat when this man tells you to eat. You will hear what this man tells you to hear. He will arrange for all the witnesses to appear before you. He will tell you what he thinks ought to be done in the situation. He will tell you when you will next convene. To tell them that and and expect them to be independent of the prosecutor is, I would submit,

23 Duff and Harrison, supra n. 17, at 645.
24 Amicus brief of Chicago Crime Commission in consideration of petition for rehearing, People v. Lewis, No. 46574, 13 (1975). Brief also estimates 1,445 indictments for January and February, 1975, alone, at p. 143, or at a rate of about 8,600 in this year.
25 III Proceedings 1444.
26 Antell, The Modern Grand Jury: Benighted Supergovernment, 51 A.B.A.J. 153, 154 (1965).

unrealistic.[27]

Thus, as was stated earlier, the system leaves the wolf to guard the flock.

This commentary has argued that the grand jury is unlikely to be a protective against a malicious prosecutor. It does not argue that the grand jury will be frequently if ever abused, simply that it is useless where a prosecutor wants to abuse it. The state's attorney generally has no motive to abuse the indictment process, although occasionally selfish personal or political motives may cause a less than sincere prosecutor to obtain unfounded indictments[28] and overzealousness or even carelessness can lead to others.

THE PRELIMINARY HEARING AS AN ALTERNATIVE SCREENING DEVICE

When we come to accept the uselessness of the grand jury as a screening device to determine probable cause, its use as such is more puzzling in light of the requirement in Illinois of a preliminary hearing. The preliminary hearing is also to determine probable cause.

The preliminary hearing is a hearing before a judge within a reasonable time after arrest to determine if there is probable cause to bind an arrested person over to the grand jury for another probable cause determination.[29] The functions of the two determinations, despite the similar standard, are different. The preliminary hearing is to determine, essentially, whether a person may be kept in custody pending a grand jury decision;[30] it is now a

27 Minutes, 23.
28 Such motivations might be the desire for publicity or the desire to get an enemy.
29 Ill. Rev. Stat., Ch. 38, sec. 102-17 (1973).
30 In People v. Howell, 60 Ill. 2d 117, 324 N.E. 2d 403 (1975),

constitutional requirement which is also to serve some discovery function.[31] The grand jury's determination is accusatory? Can a person be brought to trial? The prosecutor may proceed to the grand jury even if the preliminary hearing judge finds no probable cause (though he cannot keep the person locked up), as no penalty attaches to the decision of a preliminary hearing judge.[32]

The preliminary hearing determination could easily and profitably be made the alternative to the grand jury determination -- and with generally great savings. Our new state constitution now guarantees that every defendant has a right to a preliminary hearing, the only exception being when the initial charge is brought by a grand jury indictment.[33]

However, it would probably be necessary to pass legislation to guarantee that the preliminary hearing was used as a screening device. In People v. Kent, the Illinois Supreme Court held that the probable cause determinations at the preliminary hearing and grand jury were not mutually exclusive.[34] Thus, if the information becomes the functional equivalent of the indictment as the document on which to proceed, it would seem necessary to legislate the preliminary hearing's function as a screening device prior to prosecution

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the Illinois Supreme Court noted in dictum that, despite the fact that the Constitution of Illinois required a preliminary hearing, there was no legal remedy for not giving one. In that case, the defendant had been held for 65 days without a hearing. The Court, for various reasons, did not fashion a remedy in the Howell case but called upon the General Assembly to act. At this writing the 79th General Assembly has before it H.B. 1538 which, except for cases where a material witness is physically incapacitated, requires a preliminary hearing within 30 days or requires discharge without the possibilities of reinstatement. Provision is made for delay caused by the defendant.

31 1970 Ill. Const., Art. I, sec. 7.

32 People v. Kent, 54, Ill. 2d 161, 295 N.E.2d 710 (1972).

33 1970 Ill. Const., Art. I, sec. 7. The purpose here is to prevent defendant from being retained in custody without a probably cause hearing pending a grand jury. VI Proceedings 74-7.

34 People v. Kent, 54 Ill. 2d, 161, 295 N.E. 2d 710 (1972).

rather than solely for custody.

It is also important that the nature of the grand jury be clearly defined. There is no clear authority stating what a preliminary hearing is to consist of, and the practive varies over Illinois. The Constitutional Convention debated this issue. While the Bill of Rights Committee clearly stated that the defense be given the right of cross-examination and the right to present defense evidence,[35] delegates in the full debates indicated different views.[36] It is imperative if the grand jury is to serve as a useful screening device that such rights clearly be spelled out.

In a recent U.S. Supreme Court case, Gerstein v. Pugh,[37] the Court held that it is not constitution required that a preliminary hearing be adversary if the preliminary hearing is solely for the purpose of determining whether there is probable cause to keep a person in custody or restrain his liberty. The Court did not address itself to the constitutional requirements of a preliminary hearing, except for the right to counsel, where the purpose of the preliminary hearing is not solely custodial but the function is one of screening as a pre-requisite to prosecution. However, the dictum in the opinion by Justice Powell indicated that, in the situation where the purpose is the screening of a case, the adversary procedure with cross-examination and presentation of defense evidence is highly desirable. It would not be surprising were the Court to find our system unconstitutional were it faced with the question of requiring a preliminary hearing as a screening device

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35 VI Proceedings, 75.

36 Various comments in the debates can be found in III Proceedings from 1454 to 1472. Reading of Bill of Rights Committee definition into record, at 1454-5. Accord, Delegate Tomei, at 1464. Believe that neither right of cross-examination or to present defense testimony existed, found in testimony of Delegates Jaskula, at 1454, and Kanns, at 1464-5. Also, Delegate Butler favored the right to cross-examine but not present defense evidence, at 1472.

37 Gerstein v. Pugh, -- U.S. --, 95 S. Ct. 854, -- L. Ed. 2d -- (1975).

yet deny the defendant a real chance to destroy prosecution of him at that point.[38]

Obviously, a well-structured preliminary hearing has several advantages over the grand jury. Usually, a prosecuting attorney will not be able to dominate a more learned judge as he can a grand jury.

The only limitation on using a judge is the rare case which might involve a political figure with whom the judge has ties. Few cases are that sensitive; however, if the grand jury were retained as an alternative path for the state's attorney at his option (one of the suggested methods of reform), there would be no problem even in that instance. And if the grand jury indictment were to be eliminated entirely, it would still be hard for a judge to make an illegitimate no probable cause finding and leave himself open for disciplinary redress or possible non-retention.

THE GRAND JURY AS A WASTE OF TIME AND MONEY

The grand jury, if it is useless, unnecessarily costs taxpayers a great deal of money.

It also unnecessarily costs everyone involved a great deal of time.

Presently, for grand juries to function, the counties must make substantial outlays. Such expenses include the fees of grand jurors which may vary from county to county from $4 per day to as much as $15.50 per day, plus traveling expenses.[39] It is also necessary to pay for the time of prosecutors, judges, sheriffs, jury commissioners, some witnesses, and court reporters in some places, and to pay for facilities -- all unnecessarily in most cases.

38 Some states have held that such a practice would be unconstitutional. Myers v. Commonwealth, 298 N.E. 2d 817 (Mass., 1973).
39 Ill. Rev. Stat., Ch. 53, sec. 62 (1973).

But the major costs of the grand jury is in delays to speedy trials. Cook County has a continuing grand jury; however, it is backlogged so that even with approximately 36 indictments issued per day by a single grand jury, the time from arrest through the indictment is 130 days with a delay from between 30 to 60 days in the grand jury.[40] The situation outside Cook County varies with the size of the county. In all cases, the grand jury remains a useless device, but the wait varies. Other counties do not need to impanel grand juries that often, so defendants might have to wait for several months whether in jail or on bond) pending the grand jury determination. Some very small counties have reported either reducing felony charges to misdemeanors just to get around the grand jury requirement and in some cases have simply dropped charges altogether.[41]

The problem of delay takes an increased significance with the new interpretation of the Illinois 120-day or Fourth Term rule which requires a trial within 120 days if in custody or 160 days if not.[42] Up until recently, it was held that, whenever the defendant caused delay for any reason (including agreed continuances) the 120 day period started all over again; it was not simply interrupted for the period of delay. In the original opinion of People v. Lewis,[43] the Supreme Court dramatically revised its historical interpretation of the 120 rule and held that the running of the 120 days was only temporarily suspended for the period of delay. While the original decision was withdrawn and this interpretation was temporarily stricken, this was due to pending General Assembly action. The General Assembly is consid-

40 Amicus brief of Chicago Crime Commission in consideration of petition for rehearing, People v. Lewis, No. 46574, 13, 54-5 (1975).
41 Minutes, July 15, 1974, pp. 2 and 5.
42 Ill. Rev. Stat., Ch. 38, sec. 103-5 (1973).
43 People v. Lewis, 60 Ill. 2d 152, -- N.E. 2d -- (1975).

ering House Bill 72 prepared by a subcommittee of Judiciary II which adopts, with some modifications, the original Lewis rule but puts off its effective date until July 1, 1976, to give courts around the state time to react. In its discussion, the subcommittee was hopeful that the grand jury indictment requirement would be abolished.

