



A REVIEW OF  
ADMINISTRATIVE OPERATIONS  
OF THE  
O K L A H O M A  
ATTORNEY GENERAL'S OFFICE

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## I. INTRODUCTION

In an effort to improve the overall administrative operations of his office, Oklahoma Attorney General Larry Derryberry sought consultant services through LEAA's Criminal Courts Technical Assistance Project at The American University. Although no specific problem area had been identified, Mr. Derryberry was anxious to explore areas of potential difficulty as well as to improve and expand the resources available to his staff.

In January, 1974, a two-man consulting team visited Oklahoma City to review the operations of the office. This team consisted of William J. Schafer III, Assistant Arizona Attorney General, and James Beck, Assistant Director of the American Academy of Judicial Education. Their study focused upon the management operations of the office, particularly the handling of cases with a view to identifying potential problem areas relating to the overall management of the office and making recommendations as to how that management could be improved.

Over a four-day period, the team viewed the physical facilities of the office, spoke at length with twelve of twenty professional employees and over half of the nonprofessional staff of the office, as well as with persons outside the Attorney General's office and only indirectly related to its operation.

The results of this study are discussed in the following sections of this report.

## II. ANALYSIS OF EXISTING SITUATION

The Oklahoma Attorney General's office is not unlike most others in composition, posture and duties. The office is a constitutional one with statutory duties and its head is subject to whims of the majority of voters every four years. Its internal executive structure is simple and straightforward with an administration head and a head for each division. The working staff is composed mostly of young, energetic lawyers not too long out of law school, each assigned to an executive division, each working almost exclusively within that division, and each, because of time and cases, getting no or very little exposure to the work of the other divisions.

In general, the work of the office is divided into three very broad and general divisions: Civil, Criminal and Consumer Protection.

### A. Civil Division

The scope of the division's duties is extremely broad; in essence it encompasses everything except criminal matters. It is staffed with assistants and one Division Chief with responsibility to:

1. Prosecute and defend all civil actions and proceedings in the Supreme Court in which the state is an interested party.
2. Prosecute and defend all actions and proceedings in any of the federal courts in which the state is an interested party.
3. At the request of the Governor or either branch of the Legislature, prosecute or defend in any court or before

any board or commission any cause or proceeding in which the state is an interested party.

4. Upon request of the Governor, State Auditor, State Treasurer, or either branch of the Legislature, to prosecute any official bond or any contract in which the State is interested and to prosecute or defend all actions relating to any matters connected with any of these departments.
5. To furnish written opinions to District Attorneys, the Legislature, State officials, board, commission or department, upon matters in which they are officially interested.
6. Upon request of the Governor or Legislature, to bring actions to recover state monies illegally expended.
7. Prepare drafts of bills and resolutions for members of the Legislature.
8. Prepare contracts when requested to do so by any state officer, board or commission for use by the state.

At the present time there are over 250 boards and commissions authorized by the Oklahoma statutes which are entitled to representation by the Attorney General. Of these, there are 78 boards and commissions which have extensive legal problems requiring major involvement by the Attorney General's office. Those agencies are specifically assigned to one of the eleven Assistants in the Civil Division so that the assistant can become familiar with the agency and render legal assistance whenever needed.

By statute, some specific agencies and commissions are allowed to have legal counsel other than the Attorney General to carry on

their affairs. They include the Corporation Commission, the Highway Department, the Securities Commission, the Commissioners of Land Office, Insurance Commission, and the Tax Commission. Other boards and commissions within the State have legal counsel on their staff, but, generally, do not actively handle their own litigation.

All boards and commissions, including those specifically mentioned previously, must rely on the Attorney General when seeking a legal opinion having statewide effect. For example, although the Highway Department has its own staff of attorneys to carry out condemnation proceedings on right of way acquisition, it is still necessary for the Highway Department to request Attorney General's opinions on specific legal questions.

#### B. Criminal Division

The Criminal Division of the Attorney General's office is composed of eight Assistants and five Legal Interns. The work of the Division is supervised by the Chief of the Criminal Division.

The work handled by the Criminal Division is varied. A major part of the workload of the Criminal Division of the Attorney General's office involves the handling of criminal appeals that arise from the convictions obtained in District Court. Since the Oklahoma statutes provide for an automatic right of appeal in felony convictions, a substantial percentage of all defendants convicted of felonies choose to appeal such convictions.

Although the primary responsibility of the prosecution of criminal cases rests in the office of the District Attorney, there are numerous

instances in which the office of the Attorney General becomes involved. For example, in the event the District Attorney or members of his staff are disqualified for some reason, when the District Attorney requests assistance, or when the Governor directs the Attorney General to become involved in the prosecutorial stage, then special prosecution by the office is appropriate. In the event the Attorney General's office is involved in local prosecution, statutes provide that he may assume control of the special prosecution. Nineteen such special prosecutions occurred during the last fiscal year.

Two Assistant Attorneys General in the Criminal Division are assigned to handle appealed cases at the federal level. Their responsibility is basically the same as those involved in state appellate work.

A further responsibility of the Attorney General at the local level is in assisting with grand jury investigations in the state. Such grand juries are commenced by petition of the citizens of the county or by an order of the District Judge. Although the responsibility for assisting county grand juries is vested in the District Attorney, the Attorney General's office may participate in such investigations at the direction of the Governor, either on his own motion or at the request of the District Attorney.

