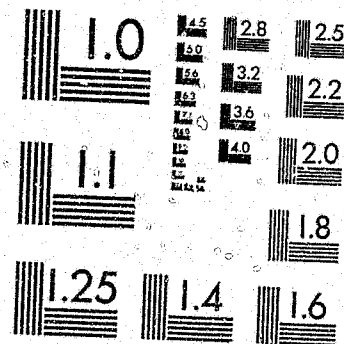


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✓ REPORT ON THE  
TECHNICAL ASSISTANCE VISIT TO THE  
STATE ATTORNEY

MONROE COUNTY, FLORIDA  
AUGUST 11-13, 1981

CRIMINAL PROSECUTION TECHNICAL ASSISTANCE PROJECT

LEONARD R. MELLON, PROJECT DIRECTOR

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This study was performed in accordance with the terms of Law Enforcement Assistance Administration contract #J-LEAA-010-80.

The views expressed in this report are not necessarily those of the Law Enforcement Assistance Administration.

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## INTRODUCTION

On August 11-13, 1981, a Technical Assistance team from the Criminal Prosecution Technical Assistance Project visited the offices of Kirk C. Zuelch, State Attorney for Monroe County, Florida. The Technical Assistance team examined the State Attorney's management and operations functions in accordance with the terms of a contract with the Law Enforcement Assistance Administration. Members of the team included\*:

Leonard R. Mellon, Director  
Criminal Prosecution Technical Assistance Project  
Washington, D. C.

Dan Johnston, Consultant  
County Attorney  
Polk County  
Des Moines, Iowa

The purpose of the visit was to analyze problems related to the operations and control of the State Attorney's staff and the coordination of the two branch offices with the Key West office. An overall assessment of the entire office was not attempted, nor was it desired. The purpose of a technical assistance visit is to evaluate and analyze specific problem areas and provide recommendations and suggestions for dealing with those areas. It is designed to address a wide range of problems stemming from paperwork and organizational procedures, financial management and budgeting systems, space and equipment requirements and specialized operational programs, projects and procedures unique to the delivery of prosecutorial services.

During the visit, interviews are conducted with those members of the office who are most directly involved with the problem areas. Their

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\*Vitaes are attached as Appendix A.

functions and tasks are examined, as well as their perceptions of the problem. The flow of paperwork and the statistical system may also be examined if they are problem areas. Interviews may also be conducted with personnel involved in other component areas of the criminal justice system, such as the police, courts and the public defender's office.

The basic approach used by the Technical Assistance team is to examine the office with reference to its function responsibilities. This means that the process steps of intake, accusation, trials, post-conviction activities, special programs and projects, juveniles and other areas are examined, as required, with respect to their operations, administration and planning features. Taking a functional analysis approach permits observation of the interconnecting activities and operations in a process step and identification of points of breakdown if they exist.

Once the problem and its dimensions have been specified, an in-depth analysis is made which results in an identification of the major elements and components of the problem, and an exposition of needed change, where applicable.

After the problem has been fully examined, its dimensions discussed, and the analysis of the critical component factors undertaken, recommendations that are practical and feasible are made.

The visit to the State Attorney for Monroe County, Florida focused on the issues of control and uniformity between the Key West office and the out-county offices, and the development of an information and accounting system for the entire network of offices.

The Technical Assistance team would like to thank Mr. Zuelch and his staff for their cooperation and assistance during the visit. Reception of the team was excellent, and the staff's willingness to discuss the strengths and weaknesses of the office was of considerable assistance to the Technical Assistance team in carrying out its tasks.

# II. SUMMARY OF RECOMMENDATIONS

1. Consider establishing a coordinating committee in each section of the county, composed of representatives from the various law enforcement agencies, that would establish priorities, discuss problems and exchange information.
2. Establish a written policy manual, outlining the policies of the State Attorney's administration.
3. Undertake the responsibility for more police training in the areas of search and seizure and interrogations.
4. Make an assistant available on a 24-hour basis to assist in major narcotics investigations.
5. Develop a petty cash or contingency fund to reimburse assistant state attorneys for out of the pocket travel expenses.
6. Lead the move to establish a Circuit Court Judge to reside in the Upper Keys. If this is not possible, consider establishing a closed circuit video system for first appearance hearings.
7. Meet with the Chief Judge to rework the system of putting cases "On Trial".
8. Convene a committee composed of members from all agencies involved with the administration of criminal justice to discuss matters of case administration.
9. Obtain the agreement of the Court, the Clerk, and the police that no charge will be filed without the approval of the State Attorney's Office.
10. Institute a pretrial conference and use this as a plea cut-off date to create a pure trial docket. This will allow the State Attorney to centralize the plea negotiation policy set forth by him.
11. Replace the current system of case tracking with one involving the use of index cards. Examples of these cards are attached as Appendix B.
12. If automation is desired, consider a word processing system, or, alternatively, a system integrated with the system in the Clerk of Court's office.
13. Redesign the case jacket to include all relevant information on the cover. Examples are attached as Appendix C.

14. Use the forms recommended in Section C of this report to generate statistics.
15. Take whatever steps necessary to convince the Florida Department of Human Resources of the need for the State Attorney to handle all child support matters.
16. Pursue the course of establishing a witness coordinator.

### III. SYSTEM OVERVIEW

Monroe County, Florida is, in many respects, a unique sui generis jurisdiction. The county consists of a string of islands approximately 150 miles long but seldom more than a mile wide, and a portion of the southwest tip of the Florida peninsula. Key West, the largest city, at the southwestern end of the island chain, was settled before the other islands and is the seat of the county services.

Monroe County's climate and the availability of water recreation in the Atlantic Ocean and the Gulf of Mexico make the county a haven for vacationers and retirees. Its 63,000 population is swelled by tourists in all seasons, but especially during the winter months. A seasonal fishing industry also supports a transient population.

The Monroe County State Attorney has held that position since his predecessor was removed from office in November, 1980. He oversees a staff of 31 employees, of whom 11 are assistant state attorneys who serve at the pleasure of the State Attorney. The main office is in Key West and there are two branch offices. The office in Plantation Key has jurisdiction from Mile Marker seventy to the Dade County line, approximately 80 miles away. The Marathon office has jurisdiction from Mile Marker seventy to Mile Marker thirty-two.

Nine police agencies serve the State Attorney's office with the largest, the Monroe County Sheriff's Department, bringing approximately 50 percent of the workload to the office. In 1980, the three most prevalent felonies referred to the State Attorney's office were drug related offenses, breaking and entering and theft.

Under Florida practice in felony cases if an information is not filed within twenty-one days the defendant has a right to a preliminary hearing and to release on his own recognizance. Rarely does the twenty-one day period elapse in Monroe County prior to the filing of an information. An A Form which was developed in Dade County by one of the consultants is used in Monroe County to satisfy the requirements of Gerstein vs Pugh.