In fact, with the new interpretation coming due and the experience with delay before the grand jury, it is imperative that the requirement is immediately eliminated.

Another "waste" besides that of time and money is the enthusiasm or good will of witnesses. Witnesses compelled to come back to the court house any number of times begin to lose interest in pursuing the prosecution. This fact is often the basis for defense tactics of delay. Eliminating the grand jury in most or all cases would mean less tedium for witnesses and tend to encourage cooperation.

USES OF THE GRAND JURY

If the grand jury indictment requirement is useless at its best and harmful at its worst, the grand jury might be eliminated entirely or greatly reduced. Are there any reasons for not abolishing it altogether?

There are arguments put forward for not abolishing it.

Advocates who would like to have it around at the prosecutor's option or in specified limited circumstances argue that: (1) there are some cases where there might be a politically inclined judge who would find no probable cause at a preliminary hearing in the case of a political ally or (2) there is the need for the investigative powers that the grand jury gives the prosecutor which he doesn't have himself, such investigative powers being imperative in some instances of official misconduct, vote fraud, organized criminal

activities, or complex economic offenses.

Offering the grand jury to the prosecutor for political cases -- the specific statutory formulation might vary -- guarantees the prosecutor a chance to get around a political judge, although it might raise again the problems of abuse some have alleged exist with the availability of the grand jury indictment. Also, whether or not even a political judge would be able to find no probable cause in a major, highly-publicized case without risking disciplinary proceedings for any illegitimate decision is open to question.

However, prosecutors have made a clear case for some sort of investigative device for complex cases, whether it is the present grand jury, some altered form, a "one-man grand jury," or direct subpoena power. It is often argued that organized crime, for instance, is best fought by use of the grand jury investigation in which one can compel testimony and grant immunity (the value of that being open to debate, too).

It was generally agreed at the Commission meeting, although not unanimously, that the investigative grand jury or some alternative was needed. As one member of the Commission's Advisory Council, Mr. Brent Carlson of the State's Attorneys Association, stated: "I would favor an information type system for the street crimes.....But there definitely has to be a distinction of the investigative nature of the grand jury and the way it handles street crimes. And I think that is the point where the information should be utilized. You create a real problem if you try to limit the grand jury too much because.....in view of banks and any big financial institutions, they are going to tell you no if you are the prosecutor."[44]

Of course, one of the related issues in this area and one of the reasons for some people's wishing to abolish the grand jury is not simply

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44 Minutes, 37.

the inutility of the indictment function but investigative abuses and the harassment of witnesses. While the investigative abuses are somewhat beyond the scope of this study, they must be considered in any final formulation of what is left for the prosecutor to use as his investigative tools.

The problems are essentially the same for whatever approach would be taken. They would include:

1) protection of a potential defendant's interests when he appears;

2) protection of any witnesses who might be called to appear who presently have no protection in the grand jury and who might either waive rights or be subject to harassment.[45]

Alternative approaches might include:

1) abolishing the investigative function altogether;

2) simply giving the state's attorney the option to use the present grand jury unaltered from its present form whenever he wishes;

3) retaining the investigative grand jury but altering its functions by such devices as providing it with its own non-prosecutorial counsel, giving it investigators and funds of its own, or allowing any witness to bring in his own attorney with him;

4) providing some alternative device, such as the so-called "one-man grand jury" where a judge serves as the grand jury, such a procedure still subjectable to reforms of our choosing (such as witness counsel); or

5) direct subpoena power for the prosecutor, again with any reforms possible.

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45 A discussion of possible investigative abuses and harassment may be found in Duff and Harrison, The Grand Jury in Illinois: To Slaughter a Sacred Cow, 1973 U. Ill. L. POR. 635, 657-666. Commentary is given on the possibility of the use of the grand jury in a "fishing expedition" and the general inability to claim irrelevancy of questioning. Note is also made of present and possible evolving rights in the areas of the fifth amendment and waiver, immunity, the fourth amendment (illegally obtained evidence), the first amendment, general relevancy, and privileged communications.

See also Steele, Right to Counsel at the Grand Jury, 36 Mo. L. Rev. 193 (1971) in which the author states: "It can be argued that a person subpoenaed before a grand jury needs counsel for exactly the same reasons that a person being interrogated by the police needs counsel."

It would seem that whatever investigative procedures might be adopted, some sort of reforms would be needed to better protect the rights of witnesses. Such reforms could be applied to the grand jury, a one-man grand jury, or to the prosecutor's direct investigation.

It is most likely that, for the present, it is the grand jury which will be retained. The point should be emphasized again: it is not that the grand jury will be abused but that it so easily can be. And especially if it is going to be so rarely used, such reforms might be adopted easily and without great inconvenience or expense. But such reforms -- primarily the right to counsel -- are imperative in an American system of law in which we claim that the rights of citizens are safeguarded by actual protective mechanisms in the law, not simple reliance on good faith conduct by the State.

As Chairman Palmer noted in the March meeting on the grand jury: "You go before a grand jury and the prosecutor will ask: Do you know John Doe? A person might say that he does or does not or he doesn't remember. The next question might very well be: Did you see John Doe on the morning of May 5, 1969....? Most witnesses brought in there cannot remember what they had for breakfast the day before, and when you go before the grand jury that is quite a proceeding and can subject a person to the penalties of perjury if he answers something that in fact is wrong. Now in this type of circumstances.....he can say, well, I don't remember and then he might be subjected to some harassment.....when he in fact doesn't remember, but in asking the questions and trying to elicit some response, the impression might very well be created that he is guilty....."[46]

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46 Minutes, 18-19. Professor Lewis also noted the technique of calling anticipated defense witnesses before the grand jury. He stated: "What's going to be the impact of his confused and frightened story at a subsequent stage at which he is told: If you ever deviate from this you are going to be charged with perjury. We now have the stigma we want and if you ever deviate from that you are in deep trouble." Ibid at 21.

In any case, whatever approach is used to give the state's attorney investigative powers, research should be done on the best ways to minimize abuses while still giving the prosecutor effective investigative tools.

CONCLUSION AND FINDINGS

While the Commission does not choose to offer any legislative proposals at this time, it does have specific findings to offer:

1) The grand jury indictment requirement impedes speedy trial and is a waste of time for the state's attorney and all others concerned. The requirement of an indictment in every case should be eliminated by General Assembly action, although the grand jury might be retained as an option for the state's attorney.

2) As an alternative, the prosecutor should be able to proceed on information but with a preliminary hearing making a finding of probable cause as a prerequisite for prosecution.

3) The preliminary hearing should be, and constitutionally it may be required to be, defined to spell out the defendant's rights to cross-examine prosecution witnesses and present his own evidence if used as a pre-prosecution screening device.

4) There are some cases where the grand jury's investigative powers are needed. If the grand jury is retained for this purpose or if some alternative as the one-man grand jury or direct subpoena power is created, reforms should be considered -- such as providing any witness counsel in the grand jury room -- to better protect the rights of our citizens.

C H A P T E R V

TENTATIVE FINDINGS AND CONCLUSIONS

The tentative findings and conclusions of the Commission are as follows:

A. Professionalism and Career Orientation in the State's Attorney's Office should be encouraged.

   1. The prosecutorial function of the State's Attorney's Office should be full time and not part time.

   2. All State's Attorneys and Assistant State's Attorneys should be prohibited from engaging in the private practice of law.

   3. Salaries of Assistant State's Attorneys should be increased in order to prevent rapid turnover and encourage prosecution as a career.

   4. A merit system for assistant prosecutors should be seriously considered with adequate pension.

   5. The State's Attorney's Office should be adequately staffed with skilled supportive personnel.

   6. Substantial financial support is needed either State or county or both.

   7. Continued training services are needed, and ILEC grants for prosecutorial services now provided should be continued to the State's Attorneys.