#### C. Consumer Protection Division

Although the Consumer Protection Division deserves special mention and attention, it is in reality a part of the Civil Division. Its workload is handled by the Civil Division Chief, with the assistance of a secretary. Consumer-related cases comprise only a portion of the Chief's responsibilities which also include the civil work of five

agencies.

The Consumer Protection Division was established in September, 1972 pursuant to the Oklahoma Consumer Protection Act. This law employs the so-called "laundry list" approach to the problem, i.e., only those practices which are specifically enumerated in the Act are illegal. A showing of knowledge or intent on the part of the person alleged to be engaged in an unlawful practice is required under the Act. Whenever the Attorney General has reason to believe that any person has, is, or is about to engage in an unlawful practice he may bring an action for a temporary or permanent injunction. This action may be brought in the district court of the county in which the person resides or has his principal place of business, or, if the person does not reside or have a principal place of business in Oklahoma, suit may be brought in the District of Oklahoma County, Oklahoma. The Attorney General may also accept an assurance of voluntary compliance with respect to an alleged violation of the Act from any person supposedly engaged in an illegal practice.

Under the Oklahoma Consumer Protection Act, the Attorney General has the additional duties of coordinating consumer protection activities within State Government, maintaining liaison with Federal and local Governments concerning the interest of consumers and businessmen, studying the operation of any existing or proposed laws affecting the consumer and making recommendations thereon to the Governor and Legislature, conducting studies, conducting investigations and research in matters affecting consumer interest, and submitting an annual report

of the activities of the Attorney General to the Legislative and Executive Branches of the State Government.

Home for the Oklahoma Attorney General is the Capitol Building in Oklahoma City. Fortunately or unfortunately, depending upon which aspect of the office one comes to study, the building is shared with the Legislature and its members, the Supreme Court, the Courts of Appeal, the Secretary of State, the Governor, the Lieutenant Governor, the State Mine Inspector, the State Library and other innumerable state agencies, boards and groups. The Attorney General's space is just barely adequate, but attractive and well appointed. He has a small library of his own and is just twenty yards from the state law library which houses a very comprehensive collection of most of a lawyer's needs -- i.e., reports, digests, periodicals, magazines, journals, law reviews, etc. -- as well as an adequate card file, resource staff and working space.

### III. RECOMMENDATIONS

#### A. Physical Facilities

The office has started to run out of space; a few of the assistants are doubling up and occupying space that should serve one. Such crowding is bad; it presents a poor appearance, prevents the attorneys from working most effectively, and is inimical to recruiting new lawyers. Plans should be started now for either acquiring new space (or more space) or rearranging the present space. Preliminary study should be made to determine if the present space will accommodate the inevitable increase in the work force that will occur in the next few years. For example, it is possible that the library could be moved from its present location to the halls (line the halls with shelves). This would allow the addition of two or possibly four more offices. The Consumer Protection secretary could be amalgated with the present secretarial staff-- this would add one more office. The anterior waiting room which is larger than necessary, could be cut down to make room for another office. The suite of offices for the administrative aid to the Attorney General could be broken up (or moved entirely to the Attorney General's suite) to make room for another office (or possibly two).

An outside consulting team of space management specialists may well increase current space utilization by recommending other space-saving measures. A short term study of this type may well open new vistas and result in many good (often obvious but overlooked) ideas regarding space currently wasted and how it can be put to more effective use.

It may be that some Oklahoma State agencies have already used such services and these consultants might be familiar with the capitol building and, perhaps, the space involved. Various sources of funds might exist to finance such a study, and the feasibility of its conduct should be seriously considered for several reasons. In addition to the practical recommendations generated, the study report would provide justification for requesting the Legislature and/or other appropriate agencies to provide additional space. In the event no funds are available for a private contractor, the possibility should be considered of engaging a team of graduate students in space management. This service would be inexpensive - perhaps free - and might well be more comprehensive than that which could be provided from a private organization.

Remodeling plans should include the availability of a conference room; it is a necessity. Even if an office has to be sacrificed, a conference room large enough to accommodate more than three people must be an integral aspect of the space facilities of the Attorney General's office.

B. Public Address System

Remodelling plans should also focus on improving the current phone and public address system which most of those interviewed disliked. The most efficient, although perhaps most expensive, system would be one that allows each lawyer a call board composed of tie-in

buttons for each line coming into the office, along with an intercom button. This system obviously would allow each attorney to talk on any of the office lines and would save time and bother.

A telephone operator should be hired who could also perform other tasks such as typing, collating, filing, etc., while answering calls and diverting others. This new staff member would free the receptionist to perform her primary function - to receive guests take them to individual offices, introduce them to attorneys, and act as the contact of the office with on-the-scene citizens. Such a role is necessary. In addition, the receptionist would be able to keep track of all the attorneys and their comings and goings. If the receptionist's work station were close to that of the telephone operator, they could easily share this information. Although mechanical devices are sometimes considered appropriate for keeping track of attorneys, such devices are not totally adequate and are woefully impractical. The best system is probably still an efficient operator who can give a caller the exact location of an attorney, contact him if necessary, and provide interim assistance as appropriate. Such a person would constitute an improvement in the public relations of the office as well as to its overall efficiency.