The police file directly in Monroe County. This practice developed in response to allegations as to ineffectiveness and lack of diligence by the previous Monroe County State Attorney. After an arrest and appearance hearing there is no further hearing until an information is filed within that twenty-one day period, at which time the Clerk sends out a notice of arraignment set for two weeks to a month after the information has been filed. The general practice in Key West is that at the arraignment pleas are taken. In those cases involving pleas of not guilty motions are generally set for five days later. The Court will then set a trial date. There is one felony judge who handles all of the cases for the Keys. Three county judges act as magistrates and hear all misdemeanors. The Felony Court Judge sets every case for the Monday, three months after the docket setting. There is a docket sounding on the Tuesday prior to the first Monday of the month. At this time the Judge goes through the docket and spreads cases out over the month. On the Thursday or the Friday before the first Monday the Judge will notice and set down one hundred cases. At this time he will set a plea date on the Friday before that Monday. If no plea has been negotiated the case will then go to trial. In these instances generally a defendant who is set for trial who wishes to plea must plead to the counts and information as charged. All subpoenas are issued for appearance for the first Monday of the month. There is a large backlog of felony cases in Monroe County.

#### IV. ANALYSIS

The analysis of the Monroe County State Attorney's office focused on the overall planning and administration of the office, case tracking, the use of statistics and their relation to the development of a computerized system, and the incorporation of special programs for child support enforcement and victim/witness matters.

##### A. Planning and Administration

Most criminal justice systems lack the analysis and planning that is necessary to effectively apply criminal law to reduce crime. Monroe County is no exception. There is no acknowledged leader, or manager, working with all parts of the system to maximize the delivery of law enforcement services to the public.

The Monroe County criminal justice system has some major planning needs. The highly transient nature of its victims, witnesses and defendants makes adjudication difficult. One gets the impression that a major crime control product of the system is pre-trial detention in cases which can never be adjudicated.

With the exception of narcotic offenses, all cases are on the same basic track. Special procedures established elsewhere for public intoxication and vagrancy, neighborhood disputes, rape and incest, or white collar crimes have yet to be developed in Monroe County.

The Technical Assistance team recommends that the State Attorney develop his role as planner for the entire criminal justice system. This will require a different approach in several different contexts. With

respect to executive branch agencies, primarily law enforcement, he should demonstrate his commitment to improve the effectiveness of the system to reduce crime. To accomplish this, the Technical Assistance team recommends that the State Attorney consider establishing, in each section of the county, a coordinating committee to include the sheriff, police chiefs, and other law enforcement agency heads in the county, meeting monthly to coordinate efforts, exchange information, discuss problems and establish priorities. In addition, the State Attorney should diligently respond to communications from department chiefs and instruct his staff to respond to contacts from law enforcement personnel in a courteous, respectful and helpful manner.

With respect to internal improvements needed in his own office, the State Attorney should concern himself primarily with setting policy and priorities to improve his office and the administration of criminal justice. On a day-to-day basis, the chief assistant State Attorney should be given the responsibility of carrying out office policy and administration. The State Attorney should continue to give his personal attention to the use of the Grand Jury to investigate public corruption, especially as it pertains to the administration of criminal justice.

The Technical Assistance team strongly recommends that the State Attorney undertake the responsibility for more police training. Interviews with prosecutorial personnel indicated that police reports were inadequate, of poor quality, and often very late in coming to the office. The State Attorney should establish regular programs for police training on search and seizure and interrogation as to the requirements of Florida law. In

addition, he should work with law enforcement to speed the preparation and receipt of reports. With respect to the Key West Police Department a determination needs to be made as to the cause for delay. With respect to Blood Alcohol tests taken at the jail by sheriff's deputies, copies should be sent directly by the Sheriff to the States Attorney simultaneously with the copy that goes to the arresting agency. The Monroe County law enforcement agencies have indicated a willingness to cooperate fully with the State Attorney in the administration of criminal justice.

The Technical Assistance team also suggests that the State Attorney make the assistant state attorney assigned to narcotics prosecutions available to assist in major narcotic investigations on a 24-hour basis, and establish procedures in the police agencies to have him notified when a major case develops. In major narcotics cases all searches and seizures and all interrogations should be monitored and counselled by an assistant prosecutor, preferably the person assigned to narcotics prosecutions. This may require transferring some non-major narcotic prosecutions to the general case load to allow sufficient time for investigation and prosecution of major cases.

Several interrelated problems arise from outdated court and case administration. Police filing of preliminary complaints directly with the Clerk in Key West means that cases are filed without prior prosecution screening. This increases dismissals, caseload, and results in pretrial detention, bail and other costs to innocent defendants.

Complaints originating in the Upper Keys (Marathon and Plantation Key) are processed through the Key West Clerk of Court and States Attorney's office before being returned to their place of origin for eventual prosecution, screening and information preparation. This results in substantial delay.



Motions and trial of all felony matters is in Key West. On days motions are heard in Key West, the police, the assistant state attorney, witnesses and the assistant public defender assigned to the Upper Keys are all required to commute to Key West. Many times this journey must be repeated again in the same week.

At the present time, there is no system in the State Attorney's office for making travel advancements to the assistants in the Upper Keys so that they do not have to bear out of pocket expenses for gasoline and other attendant expenses. Reimbursement is slow in coming, often as long as two months. The Technical Assistance team recommends that the State Attorney take appropriate steps through the State agency to maintain a petty cash or a contingency fund to handle matters such as this for the assistants in both Marathon and Plantation Key. If cash advances cannot be obtained, the State Attorney should inquire into the possibility of obtaining credit cards, similar to the ones issued for judges and the Florida Highway Patrol, for the assistants in the Upper Keys.

Under the present system the needless travel between Plantation Key and Marathon to Key West on the Overseas Highway, (which is presently in large measure a two lane road), should be abated. All felony matters from time of arrest to arraignment and motions and continuances and trial should be heard in Plantation Key and in Marathon rather than in Key West. The present system is designed to accommodate the judge. It is in effect the mountain coming to Mohammed. Witnesses and police officers, victims, prosecutors and public defenders are required to make that long journey from Plantation Key and from Marathon to Key West when in fact there should be present in the Upper Keys a Circuit Court Judge resident to handle these matters.

Another possibility for the State Attorney to consider is the establishment of a closed circuit video system for first appearance purposes in the Upper Keys. This would require only the presence of a clerk to make entries as a formal matter of record and the duty judge for Saturdays and Sundays when the problem arises. The judge whether he be in Key West or elsewhere in the Keys, would need merely to go to chambers where he would be seen by the prisoner and the prisoner in turn seen by the judge on close circuit television, and where bail could be set and the prisoner informed of his rights.

A similar closed circuit system is utilized by the District Attorney in Philadelphia, Pennsylvania where booking precincts are spread out extensively throughout the county.

Another problem that was observed by the Technical Assistance team was the setting of trial dates. At the time of the site visit, trial dates were not set until the middle of the last week before the month in which the cases were to be tried. This results in counsel having little time to work out scheduling conflicts, and little time to notify witnesses of a precise trial date. In many instances, cases are continued "On Trial" meaning to no date certain (known locally "as cases being on a trailing docket"). This increases the risk that a case may go beyond the 180 days speedy trial time requirement.