B. Geographical Consolidation of Offices of State's Attorneys.

   1. There should be voluntary consolidation of the Office in smaller populated counties as provided by statute.

   OR IN THE ALTERNATIVE

   2. The General Assembly should give serious consideration to presenting to Illinois citizens a constitutional amendment to provide for an elective circuit or district attorney to serve a geographical area larger than a county.

   3. The divestment of civil and administrative duties, in the event of multi-county consolidation should be considered, i.e., having the County Board appoint a County Attorney to handle civil and administrative matters.

C. Traffic Laws and Misdemeanors.

1. The duty of the State's Attorney to prosecute minor traffic and misdemeanor offenses should be transferred to the municipal attorney. In urban counties alone, this would result in huge manpower and money savings. This would provide more manpower in criminal prosecutions, now badly needed in urban counties, especially Cook County.

D. Other.

The Commission also tentatively found and concluded that certain criminal law rules both substantive and procedural may have an effect on the operation of the State's Attorney or otherwise have an impact on the criminal justice system. Among these are:

1. The Grand Jury, discussed in Chapter IV.

2. Plea Bargaining, which needs further study.

3. Grants of Immunity.

4. Speedy Trials.

5. Pre-Trial Publicity and its effect on a citizen's right to a fair and impartial trial.

E. Continuance of the Commission.

The members of the Commission felt that the work of the Commission should be continued for the purpose of completing the charges set forth in House Bill 1515 (78th General Assembly) and introduced legislation to this effect.

SPECIFIC CRIMINAL AND CIVIL DUTIES - OFFICE OF STATE'S ATTORNEY

Ch. 5, sec. 105

To enforce the Farm Products Inspection and Standardization Act and to prosecute violators of the act.

Ch. 5, sec, 308

To institute and prosecute "without delay" appropriate proceedings when a violation of the Grain Dealers' Licensing Act is reported to him.

Ch. 5, sec. 413

To, "if... the information submitted warrants such action", after the Director of Agriculture has submitted evidence to him prosecute violators of the Illinois Seed Law.

Ch. 6, sec. 2

To compel the sale of land held by aliens for more than a certain time without becoming citizens.

Ch. 16-1/2, sec. 32

To file an action to enjoin the illegal operation of a community currency exchange or ambulatory currency exchange.

Ch. 8, sec. 37q

To enforce the Illinois Horse Racing Act.

Ch. 19, sec. 72

To, at his discretion, enforce the provisions of an Act in Relation to the Regulation of the Rivers, Lakes and Streams of Illinois and to act as the representative of the Department of Transportation with regard to necessary actions.

Ch. 23, sec. 10-10

To maintain actions, in certain cases, for enforcement of the support obligations of responsible relatives of public aid recipients.

Ch. 23, sec. 12-16

To assist the Attorney General, upon request, or to initiate actions under the Public Aid Code for the recovery of money, enforcement of support obligations, and the enforcement of other claims and obligations.

Ch. 23, sec. 3503

To represent in court any person submitting a petition to the effect that another person is an addict or is in need of treatment.

Ch. 23, sec. 5005.7

To, at the request of the Department of Children and Family Services, prosecute actions to enforce support obligations of responsible relatives incurred by the Department.

Ch. 24-1/2, secs. 112, 113, 148, 149
Ch. 24, sec. 10-1-42
Ch. 34, sec. 1141

To prosecute violations of the Civil Service Act.

Ch. 29, sec. 24d

To, upon the filing of a verified complaint, prosecute violations of an Act to Prevent Discrimination in the Performance of Defense Contracts.

Ch. 34, sec. 831

To sit as a member of the county apportionment commission.

Ch. 38, sec. 13-4

To "diligently", "speedily", "vigorously", etc., enforce the Illinois civil rights law. If he fails in this duty, a special State's attorney may be appointed to prosecute the case.

Ch. 38, sec. 36-1a et seq.

To assist in the seizure and forfeiture of aircraft used in the commission of an offense.

Ch. 38, sec. 38-1 et seq.

To, at his option, institute various civil proceedings against criminally operated businesses.

Ch. 38, sec. 105-3

To, at his option, institute proceedings in proper cases under the Sexually Dangerous Persons Act.

Ch. 42, sec. 323.35

To prosecute, at his option, violators of the Chicago Sanitary District's Civil Service Act. (If he does not prosecute, other officials may do so.)

Ch. 46, sec. 4-27

To prosecute proper cases of illegal voting brought to his attention by the county clerk.

Ch. 46, sec. 22-4

To, in certain cases, be present when lots are drawn to break a tie for a county office.

Ch. 48, sec. 137.17

To prosecute, upon request of the Industrial Commission after the commission has found probable cause, violations of the occupational health and safety laws.

Ch. 49, sec. 3

To take necessary legal action to obtain escheat property in his county.

Ch. 53, sec. 19

To collect State's Attorney's fees and to pay them into the county treasury.

Ch. 53, sec. 20 and 23

To report to the circiut court, at times determined by rule, on all fees, fines, forfeitures, and penalties collected by his office and to provide required proofs of the accuracy of his report.

Ch. 53, sec. 44

To collect coroner's fees in counties of less than 1,000,000.

Ch. 56-1/2, sec. 319.1

To institute and prosecute "without delay" violations of the Meat and Poultry Inspection Act reported to him by the Director of Agriculture after the Director has given the violator notice and an opportunity for a hearing.

Ch. 56-1/2, sec. 507

To, upon reception of a report by the Director of Public Health that the Illinois Food, Drug and Cosmetic Act is being violated, institute and prosecute proper proceedings.

Ch. 56-1/2, sec. 717

To cooperate with other law enforcement agencies and to enforce the laws relating to marijuana.

Ch. 68, sec. 27

To, at his option, institute temporary support actions under the Non-Support of Spouse and Children Act.

Ch. 68, secs. 112 and 118

To "diligently" attempt to enforce support obligations under the Uniform Reciprocal Enforcement of Support Act when requested to do so by court, the County Department of Public Aid or the Supervisor of General Assistance. Upon his neglect or refusal to do so the Attorney General may undertake the representation.

Ch. 89, sec. 17

To prosecute all cases where weddings are performed without a license or where the certification of marriage is not returned to the county clerk.

Ch. 91, sec. 55.22

To prosecute, "upon proper complaint being made", all persons violating the Pharmacy Practice Act.

Ch. 91, sec. 112

To prosecute for violations of an Act for the Prevention of Blindness of Infants.

Ch. 93, secs. 2.13, 4.30, 4.33 and 8.16

To prosecute the coal mining laws and provisions relating to miner's certificates.

Ch. 91-1/2, sec. 2-2

To represent the people in actions under the Mental Health Code.

Ch. 95-1/2, sec. 312-3

To prosecute for violations of the Boat Registration and Safety Act.

Ch. 95-1/2, sec. 602-3

To enforce the Snowmobile Registration and Safety Act and to prosecute violators.

Ch. 100-1/2, sec. 16

To pursue, at his option, actions for abatement of a nuisance in the proper cases under the Illinois Controlled Substances Act.

Ch. 104, sec. 72

To, upon request of the Attorney General, assist in cases where an injunction is sought for violations of the Oil and Gas, etc., Conservation Act.

Ch. 106-3/4, sec. 54

To, upon the filing of a written complaint, pursue a paternity action for an unwed mother.

Ch. 108-1/2, sec. 22-509

To take all necessary legal actions to correct violations of governmental pension and retirement laws brought to his attention by the Department of Insurance.

Ch. 111-1/2, sec. 24

To prosecute all persons violating or refusing to obey rules and regulations of the Department of Public Health.

Ch. 111-1/2, secs. 116.63 and 116.66

To prosecute all persons violating the Plumbing License Law and, at his option, to pursue an action for an injunction against persons acting as plumbers without a license.

Ch. 111-1/2, sec. 155

To represent the people of this country in proceedings under the Hospital Licensing Act.

Ch. 111-1/2, sec. 294

To, at his discretion, maintain an injunction action to prevent violation of the Hazardous Substances Act.

Ch. 111-1/2, sec. 1042

To fine violators of the Environmental Protection Act. (It is not clear, due to the ambiguity of wording, if this is a mandatory or discretionary duty).

Ch. 111-1/2, sec. 1043

To, at his option, seek injunctions under the Environmental Protection Act where an emergency exists.