The public address system is annoying and distracting, and a few complaints have been made about it. Consideration should be given to replacing it with either a simple intercom system tied into the phones or an independent intercom system with sending and receiving boxes on

each attorney's desk. These systems are both inexpensive and useful.

C. Need for Para-legal Staff

The possibility should be considered of employing a para-legal staff for the purpose of answering and diverting citizen calls. Very little formal training would be required for such positions. If no para-legal professionals are available, law students, college students, or even high school students might be utilized. By employing high school students, the under 18 years age group ( a much neglected group) can have exposure to the criminal justice system. The calls they would handle would include those from citizens looking for information or answers to specific questions and which could be diverted to the appropriate agency or person. Some calls would be diverted to other state, county or city agencies, service organizations or educational institutions. While this service is undoubtedly already being performed, on a limited basis, it would be more fully provided without waste of valuable attorney time. In addition, a para-legal would have the time to perform an educational function -- to receive guests, to explain the whys and wherefores to the citizen -- an important public relations aspect of any attorney general's office.

If nothing else, at least a "system" should be developed for handling citizen calls and, preferably, most of them should be handled by attorneys. An introductory briefing session for each incoming attorney should be provided to explain the Attorney General's procedure for handling and processing of such calls.

This session should be quite extensive with ample explanation of policies already set by the Attorney General. It is important not to treat this part of daily office routine too lightly. If it is handled in a courteous efficient manner, time will be saved as well as good relations developed. These sessions will require detailed briefing regarding which agencies should handle which calls. This explanation of the office procedure for handling calls should be developed in a manual and made a part of the orientation package for each incoming secretary or attorney. This manual should not be a matter of a few general perfunctory paragraphs. It should be an "A, now B, now C" type of manual.

D. Management - Administrative Level

1. Maintain Attorney General and Staff Contact.

There is little question that the head of an office sets its tone. If he is lackadaisical and shiftless, the office will be. If he comes in late and leaves early, the employees will do the same. If he cares little for the work, the employees will not care.

Oklahoma is lucky. It has an Attorney General who cares, who puts in the time and does set a good example. Care should be taken to see that that image is maintained. More face to face confrontations between the Attorney General and his staff should be fostered. This study has indicated that this has been a vital part of office operations since the present Attorney General took office. With the increased

workload, the additions of new people, the addition of new duties, the advent of new pressures, stock should be taken to see that the same level of personal contacts are maintained or even increased. This can be done formally (case conferences, agency conferences, etc.) or informally (chats, lunches, parties), and it should be kept at a viable level.

2. Conduct Staff Meetings.

Staff meetings should be reinstated. They should involve the entire office. These should be held at regular intervals and should foster free and open discussion about what the office is doing, has done, and is about to do -- including all divisions. Care should be taken to see that the meetings are held regularly. The attorney's staff should be made to realize and believe that one of the main purposes of a staff meeting is for morale, and they should be urged to participate by speaking up frequently and unabashedly. Staff meetings should also be fostered on a division level. These are also morale builders but are quite important to the daily function of the division. With them, the division members gain an understanding what work the division is doing, what is to be done the forthcoming week or weeks, what is expected of them, and how they are to approach the work. Without division meetings, division members become self-oriented and do not

relate to the overall division work. The biggest factor, however, is maintaining morale. For this reason the meetings are a must.

3. Time sheets.

Time sheets, now used on a sporadic, informal basis, should be used regularly by secretaries and attorneys. These time sheets should be as detailed and complete as possible. It may be difficult initially to introduce them; secretaries may not like completing them and attorneys may ignore them. However, once they are made to realize the importance of cataloging everyone's time, initial resistance will wane. It may not disappear. It will, however, dwindle to a manageable level. Time sheets allow the office to know where the work is being done; what agencies are getting more than their share of attorney time, and how much time important and unimportant matters are taking and whose time they are taking. As a "side" benefit, time sheets can serve as a back-up for appeals to the legislature for more money.

4. Consider Additional Staff Positions:

a) Office Administrator.

This position does not now exist. Each Division Chief acts as the office administrator for that division (office manager, office coordinator, office traffic officer, etc.), and the first assistant acts in somewhat that capacity for the office. Someone

should be hired for that specific purpose. A number of job responsibilities can be included in the position: compiling material for the budget, handling personnel and all related problems; travel arrangements, library expansion and refurbishing, as well as serving as the contact point for all administrative problems arising in the office. Such a staff member could be most valuable to the office and could save attorney time considerably. Various sources of funds (local and federal) for the position may exist. These should be explored.

b) Ombudsman.

As part of a previous recommendation to utilize para-legals, an ombudsman could act in many capacities. He can be a troubleshooter for the office, can handle citizen and other agency inquiries, disputes and questions; he can act as liason with other agencies (and even states) and, in many ways, he can act as the office administrator. He can be the office messenger. He can be the office "investigator" when leg work needs to be done on a case.

c) Investigators.

Although in some areas the word "investigator" has a foul taint to it, the use of a small force of investigators should be explored. Currently, there may be no immediate need for investigators. Perhaps what investigative work needs to be

done can be taken care of by local agencies. However, as workload increases, a need will undoubtedly arise for at least one staff position to perform investigative work in the Attorney General's office. This position should be fulltime and the individual need not be a licensed peace officer.