The Technical Assistance team recommends that the State Attorney meet with the Chief Judge in an attempt to change the system of putting cases "On Trial." This system has created needless problems for the State Attorney's office.



Problems also arise with respect to pleadings that arrive late from the Clerk, and police reports and blood alcohol analyses that arrive so late that Informations cannot be filed promptly. This results in unnecessary and time consuming preliminary hearings and case dispositions that are delayed. Assistant state attorneys also complain of the inordinate amount of time between conviction and sentencing.

With respect to the entire system--Executive, Judicial and Legislative--the Technical Assistance team recommends that the State Attorney take the lead in improving the efficiency and effectiveness of criminal justice administration in Monroe County. To lead the way, the State Attorney should convene monthly a coordinating committee to discuss matters of case administration. Members should include the chief circuit judge, the criminal judge, a county judge, the court administrator, the public defender, the clerk of court, the sheriff, and the Key West police chief. At this meeting, the State Attorney might suggest to the Chief Judge and the Court Administrator that the services of a court consultant\*, such as the National Center for State Courts, be utilized to help plan any contemplated changes in the criminal court administration. During these meetings the State Attorney could also discuss with law enforcement the reasons for the delay in receipt of police reports and blood alcohol analyses. Both the Sheriff and the Key West Police Chief have indicated their willingness to cooperate fully with the State Attorney.

#### B. Intake and Case Processing

Until the time that the present Monroe County State Attorney took office, charges were filed by the State Attorney's office. This practice was stopped however, since there were allegations of mismanagement under this system. At the present time, the police file all charges directly with the Court. This system creates problems and is inefficient since the State Attorney's office does not have a chance to screen inadequate cases out of the system until much later in the process. By that time, too many resources have been needlessly wasted.

In the branch offices, this is an especially burdensome problem. As case arrests are made in the Upper Keys, the police book the suspect through the substation there. The A Form is filed there and within a day or two, perhaps longer, the A Form and the prisoner are transported to the main Sheriff's jail in Key West. The A Form is at that time taken by courier to the Clerk's office in Key West where it is made a part of the record. Thereafter, it is taken to the main State Attorney's office who, in turn, transmits a copy of it, by courier, back to the branch office. This is a totally unacceptable system in which time is needlessly wasted. The Technical Assistance team recommends that the A Form and all prisoners be processed at the substation both in Marathon and Plantation Key, and that the A Form go to Key West only as a matter of record accommodation for the Clerk. This will prevent past occurrences in which assistants in the branch offices did not receive the A Form until five to seven days after an arrest has been made in their jurisdiction.

\* Contact can be made through the Criminal Courts Technical Assistance Project, Joseph Trotter, Director, 5530 Wisconsin Avenue, N.W., Suite 1130, Washington, D.C. 20015, (202) 686-3803.

The Technical Assistance team recommends that the State Attorney file cases with the Court. Criminal case intake is rightfully a prosecution function.

The intake and screening phase is the first process in every office and is the point at which the most crucial decisions--if charges are to be brought and the number and level at which each charge will be brought--are made. The intake decision is the key to all subsequent decisions. It anticipates whether the prosecution, and the defense in many cases, will be willing to negotiate the charges for a plea of guilty, whether the prosecution will seek a conviction on the counts, or whether the defendant will be eligible for alternative programs that may be available, such as deferred prosecution or diversion.

Quality and equity in the discretionary system of justice form the yardstick against which all decisions must eventually be measured. Efficiencies and economies assume only secondary importance, since they measure how these ideals are reached. Equity is the prime issue because it is affected by the discretion exercised by the various parts of the criminal justice system. To control the effects of discretion, the criminal justice system has responded by establishing a system of checks and balances. Ideally, the discretionary decision of the law enforcement agencies to arrest and detain a suspect is

checked by the authority of the prosecutor to review the arrest charges, change them if necessary, or even decline to prosecute. If the decision is made to go forward with the case to the point of trial, this action is subject to the decision of the court and/or jury, which acts as a balance and arbiter.

This finely honed system of checks and balances is unique to the United States. It relies on the active participation of all the component parts of the criminal justice system in an equal but independent manner. When one part becomes subservient to another--especially by transferring its decisionmaking authority to another--the system of checks and balances is degraded.

Even though police and prosecutors are at least nominally on the same side in pursuing criminal prosecutions, this theoretically shared interest is belied by a lack of cooperation between the two more often than should be expected under these circumstances. Police are often disappointed with and wary of the prosecutor's decisions; the prosecutor often distrusts and questions the actions and motives of the police. In many instances, the two work together more in an atmosphere of sullen resignation than one of trust and cooperation.

One reason for the uneasy working relationship that often exists between the police and prosecutor is that they do not share the same interests, responsibilities, or goals in their respective pursuits of law breakers. The police must keep the peace and apprehend the law breaker; the prosecutor must bring the case of the state in a court of law. The police arrest on the basis of probable cause to believe that an individual has broken the law; the prosecutor must produce a higher quantum of evidence to convict the same person in the courtroom, the standard there being proof beyond a reasonable doubt.

The police are faced with the responsibility for keeping the streets safe by placing alleged wrong-doers in the judicial system; the prosecutor is faced with the task of representing the community in all actions, of keeping the court process moving, and of eliminating those cases that are inappropriate or insufficient for the attention of the court. As the division of work has separated the two agencies, the goals of each have become more divergent, thereby creating some problems that assume more significance as the criminal justice system becomes more procedure-bound and complex. For this reason, prosecutorial review of charging decisions made by police is crucial. The prosecutor must see to it that the evidence used by the police to make the arrest is sufficient legally to support the allegation that the state will make.

Jacoby and Mellon, speaking of the roles of the police and prosecutor at the intake stage state that<sup>1</sup>

Nowhere else in the criminal justice system is there such a highly visible interactive area. The result of this process, produced by a symbiotic relationship between police and prosecutor, reaches into every other processing stage.

They go on to describe the intake process as it should function:<sup>2</sup>

Optimally, an efficient and effective intake process is one where all relevant information reaches the prosecutor as quickly as possible after an arrest or criminal event so that the facts of the case can be properly reviewed and analyzed prior to a charging decision.

The concept of the prosecutor having control of his own charging decisions has also been endorsed by several professional organizations, as well as the National Advisory Commission on Criminal Justice Standards and Goals, which states in Standard 1.2:<sup>3</sup>

After a person has been taken into custody, the decision to proceed with formal prosecution should rest with the prosecutor.

The Commission feels strongly that there should be a division of roles between the police and the prosecutor. While the decision to arrest a person is rightly a police decision, the decision to charge, and at what level, should be a function of the prosecutor. They state that while the police should have the authority to arrest and book a person suspected of a serious offense without prior approval of the prosecutor, the process should go no further than that without the formal involvement of the prosecutor's office.