Ch. 111-1/2, sec. 1221

To, upon notification that the Department of Public Health has so ordered, enforce the closing of a swimming pool or bathing beach.

Ch. 112, sec. 10

To, at his option, maintain a quo warranto action.

Ch. 114, sec. 335

To, upon the request of the Director of Financial Institutions, maintain an injunction action against unlicensed persons renting safes, safe deposit boxes, and etc.

Ch. 116, sec. 8

To initiate proceedings for reproduction of lost or destroyed maps or plats required to be kept by the recorder of deeds.

Ch. 120, sec. 675

To notify the various taxing units of hearings on objections to property taxes in cases of payment under protest, and of any amendments to such objections.

Ch. 120, sec. 675a

To confer with property tax objectors or petitioners for refunds and to file settlement papers where proper.

Ch. 120, sec. 807

To prosecute all violators of the Revenue Act.

Ch. 121, sec. 314.7

To, at his option and upon request of the Director of Labor, take "necessary legal steps" to enforce compliance with the law for protection of workmen and of the public on road and bridge construction and repair projects.

Ch. 127, sec. 132.54

To, upon filing of proper complaints and affidavits, present to the grand jury cases involving fraud and excessive spending on public works projects. To, upon grand jury indictment, prosecute the alleged offenders.

Ch. 127-1/2, sec. 155

To, at his option, recover fines for violation of the law on gasoline labeling and coloring.

Ch. 129, sec. 220.74

To, at his option, participate in courts-martial of the Illinois National Guard or Illinois Naval Militia.

Ch. 129, sec. 308

To legally resist any application for a writ of habeas corpus requested by a person charged with violating any provision of an Act to provide for the Organization of the Illinois State Guard etc.

Ch. 131-1/2, sec. 14.1

To, at his discretion, maintain an action to enjoin specific persons from the unlicensed practice of structural engineering.

Ch. 144, sec. 28

To enter into agreements with the University of Illinois to accept payment for services from taxing districts containing property owned by the Board of Trustees.

Ch. 144, sec. 161

To prosecute, "upon proper complaint being made", all violators of an Act in Relation to the Regulation of Business and Vocational Schools.

APPENDIX 2

WORKLOAD OF STATE'S ATTORNEYS IN ILLINOIS

CIRCUIT	COUNTY	JUVENILE	FELONY	MISDE-MEANORS	TRAFFIC	
1st	Alexander	43	85	505	2381	Begun
		48	48	353	2188	Terminated
	Jackson	65	193	391	5903	
		32	175	333	5783	
	Johnson	-	30	42	645	
		-	17	29	649	
	Massac	32	62	193	659	
		28	37	199	935	
	Pope	12	15	85	260	
		2	11	74	255	
	Pulaski	11	36	143	1372	
		8	25	175	1231	
	Saline	79	157	290	1279	
		84	98	266	1269	
	Union	36	55	160	1703	
		4	39	135	1677	
	Williamson	66	170	437	5145	
		42	168	469	4997	
2nd	Crawford	27	45	284	1449	
		14	26	285	1434	
	Edwards	6	27	94	517	
		15	15	76	485	
	Franklin	31	138	643	4385	
		64	86	703	4429	
	Gallatin	11	28	83	790	
		12	23	88	799	
	Hamilton	7	25	72	736	
		3	8	56	720	
	Hardin	13	23	47	139	
		6	3	64	116	

CIRCUIT	COUNTY	JUVENILE	FELONY	MISDE-MEANORS	TRAFFIC	
	Jefferson	43	126	198	1851	Begun
		87	149	345	1734	Terminated
	Lawrence	34	57	233	1734	
		27	40	218	1529	
	Richland	61	29	455	2078	
		58	20	463	2043	
	Wabash	41	124	360	1033	
		3	51	169	864	
	Wayne	14	44	189	861	
		38	30	205	780	
	White	46	39	203	1572	
		77	31	198	1609	
3rd	Bond	28	23	157	1277	
		25	26	146	1174	
	Madison	454	1428	3360	27,705	
		354	860	3291	26,276	
4th	Christian	73	123	329	4423	
		50	107	357	4001	
	Clay	32	60	203	1338	
		39	70	202	1288	
	Clinton	19	51	242	1582	
		7	18	277	1459	
	Effingham	41	65	563	4525	
		33	47	513	4224	
	Fayette	23	77	139	2589	
		49	57	162	2470	
	Jasper	22	33	87	1172	
		8	10	73	1095	
	Marion	135	143	632	4369	
		129	55	496	3832	
	Montgomery	73	86	480	4004	
		33	74	450	3605	
	Shelby	14	8	403	1641	
		9	5	252	1236	

CIRCUIT	COUNTY	JUVENILE	FELONY	MISDE-MEANORS	TRAFFIC	
5th	Clark	-	14	183	2152	Begun
		-	18	171	2120	Terminated
	Coles	38	128	398	5177	
		50	111	397	5177	
	Cumberland	6	21	70	684	
		6	12	51	548	
	Edgar	36	56	266	1572	
		36	65	229	1562	
	Vermilion	144	207	967	9171	
		111	161	1042	9123	
6th	Champaign	229	854	1184	18,608	
		187	637	1634	18,219	
	DeWitt	50	95	225	1467	
		51	59	217	1282	
	Douglas	17	77	254	3018	
		15	39	196	2647	
	Macon	435	590	2399	14,257	
		486	339	1805	11,762	
	Moultrie	16	19	57	1410	
		8	18	61	1323	
	Piatt	17	37	130	1735	
		12	72	143	1691	
7th	Greene	13	39	122	847	
		13	4	94	769	
	Jersey	71	59	286	1807	
		-	40	251	1661	
	Macoupin	88	53	628	2649	
		63	45	651	2542	
	Morgan	51	96	319	4017	
		37	58	378	3748	
	Sangamon	230	904	2191	21,169	
		250	698	2442	20,153	
	Scott	-	17	57	321	
			8	65	291	
8th	Adams	164	192	429	6180	
		158	191	440	6029	

CIRCUIT	COUNTY	JUVENILE	FELONY	MISDE-MEANORS	TRAFFIC	
9th	Brown	12	21	53	555	Begun
		23	20	63	539	Terminated
	Calhoun	7	17	120	841	
		5	10	117	806	
	Cass	21	44	167	1427	
		32	28	177	1381	
	Mason	17	105	396	1400	
		15	87	364	1341	
	Menard	6	19	123	885	
		7	11	103	830	
	Pike	36	36	186	2952	
		36	36	190	2909	
	Schuyler	6	9	37	945	
		14	7	34	907	
	Fulton	54	92	433	3193	
		69	64	448	3194	
	Hancock	30	49	306	1980	
		24	30	302	1918	
	Henderson	5	39	144	966	
		4	29	129	879	
	Knox	57	176	979	8548	
		80	163	988	8432	
	McDonough	4	101	365	5360	
		7	76	283	4979	
	Warren	58	53	322	3203	
		84	33	310	2693	
	Marshall	-	27	186	926	
		-	13	145	725	
	Peoria	467	1052	2867	21,939	
		407	901	2678	21.483	
	Putnam	6	12	9	329	
		1	33	15	249	
	Stark	12	8	52	261	
		12	6	40	261	

CIRCUIT	COUNTY	JUVENILE	FELONY	MISDE-MEANORS	TRAFFIC	
	Tazewell	205	199	600	12,821	Begun
		153	217	59	12,559	Terminated
11th	Ford	28	43	218	1583	
		27	18	229	1710	
	Livingston	94	200	877	9998	
		76	173	900	10,435	
	Logan	33	73	225	5341	
		55	46	205	5211	
	McLean	102	752	1695	18,387	
		98	530	1754	17,709	
	Woodford	43	84	271	3401	
		36	79	231	3197	
12th	Iroquois	53	68	423	6720	
		48	95	397	6518	
	Kankakee	142	221	1178	14,771	
		190	172	997	14,121	
	Will	454	491	1983	39,362	
		293	395	1924	38,626	
13th	Bureau	40	86	503	5453	
		38	51	519	5208	
	Grundy	64	80	423	2873	
		35	42	420	2772	
	LaSalle	101	312	1953	10,745	
		77	139	1349	9463	
14th	Henry	75	86	318	7660	
		73	40	386	7605	
	Mercer	15	28	171	1570	
		8	24	140	1464	
	Rock Island	217	788	3087	27,645	
		283	580	3149	28,189	
	Whiteside	120	281	1406	6180	
		116	305	1268	5914	
15th	Carroll	35	45	286	2170	
		72	38	264	2123	