5. Develop Policy and Operations Manuals.

Policy and operations manuals should be developed. Currently there are no manuals in the office; new deputies coming into the office have no written document describing either the policies or operations of the Office. The same problem faces a new administration.

A Policy Manual should set forth both the Attorney General's philosophy on handling cases and dealing with the various agencies and situations, as well as the desired method for handling specific situations. For example, one chapter in such a manual would explain to a new deputy why he gets calls from individual legislators while the legislature is in session, how he is supposed to handle such calls, what his statutory duty is in such situations, and how the Attorney General would like him to proceed and what kind of a product he would like him to produce. The same would be true of a chapter on the Attorney General's opinions-- what they are, what are the deputy's duties, how they have been handled in the past and how the current Attorney General wants them to be handled.

An "operations manual" would, chapter by chapter, explain the functions performed by the Attorney General's Office in a manner detailed enough to permit the new deputy to use the chapter as a guidebook. For instance, the chapter on Appeals would explain the statutes on appeal, particularly in view of the fact that many people are not thoroughly familiar with them. The manual's detail would also set out the deputy's statutory duties in regard to the appeal statutes, outline in detail the appeal procedure and time periods (formal and informal), and suggest ways in which the deputy should approach the writing of an appeal (with examples). Similar treatment should be given to extraditions, usually a completely esoteric part of the Attorney General's duties.

6. Expand Intern Program.

The intern program that now exists should be expanded, not necessarily to include more students but to allow for more personal supervision. A staff member should be appointed to see that the students are given meaningful work and undergo regular briefing and consultation concerning their work. A good part of his time should be devoted to overseeing everything the students do. In recruiting the interns, efforts should be made to attract most able and energetic students from the law schools. Considerable time must be spent at the law schools stimulating interest in the Attorney General's office and developing rapport with the

students and the faculty. The intern program provides an excellent opportunity to gain exposure to government offices. More interplay between the two will be beneficial to both-- but it takes time. The program should benefit both the office and the students. Although LEAA funds cannot be used, resources should be made available to have the interns involved in every facet of the office.

7. Publish Current Information Bulletins.

There is presently no uniform or formal way for deputies to find out what the recent decisions of the Oklahoma courts are in their specialties. Since opinions are circulated to the person who dealt with the case and also to the administrative heads, the only method for finding out what an Appellate Court did a previous week is to ask for a copy of the opinion. Such a procedure should not be necessary. A document should appear regularly reproducing or summarizing what the courts have done in the last week, two weeks or a month. This document may be in the form of a bulletin or a memo and should be distributed to everyone in the office. It should be kept as current and up to date as possible. Once such a system is set up, it might be expanded to cover not only decisions but other items of interest, policy decisions, as well as developments in other offices that have dealings with the Attorney General.

8. Expand Library

Thought should be given to building an adequate working library for the Attorney General. While it is difficult to plan in this direction since the state library, which is very good, is only twenty yards away, such planning should be done, because the state law library is closed all weekend and every night. This program could be developed and handled by a para-legal or even an intern. Once an action plan is developed, a librarian should be appointed who can perform the considerable task of setting up appropriate procedures to insure that books are kept on the shelves and the pocket parts current.

9. Hold Opinion Conferences in Criminal Division

Regular opinion conferences should be instituted in the Criminal Division. Such conferences work very well in the civil end and are well thought of.

10. Perform Microfilming Periodically

Although there is presently a system for microfilming old files, it appears as though this is informal and done whenever it appears the need arises. Microfilming should be put on a more formal basis and done periodically. It will save considerable space that can be used for better things.

11. Use Case Jackets

Many offices use case jackets for their files instead of a plain folder (straight or accordian). The object is to have

the face of the file reflect most of what is in it in a summary fashion so that one may glance at the front of the file instead of going inside each time a question is asked. The benefits are considerable and the jackets will save time, trouble, and prevent loss of documents. Accompanying this report is a copy of a case jacket currently used in a prosecution office and which could easily be adopted to areas other than prosecution.

12. Conduct Employee Evaluation Reports and Sessions

Presently there is no evaluation of an employee's performance. The lack of an evaluation is bad for the employee and the office. A regular system of evaluation should be instituted with at least periodic sessions for a lawyer or secretary to get together with their supervisor to discuss their work performance.

13. Create Central Research Files

A central file should be created for all research done by the office. The file should include memos, briefs and summaries of case law done by every division. It should be adequately cross-indexed and kept up to date. In addition, each employee should be encouraged to keep his own card file of interesting or esoteric legal points that have passed his view.

E. Management - Division Level

1. Hold Regular Staff Meetings

Each division should be encouraged to have its own regular staff meeting. A staff meeting is a good way of disseminating information that needs to be known by everyone and is also a good morale booster by allowing everyone to have his say about the office and its management. These meetings should be held regularly and attendance should be mandatory. Problems and cases of current interest should be discussed and each deputy should be encouraged to participate freely. The meetings should be kept short and to the point.

2. Develop Manuals

Each division should develop a procedure and policy manual. These manuals should be quite detailed and designed so that a new deputy will be able to take the manual and write and understand an appeal, handle an administrative hearing or an extradition. These will also be invaluable to any incoming administration.