The National District Attorneys Association considers the decision to charge, and selecting the most appropriate and accurate charges, to be one of the prosecutor's greatest responsibilities. They also feel it to be the sole responsibility of the prosecutor. This is reflected in the standards promulgated by this organization concerning the charging and screening functions. Standard 9.1 concerns the authority to charge:<sup>4</sup>

The process of determining and initiating criminal charges is the responsibility of the prosecutor. Within his discretion the prosecutor shall determine what charges should be filed, and how charges should be presented.

Standard 9.2 goes on to state:<sup>5</sup>

The prosecutor has the responsibility to see that the charge selected adequately describes the offense or offenses committed and provides for an adequate sentence for the offense or offenses.

In order to insure that the proper charge has been made, the prosecutor must have all available data concerning the event before him at the time he makes his charging decision. He should also consider such factors as the nature of the offense, the characteristics of the offender, the

interests of the victim, whether the statute has been enforced with regularity in the past, the possible deterrent value of the prosecution, the probability of conviction, recommendations of the law enforcement agency and the presence of any mitigating circumstances. These are all things which must be weighed by the prosecutor before he makes a decision to charge a certain crime at a certain level. Only the prosecutor has all of the information necessary to make this decision, as some of the information used in coming to a decision involves policy considerations, of which the police are not aware and are not in a position to evaluate.

In addition to these Standards, Standard 8.1 also addressed this area:<sup>6</sup>

The decision to initiate or pursue criminal charges should be within the discretion of the prosecutor, excepting only the grand jury, and whether the screening takes place before or after formal charging, it should be pursuant to the prosecutor's established guidelines.

Screening is defined as the process by which a person is removed from the criminal justice system prior to trial or plea. The earlier in the process screening takes place, the more savings accrue to the system as a whole. Needless steps in the process are eliminated, thereby conserving resources for cases that should be in the system at further points along in the process.

The American Bar Association has also addressed the issue in Standards Relating to the Administration of Criminal Justice. Standard 3-3.4 deals with the decision to charge:<sup>7</sup>

- (a) The decision to institute criminal proceedings should be initially and primarily the responsibility of the prosecutor.

\*\*\*\*\*

- (c) The prosecutor should establish standards and procedures for evaluating complaints to determine whether criminal proceedings should be initiated.

In the commentary to this section, the ABA goes on to point out that:

Whatever may have been feasible in the past, modern conditions require that the authority to commence criminal proceedings be vested in a professional, trained, responsible public official. The need for law-trained judgment to guide the exercise of the power to charge a citizen with a criminal act and to put the citizen under the heavy burden of defending himself or herself is discussed in Standard 3-2.1.

Standard 3-2.1 states:<sup>8</sup>

The prosecution function should be performed by a public prosecutor who is a lawyer subject to the standards of professional conduct and discipline.

The ABA recognizes that intake is a process which results in placing cases with sufficient evidence to support a conviction before the court. But the ABA Standards go further by directing attention to the charging decision itself as a critical point in the process and then by elaborating factors other than the weight of the evidence in terms of applicable law that have a bearing on the decision to accept or reject a case. Other considerations include: (1) the prosecutor's reasonable doubt that the accused is in fact guilty; (2) the extent of the harm caused by the offense; (3) the disproportion of the authorized punishment in relation to the particular offense or the offender; (4) possible improper motives of a complainant; (5) reluctance of the victim to testify; (6) cooperation of the accused in the apprehension or conviction of others; and (7) availability and likelihood of prosecution by another jurisdiction.<sup>13</sup> The ABA Standards, like



others, is an elaboration and substantiation of the belief that, for proper charging, what is needed is a careful and rational review of the information available to the prosecutor. Here the policy of the prosecutor is clearly given weight in this discretionary process, along with a recognition of prevailing community values.

The discretionary charging decisions are made within a policy environment that produces such distinctly different dispositional patterns (both immediately in the form of reject rates and also later in the form of plea, trial and dismiss rates) that its influence cannot be discounted.

When the charging decision is not made by the prosecutor, as it should be, the function is transferred to another agency, in this case the police department. The effects of this transfer are both predictable and widespread. The effects of transfer on the prosecutor are generally a loss of control, power and influence, and the adoption of a reactive "catch up" style of operation in the next process step. As a result, the accusatory process assumes the added role of charge review as well as accusation.

Some cases that never should have entered the system are disposed of at the preliminary hearing or are remanded to the lower court at the hearing.

In Philadelphia, with a two tiered court system, entirely too many cases go into the wrong court (i.e. the Common Pleas rather than the Municipal Court) as a result of improper charging by the police at arrest. The system is such that adjournments are commonplace. (Preliminary hearings, for example, are almost never heard at the first listing, but are continued to another listing at the request usually of defense counsel) When a number of listings occur in a case, it is not until an inordinate lapse of time has occurred that the prosecutor, at preliminary hearing, becomes aware of the nature of the case and the fact that it should have been filed in the Municipal Court.

The accusatory process then can be either pro forma or it can be a major dispositional vehicle. The result of the loss of control in the early stage is to let into the system cases of questionable merit, reduce the discretionary authority of the prosecutor to set the charge and concomitantly increase modifications to the original charges, require additional work in other process steps and generally divert some of the prosecutorial effort to correction, modification and disposition rather than trial preparation. The key distinction between having an intake function or not is that without screening, the decision is largely restricted to what charges to bring, not whether to charge.

The loss of control over intake has serious effects on the public defender as well. Instead of representing a defendant in a case that has prosecutorial merit, the public defender must also share the increased workload. Obtaining dismissal of cases that either should not have been allowed in the system or should have been prosecuted at a lower level or on a different charge involves time, work and often unnecessary expense.

The Public Defender in Philadelphia indicates that this is a chronic problem there. Improper charging by the police results in many cases being filed in the court of Common Pleas, which properly belong in the Municipal Court.

The effect of a lack of control over the intake stage was also noted by the ABA when it observed:<sup>9</sup>

The absence of a trained prosecution official risks abuse or casual and unauthorized administrative practices and dispositions which are not consonant with our traditions of justice.

The State Attorney should begin by obtaining the agreement of the Court, the Clerk and the police that felony and misdemeanor charges against defendants cannot be filed unless approved by an assistant state attorney. Once this agreement is obtained, a screening unit should be established and staffed on a rotating basis. Cases arising in Marathon and Plantation Key should be screened by those offices. Charging policies should be reduced to writing to insure an equal application of the charging decision. Any deviations from the written policy should be approved by the State Attorney or the Chief Assistant, with the justification noted in the case file. Initially, the State Attorney should have his experienced assistants performing the screening as they will be able to work most effectively with the police officers assigned to the cases. In addition, the State Attorney should allow the police officers ten days in which to submit their reports. This added time will benefit the screening unit by allowing more time for reflection on the case and more time for the law enforcement agencies to gather all the relevant facts.

At the present time, there are no pretrial conferences set where pleas could be negotiated and formalized by the Court. The State Attorney has indicated that he is eventually looking to a system where the office would not negotiate pleas. It has been the policy of the State Attorney's office to negotiate plea agreements without regard to a plea cut-off date.