CIRCUIT	COUNTY	JUVENILE	FELONY	MISDE-MEANORS	TRAFFIC	
	Tazewell	205	199	600	12,821	Begun
		153	217	59	12,559	Terminated
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		27	18	229	1710	
	Livingston	94	200	877	9998	
		76	173	900	10,435	
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	Will	454	491	1983	39,362	
		293	395	1924	38,626	
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		38	51	519	5208	
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		35	42	420	2772	
	LaSalle	101	312	1953	10,745	
		77	139	1349	9463	
14th	Henry	75	86	318	7660	
		73	40	386	7605	
	Mercer	15	28	171	1570	
		8	24	140	1464	
	Rock Island	217	788	3087	27,645	
		283	580	3149	28,189	
	Whiteside	120	281	1406	6180	
		116	305	1268	5914	
15th	Carroll	35	45	286	2170	
		72	38	264	2123	

CIRCUIT	COUNTY	JUVENILE	FELONY	MISDE-MEANORS	TRAFFIC	
	JoDaviess	33	72	273	3213	Begun
		27	46	263	3138	Terminated
	Lee	118	265	821	7090	
		101	270	853	6871	
	Ogle	95	222	1015	5171	
		50	154	964	4860	
	Stephenson	69		793	6469	
		57	228	819	5448	
16th	DeKalb	94	380	1804	12,105	
		103	308	1432	11,296	
	Kane	563	1252	5843	41,211	
		558	987	5741	41,691	
	Kendall	53	77	300	3173	
		46	53	231	3114	
17th	Boone	35	81	572	4407	
		36	40	492	4808	
	Winnebago	741	1266	4238	49,060	
		664	888	4013	48,775	
18th	DuPage	507	2415	5420	58,115	
		293	241	7108	56,090	
19th	Lake	623	217	5187	50,085	
		432	168	5115	49,468	
	McHenry	199	334	2213	16,464	
		382	257	2039	15,106	
20th	Monroe	10	25	214	1391	
		8	27	210	1454	
	Perry	10	56	128	1342	
		5	36	132	1186	
	Randolph	7	116	166	2983	
		2	80	168	2928	
	StClair	792	564	3616	22,609	
		427	486	2876	21,407	
	Washington	20	38	52	1465	
		19	25	50	1350	

Downstate Totals

	Juvenile	Felony	Misdemeanors	Traffic	
	9785	20,416	76,883	706,401	Begun
	8593	13,799	74,472	672,173	Terminated
Cook County	20,407	10,181	* 372,350	1,256,293	
	21,445	9,835	337,683	1,216,372	

*Misdemeanors include ordinance violations

**Administrative office of the Illinois Courts 1974 report.
Judge Roy O. Gulley, Director

Schedule of Reimbursement for
State's Attorneys' Salaries and Assistants
Fiscal Year 1974

	Appropriation or/Allotment	Expended	Balance
State's Attorneys Salaries	$ 1,224,000.00	$ 1,221,000.00	$ 3,000.00
Assistant State's Attorneys' Salaries in counties with a State senior institution of higher education	153,600.00	124,345.78	29,254.22
Assistant State's Attorneys' salaries in counties with a mental or penal institution	113,000.00	80,916.54	32,083.46
Additional payment for Assistant State's Attorneys salaries in counties with a penal or three correctional institutions under PA 78-874	62,500.00	51,125.00	11,375.00
	$ 1,553,100.00	$ 1,477,387.32	$ 75,712.68

Please note the actual appropriation was made as a single line item of $1,553,100 in PA 78-139.

Expenditure schedules of the Assistant State's Attorneys salaries as attached hereto.

APPENDIX 4

Illinois State's Attorneys Association

211 WEST CHICAGO AVENUE HINSDALE, ILLINOIS 60521
312 / 654-1555

ROBERT N. HUTCHISON
EXECUTIVE DIRECTOR

BRENT F. CARLSON
Associate Director

April 16, 1975

Mr. Malden Jones
Staff Aide
State's Attorneys Study Commission
1002 State Office Building
Springfield, Illinois 62706

Dear Malden:

The following figures are supplied in accordance with your recent request:

A. Grant No. 1254 - ISAA Executive Offices

$269,528 (ILEC Funds: State/Federal)
37,350 (County Matching Funds)

$306,878

B. Grant No. 1464 - ISAA Statewide Prosecutor's Appellate Assistance Service

$542,335 (ILEC Funds: State/Federal)
27,491 (County Matching Funds)

$569,826

As I mentioned in our telephone conversation, I have no knowledge of grants awarded directly to individual State's Attorneys Offices and suggest that you contact ILEC for such information.

I hope that the Commission will find these statistics helpful, and I encourage you to please call upon me again in the event that additional information is needed.

Very truly yours,

Bob

Robert N. Hutchison
Executive Director

RNH:kr

REPORT

In 1970 the Illinois State's Attorneys Association submitted a grant application to the Illinois Law Enforcement Commission for the purpose of establishing a comprehensive project to provide assistance to State's Attorneys of Illinois. Part 2 of that application provided for the establishment of a Model Circuit State's Attorney Office in the Eleventh Judicial Circuit serving the five-county area of McLean, Livingston, Logan, Woodford, and Ford Counties. In June of 1970, the Illinois State's Attorneys Association was advised that the grant had been awarded. The Model Circuit State's Attorneys Office opened officially on September 3, 1970, and its staff consisted of one attorney and an investigator. The staff was subsequently increased and during 1971 reached a staff complement of three attorneys, an investigator, and a secretary. This number has remained relatively stable, although the investigator position was dropped and for a short period of time the office had four attorneys. At the present, the staff consists of the Attorney in Charge, two Staff Attorneys, and a secretary. The remaining part of this report will detail a description of the various types of activities the office has engaged in since its inception in September of 1970, and a discussion of the major accomplishments of the Project since that time.

The primary goal of the Model Circuit State's Attorney Office, from its inception, was to provide trial assistance to the State's Attorneys in the Eleventh Judicial Circuit. As time has gone by,

this concept of trial assistance and its related phases has increased beyond the Circuit level, and the Office has become involved in counties in various parts of the state. The trial assistance provided to the State's Attorney by this Office has included both felony and misdemeanor cases, and has included both bench and jury trial assistance.

From the beginning, the Office has provided assistance to the State's Attorneys in the Eleventh Judicial Circuit in dealing with their increasing misdemeanor case load. Assistance has taken the form of both jury trials and bench trials, as well as pre-trial preparation and motions in the presentation of the misdemeanor case. The misdemeanor case assistance has been limited to the Eleventh Judicial Circuit and has taken place principally when the State's Attorney or his assistants are called away, or for some other reason are unable to be present. As an example, the Office has provided assistance to State's Attorneys so that they might attend conferences during which they exchange ideas with other State's Attorneys on problems common to prosecutors. Thus, in providing misdemeanor cases assistance, the Office has not only assisted an absent State's Attorney, but has also aided in the improvement of prosecution by freeing the State's Attorney to learn more and improve his skills as a prosecutor.

The Model Circuit State's Attorney Office has also provided assistance on felony cases throughout the Eleventh Judicial Circuit and in other parts of the state. Initially, the Office participated mainly in the preliminary hearing stage of felony cases, but as time passed, the Office began to handle more and more of the actual trial of felony cases. There is not sufficient data to accurately specify the total

number of felony cases actually handled by the Office. A fair estimate based on data that is available would be forty to fifty felony cases over the three-year period.

Some of the more noteworthy of these cases handled by the Office were an attempted murder trial for the State's Attorneys Office in Logan County, which of course, is in the Eleventh Judicial Circuit. The Office also provided assistance in March of 1972 to the State's Attorney in Livingston County by trying several cases arising out of the prison riots which occurred at the Illinois State Penitentiary in Pontiac, Illinois. The Office also tried and won a very complicated auto theft case involving a great number of stolen automobiles in May of 1972, for the State's Attorney of McLean County. Additionally, in March of 1973, Office personnel completely prepared and tried a murder case for McLean County. The trial of the case took approximately one week, with the investigation and preparation of the case taking many weeks. The murder case was successfully concluded when the jury returned a verdict of guilty. The Office also provided extensive assistance to the State's Attorney of Christian County in the preparation of one murder case, as well as consulting with him in a subsequent murder case. In November, 1973, the Office tried and won a jury trial involving a very aggravated case of deviate sexual assault and aggravated battery for the State's Attorney of Logan County. The Office has also been involved in the trial of many drug and theft cases arising out of a large-scale raid which was carried out in Northern Illinois in November of 1973, by the Illinois Bureau of Investigation. This was part of an overall assistance program offered

by the Office to the State's Attorneys of LaSalle, Bureau, and Putnam Counties in connection with the I.B.I. raid. Of course, space is limited, and there is but room to note that the office has tried other felony cases of all types in its assistance program to State's Attorneys.