3. Involve More Staff in Extradition Matters

Although extradition matters are not the most exciting part of an Attorney General's office, they are very important. Currently they are handled by one attorney with no designated secretary; any secretary who is available is assigned the task. Light should be shed on this facet of the office; other deputies should handle some of the hearings and others should become involved in the daily problems. A manual

should be developed setting forth the procedure for processing an extradition; possibly federal resources may be available for such a project. A secretary should be assigned to these matters on a permanent basis so that she could develop expertise.

Included in Appendix A is a list of projects undertaken by a federal project for prosecutors in Arizona. Although all of the activities listed pertain to criminal law, the ideas involved apply to all aspects of a government legal office. At the time the project was undertaken, no agency existed in Arizona that catered to the needs of prosecutors. Oklahoma has such an agency and, therefore, some of the things discussed may not be required.

IV. SUMMARY

The Oklahoma Attorney General's office is not in need of repair. It appears to function well, gets its work done on time and in a good fashion. It is alert and current. It has a good leader and good morale. It could tighten its communications and expand its management capacities; it should start planning for future increase in size, workload, capacities and abilities. Suggestions in these areas have been made.

APPENDICES

## APPENDIX A:

### LIST OF ACTIVITIES ACCOMPLISHED BY ARIZONA ATTORNEY GENERAL'S OFFICE UNDER A TWO-YEAR LEAA DISCRETIONARY GRANT.

A number of valuable and innovative projects were carried out by the Arizona Attorney General's Office under a two-year discretionary LEAA grant from 1970-72. Several special units were established, staffed by Assistant Attorneys General, with additional outside staff secured from time to time as the need arose. For the most part, four special units developed the programs and resources indicated below. These units were designed to provide:

- a) professional prosecutorial services throughout the state;
- b) instant research capability; c) organization and conduct of training seminars; d) a broad variety of audio-visual equipment purchased under a separate grant. A summary of their activities was prepared by Mr. Schafer, who was closely involved in their development and who served as a consultant on this technical assistance study.

#### PUBLICATIONS

In this area a great deal of activity has occurred and more is anticipated.

- (1) EX REL. This is a fortnightly bulletin to all prosecutors, judges, justices of the peace, sheriffs, and other law enforcement related people in Arizona (plus a number across the country). It presents up-to-date cases that are of interest to law enforcement people from every regional reporter system and is mailed every other Friday.

In addition to bringing to the prosecutor's attention the most important and recent cases, this bulletin serves as an information vehicle. Often it contains notes about prosecution activities in the state and elsewhere and keeps the prosecutor abreast of recent developments in the criminal law throughout the country.

In the last progress report the subscription list to EX REL was just short of 400. The subscription list has increased now to just short of 500.

Besides putting the bulletin out every two weeks, each of the subscribers is provided with a very comprehensive index published every six months.

- (2) ELEMENTS OF ARIZONA FELONIES. As part of the unit's overall plan to supply Arizona prosecutors (judges and policemen) with very comprehensive outlines on Arizona law, it occurred to me that an extremely useful tool for them might well be a handy reference list of the elements of proof required in felony prosecutions. With that in mind, I sat down one night, figured out a format, arranged the common felonies alphabetically, broke them into their elements, and in a few weeks' time came up with 30 pages of outline - covering elements of all of the commonly filed felonies (and a few misdemeanors) in Arizona. This outline has been distributed not only to prosecutors but also to policemen and justices of the peace (320 so far and requests for 400 more). It goes hand-in-glove with the material outlined in the following paragraph.
- (3) UNIFORM CRIMINAL JURY INSTRUCTIONS. Instructing a jury in a criminal case in Arizona is one of the areas where much time is lost for the prosecutor, the court and the jury. Much of this stems from the fact that there is in Arizona no comprehensive set of approved instructions available for use in criminal cases. Each judge seems to have his own set of pet instructions, each prosecutor has his own set, and most of the defense attorneys have a number of sets, depending on the judge, the prosecutor and the case. Something should and can be done in this area, and I have, therefore, set out to draft a set of uniform instructions that can be used in any criminal case.

I was also assigned by the State Bar Association to its committee set up to draft a set of uniform criminal instructions (in fact, I am chairman of that particular subcommittee). When the committee and I finish with the initial draft of uniform instructions (which will probably be in December, 1972), the prosecutors will have a sheath of 100 or more approved instructions to use. Of course, one of these 100 will be the detailing to the jury of the elements of proof in the case at hand-- and here the court may simply refer to the material outlined in Paragraph (2).

- (4) STATE vs. HALL: A PROSECUTION MANUAL. This is a manual designed primarily for the inexperienced prosecutor, the man who has never tried a case. The purpose is to familiarize him with courtroom procedures, give him an overall view of what a criminal trial actually is, and portray for him, in an interesting and entertaining fashion, some of the prosecutorial fundamentals. The format was the trial transcript of an actual "Receiving Stolen Property" case tried in Phoenix in 1968. The transcript and trial are taken from the beginning to the end, including the appeal (which reversed the case). Along the way, pithy comments are provided about

(text and colored photographs). Unfortunately, before Dr. Beeman could get to the final three pamphlets, he died. The one that he had completed and given to us for publication ("Gunshot Wounds") was distributed to every prosecution and sheriff's office throughout the state.