As a result, the office did not have a clear idea of which cases would go to trial and which cases would be disposed of by plea on any given day. This situation has created an inefficient trial docket which has resulted in a waste of judge and court personnel time, frustration for witnesses who must make repeated appearances, often to find that a plea is to be entered and they are not needed after all, and a waste of trial preparation time by prosecuting attorneys.

It is the recommendation of the Technical Assistance team that the State Attorney institute a pretrial conference comparable to that used in Florida civil practice, to establish a plea cut-off date and thus create a pure trial docket. In order to be effective, pretrial docket control must occur with the complete cooperation of the court. The court has the power to set dates for pretrial conferences which must be attended by all parties. This is necessary to effectively establish a plea cut-off date, and thereby a pure trial docket. In order to make this pure trial docket an actuality, the plea cut-off date must be totally, effectively and solidly upheld in all cases. If a plea is to be made to a reduced charge, it must be made by the plea cut-off date, usually the date of the pretrial conference. Beyond that date, the defendant must plead guilty to the original charge or stand trial. Because it will be at the plea cut-off date that an actual trial date will be scheduled and all of the

reduced pleas will have been eliminated from the calendar, a pure trial date may be established with only one case set for trial on one date.

As a result of the establishment of pretrial docket control, there will be direct centralization of responsibility for following the plea negotiation policy established by the State Attorney, without whom the assistants have no power to accept reduced pleas. It should be his policies and his alone that are incorporated and followed throughout the criminal justice system in the county to which he has been elected to perform this function. Centralization of the function will allow him to maintain control over his policies and allow him to center responsibility for any possible violations. The implementation of this effective case processing tool will also enhance the professionalism of the State Attorney's office.

One very serious problem in the Monroe County State Attorney's office is the lack of an effective case tracking system. Part of this problem is related to the Felony Court Judge's use of a trailing docket. That is, cases which are set for trial and for some reason do not get tried, remain on the docket with no definite date set. This has caused some cases to be lost by the State because of the running of the Speedy Trial time.

The present system of case tracking in the State Attorney's office is not conducive to control by the State Attorney or his Chief Assistant. Each assistant state attorney keeps his or her records for monitoring their caseload. This is facilitated by the excellent secretarial staff, but it fails to provide the State Attorney and his Chief Assistant the case

information they need to supervise and manage. Cases that may be languishing in the system or in jeopardy of running past the 180 day limit would be known to supervisors only if told by the assistant assigned.

Assistant prosecutors experience situations where they must prepare for hearings on very short notice on cases assigned to another prosecutor who is unavailable. No case monitoring system exists to allow supervisors to anticipate and avoid these conflicts.

Some assistants complain of the apportionment of cases among them, but supervisors can compare caseloads at any time only by an inventory of each assistant's assigned cases. It is the recommendation of the Technical Assistance team that this system be replaced immediately with that is based upon file cards only in which data are kept in two files.

Only two file cards are necessary to track cases using this system. These cards may be of any design, but a suggested format is attached as Appendix B. This form is designed in three parts with a snap-out carbon paper in between each part. Information on the case number, defendant name and charges are typed onto the two cards. By using the snap-out carbon paper, it is not necessary to type duplicate information.

Instructions should be added concerning downgrading or dismissing charges. For the maximum effectiveness, all of this information should be entered when the case is brought into the screening section. The reviewing assistant may also record remarks as to why the case is being dismissed or downgraded.

The two cards should then be filed in their respective locations. The first copy should be filed alphabetically to become the active defendant index file. When cases are closed, the card may be moved to

a closed portion of the file. This will become a quick reference as to whether a defendant has been through the criminal justice system before.

The second card should be filed according to the next event and then by date within that type of event. This file becomes the master calendar record. One section should contain cases pending arraignment, another those pending trial and a third section for cases pending sentencing. Other sections may be added as needed. Under this system, the clerical employee would pull the appropriate cards from the alphabetical file and the calendar file and would post information on these two cards. The files would then be returned with the cards for refiling by the file clerk. Both file boxes should remain in a central records office.

Each card has three sections. Information about the defendant and the overall case is typed in the first section. The second part contains information regarding complaints, court numbers, charges and disposition of charges. The back of the card contains both the event history and the sentencing information. The State Attorney may choose to change this format, however this general type of data has been found to be useful in many places.

Since information on the defendant name, complaint number, police agency, charges, complaint date and case number are all on the card to be created, a name index will no longer be needed since these cards will be maintained in exact alphabetical order. All of the information will be entered only once. Only the event information is recorded twice, once for each card, and that is done at the same time.

If the State Attorney wishes to begin developing brief banks, or producing subpoenas automatically, a more sophisticated system would be required. The team has found that as a general rule, office automation begins to be efficient at about 1500 indictments per year, and becomes mandatory at about 2500 indictments per year. Some of the more capable word processing systems allow case tracking, subpoena printing and statistical work. These machines are quite cost effective when used in offices which produce 1000-2500 indictments per year. Although a sophisticated computer system is not warranted for the Monroe County office at this time, it is recommended that the State Attorney consider the use of a word processing system which will enable the office to perform functions not currently being undertaken.

The Clerk of the Circuit Court has indicated his willingness to cooperate with the State Attorney if the State Attorney wishes to integrate an automated system with the one in place in the Clerk's office. The Clerk's office currently houses a Main Frame 8450-MCR modular computer unit with current software programs available to the State Attorney for information concerning intake and dispositions. His programmer is taking more courses and would be available to the State Attorney should he wish to use him to incorporate management information needs into the system. However, the Clerk indicated that there is a need for more developed software and recommended highly that the State Attorney investigate the system used in the Brevard County, Florida State Attorney's office. The Clerk indicated that once the State Attorney went to an automated system, the installation of terminals in Plantation Key and Marathon would pose no problems.



The case jacket currently in use by the State Attorney's office is inadequate for listing all the appropriate information on a case in a clear and observable manner. The present case jacket contains a case diary sheet with notes and comments and a section for dates as to the various transactions in the case i.e., motion dates, trial dates, arraignment dates and continuance dates, on the left side. The right side of the file contains motions and other legal papers and the rap sheet if there is one. The Technical Assistance team recommends that the case jacket be revised to include all relevant information on the cover. Two models of case jackets, one designed by the National Center for Prosecution Management and one in use by the Wayne County (Detroit) Prosecuting Attorney's office, are enclosed as Appendix C. The Technical Assistance team suggests that the State Attorney examine these examples and consider redesigning his case jackets. One item of information that must be included in a conspicuous place on the front of the case jacket is whether the case is a Key West case, a Plantation Key case or a Marathon case. Many problems are caused at arraignment and at the sounding by the assistant's not being aware of whether the case is in fact a Plantation Key, Key West or Marathon case, which causes the matter to be set for Key West rather than the location where it belongs.