One of the more interesting developments in the Office's history has been its involvement in the grand jury and investigative stages of felony trial preparation. The Office first became involved in the presentation of cases to the grand jury as an aid to a State's Attorney in May of 1971, when a member of the Office presented a felony case to the Woodford County grand jury. The Office then continued on occasion to provide assistance to State's Attorneys by presenting various cases to grand jurys. For example, in July of 1972, a member of this Office presented seventeen felony cases to the grand jury of Woodford County for their action. However, it was in April of 1973 that the Office undertook its biggest commitment to assist a State's Attorney in the investigation and presentation of cases to a grand jury. A member of the Model Circuit State's Attorney Office was appointed a Special Assistant State's Attorney in Piatt County to aid the States Attorney in the investigation of "kick-backs" and bribes to road commissioners. The investigation and presentation of various cases to the grand jury took place over a period of several months, and involved the giving of gifts by representatives of chemical companies to road commissioners. The investigation was carried on in cooperation with the State's Attorney, and much of the actual presentation of evidence to the grand jury was made by the Special Prosecutor

appointed from this Office. The investigation involved corporations, as well as individuals and a total of seventeen indictments were returned by the grand jury arising from this investigation; five of which charged corporate defendants. To date there have been six convictions with fines imposed totaling $12,000. Other cases are still pending or have otherwise been disposed of.

The grand jury investigation also developed information regarding the practice of gift giving by chemical companies in counties other than Piatt County. It was at this time that the Model Circuit State's Attorney Office began to act as a clearing house for this information. The Office informed the appropriate State's Attorney as to any connection or any involvement his county might have in the type of gift giving practice uncovered in Piatt County. Information from and between the State's Attorneys regarding this specific problem was then communicated through this Office.

The most extensive grand jury project undertaken by the Office started in October of 1973, when the Office was requested by the State's Attorneys of LaSalle, Bureau, and Putnam Counties, to assist in the preparation of indictments arising out of a six-month Illinois Bureau of Investigation undercover operation in the northern Illinois area. The Office assistance was to take the form of the preparation of all indictments involving persons in that three-county area. The Office prepared indictments against a total of sixty individuals in the three-county area. However, the total number of indictments prepared were much greater than this because of the use of multiple charges and joint indictments. For example, in LaSalle County alone,

the Office prepared seventy-two indictments with many of the indictments containing multiple counts. The Office's role was very important, not only in physically preparing the indictments, but in maintaining the confidentiality of the I.B.I. investigation. The investigation was continuing as the indictments were being prepared and continued even after the indictments were returned by the grand jury.

A Staff member of the Office presented the LaSalle County indictments to the LaSalle County Grand Jury for their consideration. The grand jury returned approximately seventy true bills against approximately forty-five defendants. The indictments were all suppressed because of the ongoing investigation by the I.B.I.. As a result of the confidentiality which was maintained through the use of this Office, the I.B.I. was able to carry out a very successful mass arrest in early November of 1973, and was able to complete its investigation involving a large purchase of cocaine in Peoria County without the persons under investigation gaining knowledge of the pending suppressed indictments in the LaSalle, Bureau, and Putnam County areas.

The Office then continued its work on the cases at the trial level providing more limited assistance to the State's Attorneys in the three-county area of LaSalle, Putnam, and Bureau Counties in the actual trial of the cases arising out of the I.B.I. investigation. To date the Office has obtained seven convictions in the I.B.I. related cases in the three-county area. The cases have mainly concerned Delivery of Controlled Substances, Theft, and Burglary. However, it should be noted that the Office obtained a conviction in a jury trial in Putnam County on a newer statute, Calculated Criminal Drug Conspira-

cy, one of the first such convictions under this particular statute in the state.

In addition to the trial preparation previously mentioned, the Office has, of couse, been involved in innumerable pre-trial and post-trial matters surrounding both felony and misdemeanor cases, such as preliminary hearings, arraignments, motions to suppress, and sentencing hearings. The Office has also, during its existenoe, provided seminars to various interested agencies and groups. For example, the Office provided a seminar in the Implied Consent Law to the police departments in McLean County. The Office has also been involved in the preparation of Memoranda sent out to State's Attorneys on recent case developments. In addition there have been innumerable discussions via telephone on research done by the office which might be helpful to a particular problem facing the State's Attorney, and recent case developments in which various State's Attorneys might be interested. It should be noted that the Office, during its first two years, also provided investigators to assist State's Attorneys, but this program was discontinued after two years.

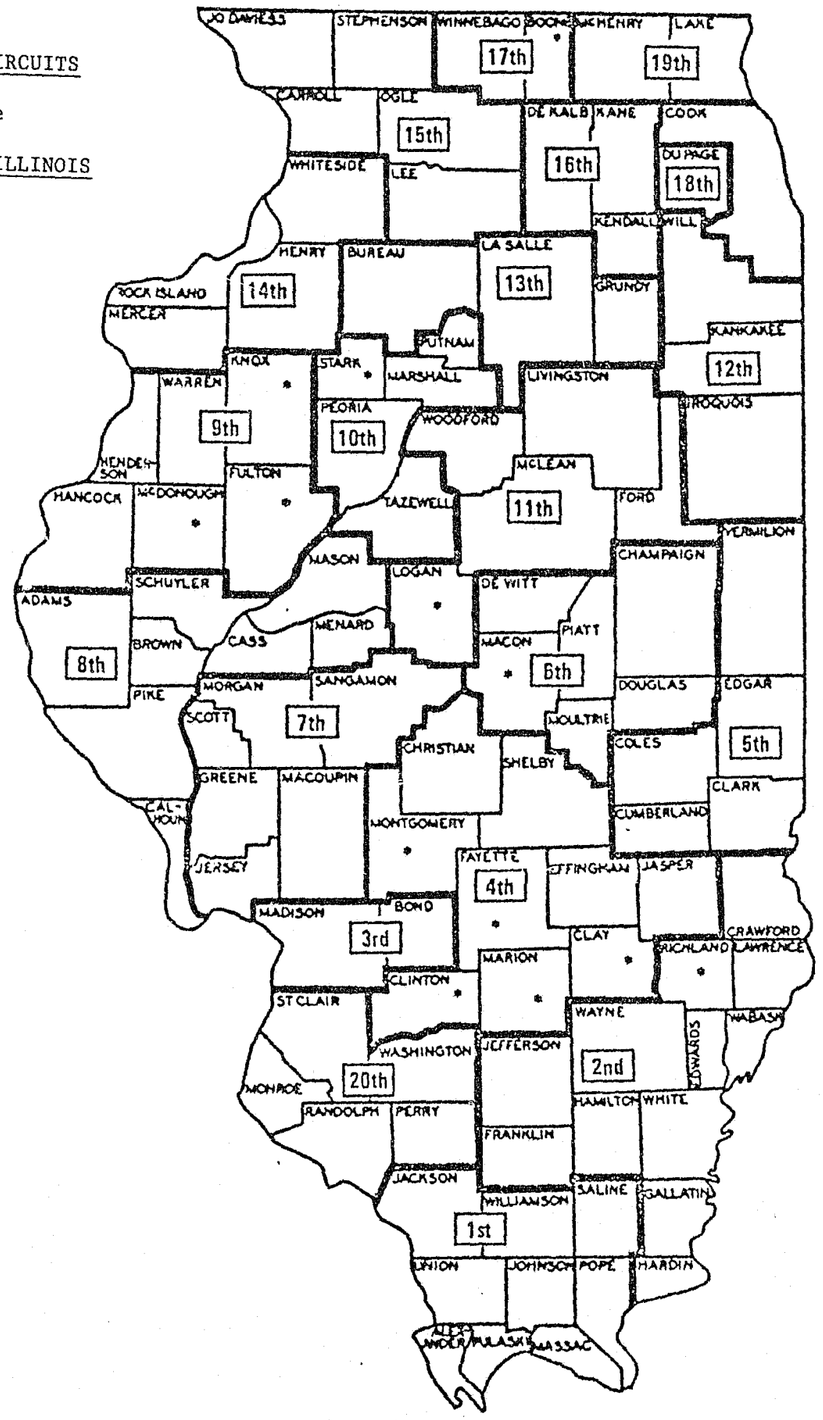
The Office has also become increasingly involved in the preparation of appeals as a form of assistance to State's Attorneys throughout the Fourth Appellate District, and on occasion to other Appellate Districts. The Office first began its appellate assistance in April of 1971. Appellate assistance has increased to the point where the rendering of appellate assistance to the State's Attorney now comprises a substantial part of the workload of the personnel in the Office. To date 99 appellate briefs have been prepared and filed for 25 counties.