- (9) NEW STATUTES. In line with our policy to keep the prosecutors informed on all up-to-date material in the criminal field, we distributed a summary of all statutes passed by the 1971 and 1972 Legislatures in the criminal law field. All such statutes were read and catalogued by my unit and then summarized for the local prosecutors. Upon request, copies of the actual statutes were sent. The original intent was to get all of the 14 county attorneys together and brief them on the new statutes that had been passed. Upon reflection, however, I felt that this would leave something to be desired-- we could not be sure that the information would filter down to the individual deputy in court. Therefore, instead, we chose to send out to each deputy a summarization of the criminal law statutes.
- (10) REVISED RULES OF CRIMINAL PROCEDURE. In addition to being chairman of the State Bar Subcommittee on Uniform Criminal Jury Instructions, I also act as sub-committee chairman on the State Bar Committee for the Revision of the Criminal Rules of Procedure, and in this regard I have made approximately 19 trips and spent many, many hours realizing the completion of a preliminary set of rules to submit to the Supreme Court. This committee is about to complete its work on the final draft of revisions. When it does (January of 1973), I intend to deliver to each of the prosecutors in the state a summary of what the Rules Committee and the Court has done.
- (11) MAGAZINE ARTICLES. Perhaps the toughest part of this grant is to instill within the individual prosecutor some degree of professional pride in his job. I believe it is no secret that prosecutors throughout the country are generally disorganized and lacking a good deal of professionalism. I also doubt if anyone knows the secret of instilling such a feeling in prosecutors. I know I do not, but I am groping. I know that much of the pride I have in the job I do as a prosecutor stems from, or at least is enhanced by, coming in contact with enthusiastic, energetic people who are doing the same thing. In a number of ways I try to set such an example for our local prosecutors. One of the methods I use is to write articles on subjects that I think they will find interesting. Since beginning the grant, two articles for a national magazine, Police, and six for a local magazine, Arizona Sheriff, have been written. The articles have been on the capture of John Dillinger in Tucson in 1934, the death penalty in Arizona, old forms of punishment, the only woman ever executed in Arizona, and a short account of police identification procedures before the advent of fingerprinting. I know from talking with a number of prosecutors that these articles do catch their attention and, perhaps, make them feel that other people are interested in what they do.

- (12) CASSETTE TAPES. I believe that in the near future much of what is of interest to prosecutors will be available on cassette tapes. It is just now beginning. In anticipation of this, and simply as an interesting innovation, we have sent tapes to our prosecutors covering U. S. Supreme Court decisions, Special Actions in the Arizona Supreme Court, an argument in trial court and two of our seminars Famous Prosecutors and Famous Defense Attorneys. In the two years to come, we will produce our own tapes (probably six a year) discussing all Arizona appellate decisions.
- (13) FELONY FORM BOOK. In Arizona there is no set of stipulated forms for the filing of cases; each county does it in its own fashion and custom, much of which is dictated by what has been done before. This has created confusion, disorder, and consternation among not only the prosecutors themselves, but the law enforcement officers and the courts as well. Because of this, we drew up a set of uniform complaint forms for the commonly filed felonies, arranged them alphabetically, put them into one neat volume, and distributed them to every prosecution office in the state.

#### SEMINARS

In this area, I have tried to be as innovative as possible. I have found from experience that the lecture form of seminar is not the most effective. I, therefore, try to get the listeners actively engaged in discussion.

- (1) WATCH A TRIAL. The purpose of this seminar, which was held in October of 1971, was to have a number of fledgling prosecutors watch an actual trial and learn from it. I personally do not like the mock trial idea (although as you will see later, I did participate in one of these) because of the feeling of unreality that it imparts. I really think that there is no substitute in the learning process for real situations. Of course, the problem with this type of seminar is rather obvious -- scheduling. Some-time ago, I contacted both the Phoenix and Tucson prosecution offices and told them my idea, and asked them to keep on the lookout for an appropriate case. I told them I wanted a narcotics case and I wanted one in which both the prosecutor and the defense attorney were experienced and knew what they were doing.

The Tucson office notified me that they had one going in October, and that if I could get the fledgling prosecutors

together, they could arrange everything with the judge. I limited the group to 20 participants. Two weeks before the trial, I sent them the entire prosecution file on the case. They were told to come to Tucson the day before the trial, and we would conduct a discussion the night before. At that discussion, I had the prosecutor talk to them about the case he intended to present, and some of the defense that he expected. I explained to them much of the procedure which they could expect to see within the next few days. The trial started the next morning but, unfortunately, it was aborted after a few hours. The trial resumed the next week, and we had approximately 15 participants return. From thereon, it went well until the defendants pleaded. But, as it turned out, that too was very good.

After the trial was finished both the prosecutor and the defense attorney sat down with the participants for 3 hours and discussed the case and strategy that went into their actions. The reaction we received from this was very good.