#### C. Use of Statistics

Statistics are not being kept at the present time, largely because of the type of case tracking being used in the office. It is estimated that Monroe County law enforcement agencies refer 2,500 cases a year for prosecution. But no one knows that for sure; no one knows what percent

of original complaints are not filed as Informations, how many Informations are dismissed prior to trial; how many charges are reduced; how many defendants plead guilty; are acquitted; or are convicted. Absent this data the States Attorney, other officials, and indeed, the public cannot accurately identify weaknesses and strengths of the system. Priorities for improvement cannot be established. Of equal importance, the system cannot inspire the confidence that is the touchstone of respect for law.

With the implementation of the case tracking system proposed in this report, some general statistics should be kept. These statistics will assist the State Attorney in managing the case flow in his office, instituting internal evaluation procedures, allocating resources and predicting the need for additional resources in the future and informing the public as to the work accomplished by the State Attorney's office.

It is the recommendation of the Technical Assistance team that the State Attorney begin keeping statistical records by making a determination to count cases and defendants as they enter the system. This can be accomplished manually by the use of a tally sheet such as Form 1 found in Appendix D. This form is a weekly intake report to be filled out each day by the use of simple hash marks in the appropriate boxes. The amount of detail which is to be used may be determined by the needs of the prosecutor. On Form 1, both cases and defendants are counted, and the detail is sufficient to permit analysis of changes in charges filed, as well as cases accepted, referred or rejected. The clerk enters a hash mark in the appropriate box to indicate the result of the intake process.

At the end of the week, all of the columns are totalled and the monthly total from the previous week's report is entered in the next to

the last row. The new monthly total to date is obtained by adding the weekly total to the monthly total from the last week.

Form 2 in Appendix D is a disposition report having basically the same format as the intake report. The headings should include all possible dispositions. While these may vary from one jurisdiction to another, the most common ones are listed on the form. Cases and defendants reaching disposition for each day are recorded in column 1. The upper half of the first block should be used to show the number of cases reaching final disposition and the bottom half should show defendants. In all other blocks along the table, only defendants should be counted, as there are too many variations in the disposition of individual cases involving multiple defendants to use cases as the basis of the count. Therefore, the various categories, such as pled to original, pled to reduced, and so forth all refer to the number of defendants.

There are several ways in which this information can be collected. It has been found to be highly successful to either analyze the court calendar for each day, which has been appropriately annotated with the courtroom results, or to use a master list of all defendants reaching final disposition in a given month.

To use the latter approach, a form such as Form 3 in Appendix D should be used. Each day, whether the calendar is prepared in the prosecutor's office or returned to the prosecutor at the conclusion of the day's work, a clerk should review the calendar to obtain the information and place it on this report. The date called for on the form is the date that the case was heard. The case number, defendant's name, docket number and charge should be listed individually and the disposition should be shown for each charge. The name of the assistant prosecutor who tried

the case or handled the plea and of the trial judge, if applicable, should also be listed. The disposition categories should correspond to the weekly disposition report. The clerk should determine what occurred for each defendant at the trial or plea and mark only one column. At the end of the day, this information should be transferred to the weekly summary report.

Form 4 in Appendix D is an example of a calendar report. This report measures the amount of delay arising in the system and the reason it is occurring. The first column indicates, for any given day, the total number of cases scheduled. The third column, "Defendants Rescheduled" is a measure of the number of continuances being granted during a particular day. The next boxes enumerate the reasons why the defendant was rescheduled. This will show whether delays in the system are due to court backlog prosecutor-requested continuances or defense-requested continuances.

By using these four forms, the State Attorney will be able to keep useful statistics for the office with a minimum of burden to the clerical personnel who will be performing these tasks.

#### D. Miscellaneous

##### 1. Child Support Enforcement Program

At the time of the site visit, the State Attorney had only one paralegal in his office handling child support matters. However, the only area covered by the State Attorney's office involves out of state URESA matters. The previous Monroe County State Attorney had declined to handle

local child support enforcement matters, which prompted the Florida Department of Human Resources to contract all local child support enforcement matters to a local attorney in private practice. The present State Attorney has tried to convince the Department of Human Resources to enter into a contract with his office for all local child support enforcement matters, but the agency has declined to do so. This very effectively deprives Monroe County, under Title IV-D, of the incentive payments that otherwise would be theirs if the State Attorney had this jurisdiction. It is the strong recommendation of the Technical Assistance team that the Department of Human Resources reconsider this matter and enter into a cooperative agreement with the State Attorney to handle child support matters.

## 2. Victim/Witness Matters

The Technical Assistance team recommends that the State Attorney pursue his present course of establishing a witness coordinator for the office. This should be done at the earliest possible time. The witness coordinator's responsibilities would be to secure the presence of witnesses at trial, notify victims and witnesses of continuances, and alert prosecutors of unavailable witnesses. The coordinator should also assist witnesses in securing their compensation from the Clerk's office and assist victims in the return of their property used as evidence.

## V. CONCLUSION

This analysis and these recommendations are presented with the knowledge that the Monroe County State Attorney already has an effective, working system in place. The areas highlighted in this report are those areas that should next be addressed as the State Attorney strives to constantly improve the delivery of prosecution services to the citizens of Monroe County.

There is an urgent need for the State Attorney to develop his role as planner for the entire Monroe County criminal justice system. He should consider establishing a coordinating committee in each section of the county, composed of representatives from the various law enforcement agencies, that would establish priorities, discuss problems and exchange information on a monthly basis. Internally, the State Attorney should consider a written policy manual, outlining the policies of his administration. The day-to-day direction of making sure that the State Attorney's policies are carried out should become the responsibility of the Chief Assistant.

The State Attorney should also undertake the responsibility for more police training in such areas as search and seizure and interrogations. In addition, he should meet with the representatives of the law enforcement agencies to discuss problems related to police reports and blood alcohol analyses. The Technical Assistance team also recommends that the State Attorney make an assistant available to assist in major narcotics investigations on a 25-hour basis. This may require transferring some non-major narcotic prosecutions to the general caseload. This will allow the narcotics assistant to participate in better case screening, and be more active in case

investigations and prosecution of major narcotic cases.

At the present time, cases are filed by the police, without prior prosecutorial review. This increases dismissals, prosecutorial caseload and results in pretrial detention, bail and other costs to innocent defendants. In addition, complaints originating in the Upper Keys are processed through the Key West Clerk of Court and the Key West State Attorney's office before being returned to their place of origin for eventual prosecution. This results in substantial delay and needless travel by the police, witnesses public defenders and others who must travel to Key West from the Upper Keys. At the present time there is no system for making travel advancements to assistant state attorneys who must make these trips. The Technical Assistance team recommends that the State Attorney develop a petty cash or contingency fund so that the assistants in the Upper Keys will not have to bear the out of the pocket expenses. He should also investigate a system of credit cards similar to the ones in use by judges and the Florida Highway Patrol.

The Technical Assistance team strongly suggests that the State Attorney lead the move to establish a Circuit Court Judge to reside in the Upper Keys. In that way, all felony matters from arrest through trial would be heard in Plantation Key and Marathon. The State Attorney should also consider the implementation of a closed circuit video system, similar to what is used in Philadelphia, which is explained in more detail in the body of this report. It's principal value would be in connection with first appearance hearings on weekends.