Of these, the People have won 44, have lost 10, 2 of the losses are now on petitions for leave to appeal to the Illinois Supreme Court. There have been 5 confessions of error filed, and no opinion or resolution has been made in 30 of the appellate cases prepared and filed by this office. The preparation of appeals and the filing of the appellate briefs is an important assistance device to the State's Attorneys. The preparation of an appeal is a time consuming proposition in which reading of the record, research, and preparation of a well-drafted brief and argument are required. The Office has also, upon request, presented the oral argument on the case to the Appellate Court. Because of the importance of the appeal and the lengthy time period necessary to adequately prepare the appeal, this form of assistance is especially important to the State's Attorney. Additionally, the Office has maintained a filing system so that the benefits of any research done on briefs can be forwarded to State's Attorneys who might be facing similar problems in the trial of cases, or in preparation of their own appellate brief. The Office, in connection with its appellate work, has also had occasion to file on behalf of the State's Attorneys in the Fourth District Appellate Court, an extensive objection to the use of Motions for Summary Dispositions by the State Appellate Defender. This practice was becoming a real problem for the State's Attorneys in view of the limited time in which to respond to them. The problem was then presented to the Illinois Supreme Court by way of Petition for Leave to Appeal, which was prepared by this Office. Leave to Appeal was granted by the Illinois Supreme Court on the issue of Motions for Summary Disposition. This issue is now pend-

ing before the Illinois Supreme Court for disposition in the near future.

In summary, it is fair to state that the Model Circuit State's Attorney Office during its three-year existence has steadily increased the services provided to State's Attorneys in Illinois. From an initial concept of trial assistance to a single judicial circuit, the Office expanded its services to provide needed trial and appellate assistance throughout the state. Based on the comments received from the various State's Attorneys who have received assistance from the Model Circuit State's Attorney Office, the assistance to and improvement of prosecution in this State, which was the initial goal of the Office, has been substantially achieved.

JUDICIAL CIRCUITS
of the
STATE OF ILLINOIS



APPENDIX 7

COST OF STATES ATTORNEY'S OFFICE STATE AND COUNTY APPROPRIATIONS

1974

COUNTY	SALARIES PD. BY COUNTY S.A.	SALARIES PD. BY COUNTY ASST. S.A.	ALL OTHER EXPENDITURES	COUNTY APPROPRIATION	STATE SUPPLEMENT
Adams	$12,000	$ 40,000	$ 16,402	$ 68,402	$12,000
Alexander	12,000	8,400	10,400	31,000	11,000
Bond	8,000		7,084	13,084	12,000
Boone	10,000		25,816	36,442	12,000
Brown	8,000		5,300	13,300	12,000
Bureau	12,000	6,250	10,700	28,950	11,000
Calhoun	8,000		6,100	13,100	12,000
Carroll	12,000		12,900	24,900	12,000
Cass	8,000		7,900	15,900	12,000
Champaign	20,000	133,176	93,248	246,424	46,000
Christian	10,000	14,000	19,971	43,971	12,000
Clark	8,000		7,800	15,800	12,000
Clay	8,000		4,750	12,750	12,000
Clinton	10,000		7,000	17,000	12,000
Coles	14,000	36,000	66,060	104,660	16,000
* Cook				8,115,268	
Crawford	12,000	14,500	10,000	36,500	12,000
Cumberland	8,000		6,050	14,050	12,000
DeKalb	10,000	17,240	33,703	60,943	40,000
DeWitt	8,000	10,000	19,000	37,000	12,000
Douglas	8,000	10,000	23,000	41,000	12,000
DuPage	20,000	497,309	379,172	896,481	12,000

COUNTY	SALARIES PD. BY COUNTY S.A.	SALARIES PD. BY COUNTY ASST. S.A.	ALL OTHER EXPENDITURES	COUNTY APPROPRIATION	STATE SUPPLEMENT
Edgar	$11,500	$ 12,000	$ 13,100	$ 36.600	$ 12,000
Edwards	8,000		3,600	11,600	12,000
Effingham	10,000	7,000	29,000	46,000	12,000
Fayette	13,000	12,000	8,300	33,300	18,600
Ford	8,000		25,700	33,700	12,000
Franklin	12,000		45,200	57,200	12,000
Fulton	12,000	36,400	41,360	89,760	12,000
Gallatin	10,000		6,300	16,300	12,000
Greene	8,000	1,500	8,300	17,800	12,000
Grundy	10,000	22,000	15,837	47,837	12,000
Hamilton	8,000		5,300	13,300	12,000
Hancock	10,000		28,000	38,000	12,000
Hardin	12,280		3,508	15,788	12,000
Henderson	8,000		8,000	16,000	12,000
Henry	13,000	23,200	33,700	69.900	12,000
Iroquois	13,700	21,000	18,500	53,200	12,000
Jackson	15,000	41,000	44,000	100,000	26,247
Jasper	8,000		8,500	16,500	12,000
Jefferson	10,000	12,000	37,010	59,010	12,000
Jersey	8,000		6,000	14,000	12,000
JoDaviess	15,500	10,600	13,700	39,800	12,000
Johnson	8,000		6,400	14,400	12,000

COUNTY	SALARIES PD. BY COUNTY S.A.	SALARIES PD. BY COUNTY ASST. S.A.	ALL OTHER EXPENDITURES	COUNTY APPROPRIATION	STATE SUPPLEMENT
Kane	$20,000	$212,800	$ 53,877	$286,677	$18,000
Kankakee	20,000	65,064	67,726	157,790	26,000
Kendall	10,000	20,000	17,550	47,550	12,000
Knox	14,300	21,000	33,706	69,006	17,000
Lake	20,000	450,000	73,390	573,390	12,000
LaSalle	20,000	64,645	62,511	147,156	12,000
Lawrence	8,000	862	6,147	15,009	12,000
Lee	11,000	18,500	34,442	63,942	16,500
Livingston	13,000	33,950	34,800	81,750	28,875
Logan	13,000	24,000	32,000	69,000	15,750
Macon	20,000	85,125	70,386	175,511	18,000
Macoupin	10,000	12,000	9,860	31,860	12,000
Madison	20,000	173,173	54,144	247,317	25,800
Marion	10,000	13,000	11,528	34,528	12,000
Marshall	8,000		2,500	10,500	12,000
Mason	11,000	5,000	8,160	24,160	12,000
Massac	11,000		9,410	20,410	12,000
McDonough	10,000	15,000	22,700	47,700	19,200
McHenry	21,000	133,000	68,766	222,766	11,000
McLean	20,000	42,250	71,675	133,925	19,200
Menard	12,500		3,350	15,850	12,000
Mercer	8,000		14,000	22,000	12,000
Monroe	9,500		10,450	19,950	12,000

COUNTY	SALARIES PD. BY COUNTY S.A.	SALARIES PD. BY COUNTY ASST.S.A.	ALL OTHER EXPENDITURES	COUNTY APPROPRIATION	STATE SUPPLEMENT
Montgomery	$12,000	$ 14,500	$ 26,225	$ 50,725	$12,000
Morgan	10,500	3,500	6,640	20,640	16,500
Moultrie	8,000		17,800	25,800	12,000
Ogle	10,477	12,297	23,408	46,182	12,000
Peoria	20,000	235,513	89,402	344,915	18,000
Perry	10,000		12,050	22,050	12,000
Piatt	9,000	6,900	13,741	29,641	12,000
Pike	8,000		8,000	16,000	12,000
Pope	8,000		1,800	9,800	12,000
Pulaski	12,000		14,510	26,510	12,000
Putnam	11,000			11,000	12,000
Randolph	14,000	6,375	28,831	42,831	25,125
Richland	8,000		8,400	16,400	12,000
Rock Island	20,000	119,986	66,839	212,835	18,000
Saline	10,000	10,000	26,850	46,850	12,000
Sangamon	20,000	195,768	131,004	346,772	22,000
Schuyler	10,250		7,150	17,400	12,000
Scott	8,000		3,720	11,720	12,000
Shelby	12,000		6,440	18,440	12,000
Stark	8,000		26,000	34,000	12,000
St.Clair	20,000	151,428	93,016	264,444	15,996
Stephenson	13,000	13,500	41,630	68,130	12,000
Tazewell	20,000	93,600	69,838	183,438	12,000
Union	8,500		8,500	17,000	13,100