- (2) FAMOUS PROSECUTORS. In keeping with my desire to interest as many people as I can in the field of prosecution as a career, I arranged to bring to Phoenix five prosecutors who had tried well-known cases. Thus on November 27, 1971, I presented in a one-day seminar those people who prosecuted Charles Manson, Sirhan-Sirhan, The Chicago Seven, Richard Speck and The Boston Strangler. Admission was open to all law enforcement related people. 177 attended and the program was very well received. Word that such a program was being presented reached the "California Continuing Education of The Bar" and they sent an engineer to Phoenix to record the program. The entire program is now available on tapes -- very well done tapes.
- (3) FAMOUS DEFENSE ATTORNEYS. In the same vein, on February 19, 1972, I presented 4 well-known defense attorneys to talk about the prosecution and defense of criminal cases. 229 people (prosecutors, policemen, law students and a few members of the public) listened to Charles Garry (the man who defends the Black Panthers), Paul Fitzgerald (chief defense counsel for Charles Manson), F. Lee Bailey and John Flynn (the man who defended Miranda). The reaction from both prosecutors and policemen was very good -- in fact, overwhelming.

- (4) MOCK TRIAL. In March of 1972, I participated in a mock trial staged for approximately 45 state police officers. This was a possession of narcotics case and was presented just like a regular case would be -- two defense attorneys, two prosecutors, an actual judge and a jury. Before the trial began there was a brief bit of discussion as to what the officers could expect and then when the testimony concluded, there were critiques from each of the lawyer participants and the judge and a question and answer period. There are plans to do this again in the near future. It is interesting to note, however, that two of the participants were also participants in the "Watch A Trial" seminar that my unit did in Tucson and both said the same thing -- that watching an actual trial was a much better learning experience.
- (5) PSYCHIATRIC-LEGAL DIALOGUE. In January of 1972, I brought together 10 psychiatrists and 10 prosecutors who have a common interest in criminal trials. The purpose was to bring about a better understanding of the cross that each bears. I would guess that Arizona is not unique in that prosecutors and psychiatrists have very little if any dialogue and interchange of ideas. I was surprised to find that the psychiatrists were probably more interested in this project than the prosecutors and want to meet with the prosecutors again and again. As a matter of fact, one of the psychiatrists who owns a hospital in Phoenix made its entire facilities available to us and will continue to do so in the future. This was simply the first in what we hope will be a series of dialogues on many criminal-insanity issues.
- (6) Psychiatric-Legal Dialogue II. This was the second dialogue but this time our format-springboard was the newly proposed rules of procedure on criminal insanity. We have had many requests to repeat these and we will -- but in the future we will open up the participation to judges and police.

- (7) N.C.D.A. In conjunction with the National College of District Attorneys in Houston, my unit cosponsored a regional training seminar in December of 1971 in Phoenix. This was attended by prosecutors from California, Nevada, Colorado, Texas, New Mexico and Arizona -- approximately 125. It was a 4-day seminar covering trial techniques, organized crime and environmental law.
- (8) N.D.A.A. - DRUGS. In February of 1972 through an arrangement with the State Justice Planning Agency my unit took three top level (administration) prosecutors from 3 different counties in Arizona to a 4-day drug seminar in San Francisco. I believe that this was the first time any Arizona prosecutors had attended an N.D.A.A. drug seminar. Our original intent was to take 7 with us but because of the money arrangement it was impossible.
- (9) TRIAL TECHNIQUES. The first techniques seminar was held in Phoenix in January of 1971. Utilizing local prosecutors and state and federal judges, prosecutors were exposed to a succession of discussions in how to conduct a direct examination, a cross, a voir dire, an argument, etc.
- (10) TRIAL TECHNIQUES - HOMICIDE. In the early part of October, 1971, we conducted a trial techniques seminar which concerned itself solely with well-known Arizona homicide cases. It was a one day seminar and utilized both the prosecutors who actually tried the murder cases and the Maricopa County (Phoenix) Medical Examiner.
- (11) TRIAL TECHNIQUES. In April, 1971, another seminar was held dealing with subject matter similar in content to (9) above, but this time utilizing panels of prosecutors exclusively.
- (12) ARIZONA COUNTY ATTORNEYS AND SHERIFFS ASSOCIATION. In December we presented a 2 hour program in Yuma to the sheriffs and county attorneys on the history of the Arizona death penalty. This was part of their semi-annual convention.

- (13) PHOENIX FILM FESTIVAL. This was a showing of all 16 of the prosecution training films available through the N.D.A.A.
- (14) GLOBE FILM FESTIVAL. In May of 1971 we repeated in Globe, Arizona, for the benefit of out-lying law enforcement officers and prosecutors, the Phoenix Film Festival. But in Globe we did it a little differently. Instead of simply showing the films and answering questions at the end, we showed one or two films and then set up a panel who could lead discussion and answer questions on the films that the spectators had just seen. The panel consisted of myself, 3 other prosecutors, 2 chiefs of police and a number of sheriffs. It went over very well and if our unit is to do the films again, I believe we will do it in this form.
- (15) SHOW LOW FILM FESTIVAL. This was not quite a repeat of the Phoenix and Globe programs -- this time we used the civil trial training films available through the N.D.A.A.
- (16) AUTOPSY. The second week of November, 1971, was scheduled for approximately 20 prosecutors and officers to watch an actual autopsy in Tucson. This was all dependent, however, on the availability of a suitable body during that week. Unfortunately, there was none. This was re-scheduled in Phoenix in March and went off as planned on the 24th. The autopsy was performed by the Maricopa County Medical Examiner and was attended by 22 prosecutors and officers. The entire autopsy was videotaped by the Arizona Department of Public Safety and will be retained by them as a future training tool.
- (17) PROBABLE CAUSE - J.P.'s. In January of 1971, a four hour presentation was made to the Arizona Justices of the Peace on probable cause in criminal cases.
- (18) HOMICIDE-PATHOLOGY. In March of 1971 we presented a three day seminar on homicide investigative techniques as seen from the viewpoint of a forensic scientist (the majority of whom were pathologists). We used scientists from three or four different states. Each enhanced his lecture with slides or movies, each was extremely good and each was very well received. Some measure of the reception this program got is the attendance -- 177 registered, 140 of whom showed up at 9 a.m. Sunday morning. We will repeat this program.