The setting of trial dates was another problem observed by the Technical Assistance team. Under the present system, trial dates are not set until the middle of the last week before the month in which the cases are to be tried. In many instances, cases are continued "On Trial", meaning to no date certain. The Technical Assistance team recommends that the State Attorney meet with the Chief Judge and rework this system. Putting cases "On Trial" only creates problems for the State Attorney with respect to meeting speedy trial times.

Other problems were detected with respect to the late arrival of police reports and blood alcohol analyses. The State Attorney should lead the way in improving the administration of criminal justice by convening monthly a coordinating committee to discuss matters of case administration. With representatives from all facets of the criminal justice community, this committee could make suggestions and recommendations for improving the administration of justice in Monroe County.

The Technical Assistance team recommends that the State Attorney return to the system of his office filing all charges with the Court. This practice had been criticized under the previous State Attorney and so had been transferred to the police. The right to screen and insure original charges that are consonant with the policies of the State Attorney, is rightfully the domain of the prosecutor. When this function is transferred to another agency, inefficiencies are produced in the system. In the case of Monroe County, this can easily be seen by the needless delays caused by the police filing the charges in the Upper Keys.



The A Form is filed in the Upper Keys, then transported to Key West, taken to the State Attorney's office there, who returns it, by courier, back to the branch office.

The State Attorney should obtain the agreement of the Clerk, the Court, and the police that all charges filed should first have the approval of the State Attorney's office. Cases arising in the Upper Keys should be screened by those offices. In addition, the State Attorney should allow the police ten days in which to file all of their reports. This added time will give the screening units time to reflect on the charge and the police time to gather all of the relevant facts pertaining to the case.

The State Attorney indicated to the Technical Assistance team that he would eventually like to change to a system in which his office would not negotiate pleas. This must be done gradually, and it is recommended that the State Attorney begin by instituting a pretrial conference, comparable to that used in Florida civil practice, to establish a plea cut-off date and thus create a pure trial docket. This will also give the office a clear idea of which cases will go to trial and which cases will be disposed of by plea on any given day. If a plea is to be made to a reduced charge, it must be made by the plea cut-off date. After that date, the defendant must plead to the original charge or stand trial. In this way, the State Attorney can centralize responsibility for following the plea negotiation policy set by him.

In the area of case tracking and file control, there are several recommendations. Case tracking could be greatly simplified if the current system were replaced with one utilizing an index card filing system. Under this system, only two index cards are required to be maintained. Examples

of these cards are attached as Appendix B and their use is explained in Section B of this report.

If the State Attorney wants to consider automated systems, two alternatives are available. A capable word processing system allows case tracking, subpoena printing and statistical work. These machines are quite cost effective when used in offices which produce 1000-2500 indictments per year. Alternatively, the Clerk of the Circuit Court has indicated his willingness to assist the State Attorney if he wishes to integrate an automated system with the one in place in the Clerk's office. The State Attorney would want to develop more sophisticated software if this alternative is chosen. The Clerk recommended the system in place in the State Attorney's office in Brevard County, Florida.

The Technical Assistance team also recommends that the State Attorney redesign the case jacket currently in use in his office. The case jacket should be redesigned with all relevant information concerning the case displayed in easy to read fashion on the cover. Two models of case jackets, one designed for the National Center for Prosecution Management and one in use by the Wayne County (Detroit) Prosecuting Attorney's office, are enclosed as Appendix C. Any design chosen should include the office in charge of the case, whether it be Key West, Plantation Key or Marathon, displayed prominently on the front cover. This will help to alleviate some of the problems caused at arraignment and sounding by the assistant's not indicating whether it is a Plantation Key or Marathon case, and the matter being set for trial by the judge in Key West rather than the other two cities.

Statistics are not being kept at the present time, but are very useful to a prosecutor for a number of reasons. They can assist in allocating resources, predicting the need for additional resources and managing the case flow in an office. For these reasons, the State Attorney should begin to keep records of the workings of his office. With the implementation of the new case tracking system, this task should be simplified. Several forms are attached as Appendix D and their use explained in Section C of this report. These forms should be used to generate statistics for the State Attorney's use.

Two other areas of the State Attorney's office were examined, although not in detail. The Child Support Enforcement Program should be the sole responsibility of the State Attorney's office. Under the present system, the State Attorney's office only covers out of state URESA matters with the local matters handled by a local attorney in private practice. The Technical Assistance team recommends that the Florida Department of Human Resources enter into a cooperative agreement with the Monroe County State Attorney's office to handle all child support matters. This would provide Monroe County with the incentive payments under Title IV-D.

The Technical Assistance team also recommends that the State Attorney pursue his plans to establish a witness coordinator for the office. The coordinator's would be responsible for securing the presence of victims and witnesses, notify them of continuances, assist them in securing their compensation from the Clerk's office and alerting prosecutors of unavailable witnesses.

The implementation of these suggestions and recommendations should result in a more efficient and effective office for the State Attorney as well as a savings to the taxpayers of the County as the result of a more productive office.

FOOTNOTES

1. Joan E. Jacoby and Leonard R. Mellon, "Policy Analysis for Prosecution" (Washington, D.C.: Bureau of Social Science Research. Inc., 1979), p. 198.
2. Ibid., 199
3. National Advisory Commission on Criminal Justice Standards and Goals, Courts (Washington, D.C.: Government Printing Office, 1975), ;. 131.
4. National District Attorneys Association, National Prosecution Standards (Chicago, Illinois: National District Attorneys Association, 1977), p. 131.
5. Ibid.
6. Ibid., 125.
7. American Bar Association Standing Committee on Association Standards for Criminal Justice, American Bar Association Standards Relating to the Administration of Criminal Justice, 2nd Edition (Washington, D.C.: American Bar Association, 1978), p. 8.
8. Ibid., p. 9.
9. Ibid., p. 3.

APPENDIX A

## RESUME

LEONARD R. MELLON

RESIDENCE: 3008 Federal Hill Drive  
Falls Church, Virginia 22044  
(703) 241-8982

EDUCATION: BS (Political Science), Florida State University  
BSFS (History, International Law) School of Foreign Service,  
LLB, School of Law, Georgetown University

### PROFESSIONAL EXPERIENCE:

Deputy Executive Director, Jefferson Institute For Justice Studies - Currently  
Research Associate, Bureau of Social Science Research, 1978 - Present  
Director, Project on Child Support Enforcement, National District  
Attorneys Association, Washington, D. C., 1975-1978  
Special Counsel, National Center For Prosecution Management, Washington,  
D.C., 1974-1975  
Chief Deputy State Attorney, 12th Judicial Circuit of Florida,  
Sarasota, 1974  
Assistant State Attorney, 11th Judicial Circuit of Florida, Miami, 1971-1974  
Counsel, Transcommunications Corp., New York, Miami, 1969-1971  
Sole practitioner, Miami, Florida, 1965-1969  
Assistant Attorney General, Florida, 1958-1965

### CURRENT EMPLOYMENT

Project Director, Criminal Prosecution Technical Assistance Project--  
Designed the format for and directed the operation of a technical assistance  
project which provides short-term, on-site technical assistance to state attorneys  
general, district and local prosecutors, and other relevant agencies in the areas  
encompassing the operations, management and planning function of an office.  
Coauthored a series of monographs in the field aimed at technology transfer of  
proven management and operational techniques and processes; supported by the  
Law Enforcement Assistance Administration.