COUNTY	SALARIES PD. BY COUNTY S.A.--ASST.S.A.		ALL OTHER EXPENDITURES	COUNTY APPROPRIATION	STATE SUPPLEMENT
Vermilion	$20,000	$ 65,424	$ 47,763	$133,187	$12,000
Wabash	8,500		8,500	17,000	12,000
Warren	10,000	10,000	7,700	27,700	12,000
Washington	8,000		8,000	16,000	12,000
Wayne	10,500	1,000	19,106	30,606	12,000
White	8,000		34,710	42,710	12,000
Whiteside	13,750	33,075	48,566	95,391	12,000
Will	20,000	184,431	153,062	357,493	22,000
Williamson	13,000	20,000	32,300	65,300	31,000
Winnebago	20,000	246,547	97,196	363,743	17,500
Woodford	13,000		7,100	20,100	12,000

* Total appropriation does not contain a salary breakdown by categories for Assistant State's Attorneys or administrative expenses.

Assistant State's Attorneys - State Educational Institutions
FY '74 Expenditures

Educational Institution	County	Salary Expenditures For FY '74
University of Illinois	Champaign *	$ 27,999.84
Eastern Illinois University-Charleston	Coles	3,998.97
U of I Chicago Circle, N.E. Ill. State, Chicago State, U of I Medical Center	Cook*	13,999.92
Northern Illinois, DeKalb	DeKalb*	26,833.41
S.I.U. - Carbondale	Jackson*	14,247.42
S.I.U. - Edwardsville	Madison	7,200.00
Western Illinois University - Macomb	McDonough	7,200.00
Illinois State University - Normal	McLean	7,200.00
S.S.U., S.I.U., Medical Center	Sangamon	4,000.00
University Branch-East St. Louis	St. Clair	3,666.30
Vocational Tech. Institute Branch	Williamson	3,999.96
Governor's St. College	Will	3,999.96
		$ 124,345.78

*Entitled to two Ass't. State's Attorneys because enrollment is 20,000 or over.

Assistant States Attorneys-Mental & Penal Institutions
FY '74 Expenditures

Mental Institutions	County	Salary Expenditures For FY '74
The Herman M. Adler Zone Center	Champaign	6,000.00
The Elgin State Hospital at Elgin	Kane	6,000.00
Kankakee State Hospital & Manteno Hospital	Kankakee	6,000.00
The Galesburg State Hospital at Galesburg	Knox	4,999.92
The Dixon State School	Lee	4,500.00
Wm. W. Fox Children's Center	Livingston	1,249.98
Lincoln State School	Logan	4,500.00
Adolf Meyer Zone Center	Macon	6,000.00
Alton State Hospital	Madison	6,000.00
Warren G. Miller Children's Center	Marion	* -----
Jacksonville State Hospital	Morgan	4,500.00
Peoria State Hospital-Geo. A. Zeller Zone Center	Peoria	6,000.00
Illinois Security Hospital	Randolph	4,500.00
Elgin State Hospital	Rock Island	6,000.00
A. L. Bowen Children Center	Saline	2,666.64
Andrew McFarland Zone Center	Sangamon	6,000.00
Anna State Hospital	Union	* -----
H. Douglas Singer Zone Center	Winnebago	6,000.00
Total		$80,916.54

* Has not requested reimbursement

*Assistant State's Attorneys - Penal Institutions or Correctional Institutions
FY '74 Expenditures

Penal Institutions	County	Salary Expenditures For FY '74
Ill. State Farm at Vandalia	Fayette	$ 5,000
Vienna Branch of Ill. State Pen.	**Johnson	
Three Correctional Institutions	Kane	8,000
Pontiac State Penitentiary	Livingston	11,875
Menard Branch of Ill. State Penitentiary	Randolph	11,250
Statesville Branch of Ill. State Penitentiary - Joliet	Will	15,000
		$ 51,125

*PA 78-874
**Has not asked for reimbursement.

APPROPRIATIONS OF COUNTY BOARDS IN ILLINOIS FOR THE OFFICE OF STATE'S ATTORNEY

Circuit	County	Cost	* Population
1st	Alexander	$ 31,000	
	Jackson	100,000	
	Johnson	14,400	
	Massac	20,410	
	Pope	9,800	
	Pulaski	26,510	
	Saline	46,850	
	Union	17,000	
	Williamson	65,300	
		$331,270	191,873
2nd	Crawford	$ 36,500	
	Edwards	11,600	
	Franklin	57,200	
	Gallatin	16,300	
	Hamilton	13,300	
	Hardin	15,788	
	Jefferson	59,010	
	Lawrence	15,000	
	Richland	16,400	
	Wabash	17,000	
	Wayne	30,606	
	White	42,710	
		$331,414	199,194
3rd	Bond	$ 13,084	
	Madison	247,317	
		$260,401	264,946
4th	Christian	$ 43,971	
	Clay	12,750	
	Clinton	17,000	
	Effingham	46,000	
	Fayette	33,330	
	Jasper	16,500	
	Marion	34,528	
	Montgomery	50,725	
	Shelby	18,440	
		$273,244	226,934
5th	Clark	$ 15,800	
	Coles	104,660	
	Cumberland	14,050	
	Edgar	36,610	
	Vermilion	133,187	
		$304,307	192,441

Circuit	County	Cost	Population
6th	Champaign	$246,424	
	DeWitt	37,000	
	Douglas	41,000	
	Macon	175,511	
	Moultrie	25,800	
	Piatt	29,641	
		$555,376	353,035
7th	Greene	$ 17,800	
	Jersey	14,800	
	Macoupin	31,860	
	Morgan	20,640	
	Sangamon	346,772	
	Scott	11,720	
		$443,592	283,668
8th	Adams	$ 68,402	
	Brown	13,300	
	Calhoun	13,100	
	Cass	15,900	
	Mason	24,160	
	Menard	15,850	
	Pike	16,000	
	Schuyler	17,400	
		$184,112	149,507
9th	Fulton	$ 89,760	
	Hancock	38,000	
	Henderson	16,000	
	Knox	69,000	
	McDonough	47,700	
	Warren	27,700	
		$288,160	193,514
10th	Marshall	$ 10,500	
	Peoria	344,915	
	Putnam	11,000	
	Stark	34,000	
	Tazewell	183,438	
		$583,853	339,786
11th	Ford	33,700	
	Livingston	81,750	
	Logan	69,000	
	McLean	133,925	
	Woodford	20,100	
		$338,475	223,011

Circuit	County	Cost	Population
12th	Iroquois	$ 53,200	
	Kankakee	157,790	
	Will	357,493	
		$568,483	380,280
13th	Bureau	$ 28,950	
	Grundy	47,837	
	LaSalle	147,156	
		$223,943	176,485
14th	Henry	$ 69,900	
	Mercer	22,000	
	Rock Island	212,835	
	Whiteside	95,391	
		$400,126	300,122
15th	Carroll	$ 24,900	
	JoDaviess	39,800	
	Lee	63,942	
	Ogle	46,182	
	Stephenson	68,130	
		$242,954	170,717
16th	DeKalb	$ 60,943	
	Kane	286,677	
	Kendall	47,550	
		$395,170	349,033
17th	Boone	$ 36,442	
	Winnebago	363,743	
		$400,185	272,063
18th	DuPage	$896,481	491,882
19th	Lake	$573,390	
	McHenry	223,766	
		$797,156	494,193
20th	Monroe	$ 19,950	
	Perry	22,050	
	Randolph	42,831	
	StClair	264,444	
	Washington	16,000	
		$365,275	368,923
	Cook	$8,115,268	5,492,369
Totals		$16,299,245	11,113,976

* 1970 Census

END