#### RESEARCH AND ASSISTANCE

Under this heading the unit has provided to the local prosecutor "Instant Research," investigative aid, courtroom aid, and courtroom aid on appeals to the Court of Appeals and the Arizona Supreme Court. During its life, the unit has taken over from the county attorneys, upon their request, 33 investigations and 15 trials.

Instant research is supplied on an average of twice a week. Prosecutors are encouraged to call any time they have a problem that they have no time to research or one which they consider rather tricky. This resource is utilized frequently and they call for such assistance both before and during trial.

Also upon request of county attorneys, the unit has handled the Supreme Court appeals (briefs and arguments) in two death penalty cases and one in federal habeas corpus action.

#### LECTURES

Whenever possible the unit makes itself available for lecturing and instruction to law enforcement or civic agencies. As a consequence, approximately 38 lectures were delivered upon various aspects of the criminal justice system to agencies both within and without the state. These instances were quite varied. On two occasions I travelled to the northern part of the state (Kayenta on the Indian Reservation and the Grand Canyon) to lecture to an organization composed of justices of the peace, police officers, and prosecutors on the Indian reservations.

In Kayenta, I lectured on the laws of arrest as they relate to Indians. At the Grand Canyon, I spoke on trial procedure where there is no defense attorney. In January, 1972, I lectured to the United States Forest Service Law Enforcement officers (approximately 50) on Arizona criminal procedure. On two occasions in October, 1972, I lectured on organized crime and the Arizona approach to it at a seminar conducted by the F. B. I. On two other occasions I addressed the Gila County Law Enforcement Association on the Arizona criminal justice system and on single occasions I addressed the Arizona Sheriffs, the Arizona Justices of the peace, the National Legal Secretaries Association, the criminologists with the Arizona Department of Public Safety, the Kiwanis, the Civitans, and other national training coordinators on my program, death penalties, the new rules of criminal procedure in Arizona, the criminal justice system, the Supreme Court, and how to "make" a case.

In addition to these lectures, I travelled to Kentucky, Minnesota, Tennessee, Rhode Island (and in August of 1972, to Montana) at the request of the county attorneys in those states to speak about my program. In January, I lectured in Atlanta, Georgia on the "charging process" and in conjunction with the federal government, I travelled to Houston, Denver, Baltimore, Hawaii, and Nevada to talk with other training coordinators about my program and theirs.

#### ASSISTANCE GRANTS

Working under the grant, I first discovered that very few of the prosecutors knew anything about federal grants to assist them in their everyday work.

One of the jobs I undertook was to inform them of what was available and how they could go about applying for individual grants. In this regard, the unit has applied for two federal grants which we think will greatly assist the county attorneys in their everyday work.

The first is a grant received for audio-visual equipment. Under this grant, through the State Planning Agency, a number of items of equipment were received on behalf of the prosecutors throughout the state for the presentation of evidence to a jury: a movie projector, a slide projector, an overhead projector, and an opaque projector.

The second grant is for a two-year training program for prosecutors. This is an ambitious project. It accepts six third-year law students into a training program that puts them into the work rotations in the Attorney General's office, a local prosecutor's office, and a public defender's office. Not only will this provide a ready pool of talent for the prosecution offices to pick from, it will be valuable in another more important regard -- it will go a long way toward professionalizing prosecution in Arizona. The grant was just recently awarded and the project started right away with a week-long orientation program for the students. Great benefits are anticipated from them and the program.

#### LIBRARY

A lending reference library for prosecutors has been established and is augmented whenever possible. It now consists of approximately 51 volumes and ranges from a textbook, Modern Criminal Procedure, to a paperback entitled The Bust Book: What To Do Until the Lawyer Comes.

#### ORGANIZED CRIME - STRIKE FORCE

The unit has worked very closely with the Attorney General, the Arizona Department of Public Safety, and Stanley Patchell, head of the Organized Crime Strike Force (set up under a federal grant) in getting that Force organized and functioning and pointed in the right direction. Technical assistance has also been provided when needed. Although there were some initial difficulties in all of these regards, it is now apparent that this unit is well on its way to accomplishing a good many ideal goals, although guidance and technical assistance will continue.

#### ARIZONA CASE CARD FILE

A case card index file on all 106 reporters of the Arizona State Supreme Court opinions and all 15 of the intermediate appellate court reporters has now been completed. The resultant 7 filing drawers of index cards will be alphabetized, categorized, and honed to a fine working order. When this is done, a number of outlines will be published on Arizona substantive law and evidence for prosecutors. Two on self-defense have already been completed and distributed to all state prosecutors.

**END**