Deputy Executive Director of Jefferson Institute For Justice Studies --  
Assist in the qualitative development of methods designed to measure performance  
of prosecutors and public defenders under a National Institute of Justice grant.  
Participate in the design of tools to assist prosecutors, judges and others in  
developing charging guidelines and sentence recommendation procedures in studies  
commissioned by state and local authorities.

### PAST EXPERIENCE

1978-1980

As Deputy Project Director, participated at the Bureau of Social Science  
Research in a three year nation-wide research project to develop techniques  
and procedures for increasing uniformity and consistency in decisionmaking  
in prosecutors offices. Among the 15 prosecutors cooperating in the research  
were those in Brooklyn, New York, Detroit, Michigan, Seattle, Washington,  
New Orleans, Louisiana, Minneapolis, Minnesota and Kansas City, Missouri.  
Out of this research was developed a new policy and management evaluation  
tool called the "Standard Case Set" which allows a prosecutor to measure the  
amount of agreement that exists in his office between himself and his attorney  
staff (called consistency) and among his staff (called uniformity).

1975-1978

As Director of the National District Attorneys Association Project On Child  
Support Enforcement, developed and directed a DHEW supported project which  
assisted and encouraged prosecutors and others nationally to participate in  
the Federal Child Support Enforcement Act (Title IV-D of the Social Security  
Act). During the project, conducted regional orientation and training  
conferences nation-wide; produced a monthly child support enforcement news-  
letter; developed a reference source and telephone hotline for prosecutors  
and other persons involved in IV-D activities, and a clearinghouse on current  
child support data; directed and participated in technical assistance visits  
by child support enforcement consultants nationwide.

1974-1975

As special counsel to the National Center for Prosecution Management, prepared  
under an LEAA grant, standards and goals for homogeneous groups of prosecutors  
in the United States, organized the groups, supervised the meetings and assisted  
in the preparation of documentation on standards and goals.

1974

As Chief Deputy State Attorney, 12th Judicial Circuit of Florida (Sarasota)  
had total responsibility, directly under State Attorney, for administration  
and operation of prosecutor's office. Acted as State Attorney in the absence  
of State Attorney.

1971-1974

As assistant state attorney, 11th Judicial Circuit of Florida, Dade County,  
Miami, created special trial division for speedy processing and trial of  
defendants, assisted in the development of pretrial intervention (diversion)  
program under an LEAA grant and established a Magistrate's Division in the  
State Attorney's Office. After undertaking a survey of case intake and  
screening, recommended the establishment of a new system and was appointed  
head of the new Intake and Pre-Trial Division in the State Attorney's Office.



## 1969-1971

Acted as house counsel for Transcommunications Corporation, a public corporation, in both Miami and New York City. Corporation was involved in television videotape production and post-production, and motion picture film processing. Job responsibility was primarily concerned with administration and the monitoring and supervision of the collection of accounts receivable.

## 1965-1969

Conducted general law practice including real estate and probate, commercial and administrative law. Specialized in appellate work both in state and federal courts. Practice also devoted in large measure to trial litigation, civil and criminal, in both state and federal courts.

## 1958-1965

As assistant attorney general of Florida was initially assigned to civil division handling general legal and administrative law matters for a variety of state agencies. In April 1960, appointed as Director of Law Enforcement under the Attorney General and acted at the same time as counsel for, among others, the Florida Hotel and Restaurant Commission, the State Beverage Department, the Florida Board of Pharmacy, the State Narcotics Bureau and the Florida Racing Commission. In this capacity drafted a variety of regulatory bills which were enacted into law affecting horse and dog racing in Florida, the hotel, restaurant and liquor industries, and the profession of pharmacy.

Selected Publications

"The Prosecutor Constrained By His Environment--A New Look At Discretionary Justice In The United States," (with Joan Jacoby and Marion Brewer), The Journal of Criminal Law and Criminology, Spring, 1981.

"The Standard Case Set: A Tool For Criminal Justice Decisionmakers" (with Joan E. Jacoby) (in press, G.P.O.), 1981.

"Prosecutorial Decisionmaking: A National Study" (with Joan E. Jacoby) (in press, G.P.O.), 1981.

"Policy and Prosecution" (with Joan Jacoby and Walter Smith) (in press, G.P.O.), 1981.

"Measuring Evidentiary Strength of Criminal Cases", Criminal Justice

Research: New Models and Findings, Sage Publications, Beverly Hills, London, 1980.

Transmitting Prosecutorial Policy: A Case Study in Brooklyn, New York (with Joan E. Jacoby, et al.). Bureau of Social Science Research, 1979

A Quantitative Analysis of the Factors Affecting Prosecutorial Decisionmaking (with Joan E. Jacoby, et al.). Bureau of Social Science Research, 1979

Policy Analysis for Prosecution (with Joan E. Jacoby) Bureau of Social Science Research, April 1979.

Policy Analysis for Prosecution: Executive Summary (with Joan E. Jacoby) Bureau of Social Science Research, April 1979.

"Probable Cause Determination," (Commentary) National Prosecution Standards, National District Attorneys Association, Chicago, 1977.

"The Child Support Enforcement Act." (with Sharon Biederman) Prosecutors' Deskbook, Washington, D.C.: National District Attorneys Association, 1976.

Handbook on the Law of Search, Seizure and Arrest, Florida Attorney General's Office, 1960; revised, 1962

"Can Effective Restrictive Legislation Be Written" The Journal of the American Pharmaceutical Association, Spring, 1963

## RESUME

DAN L. JOHNSTON  
Polk County Attorney  
Polk County Courthouse  
Des Moines, IA 50309

### EMPLOYMENT

February 1977  
to Present:

Polk County Attorney. Responsible for felony and misdemeanor prosecutions and civil legal counsel to county government in jurisdiction with population in excess of 300,000.

October 1975-  
February 1977:

Director of Court Planning Project for National Center for State Courts, Washington, D.C.

September 1972-  
October 1975:

Director of Technical Assistance, Vera Institute of Justice, New York City.

January 1966-  
September 1972:

Partner law firm of Jesse, Le Tourneau and Johnston, Des Moines, Iowa.

January 1967-  
December 1969:

Member Iowa House of Representatives.

January 1965-  
December 1965:

Assistant Iowa Attorney General.

January 1963-  
December 1964:

Director, Des Moines Pre Trial Release Project.

### EDUCATION AND PERSONAL DATA

Born April 6, 1938, Montezuma, Iowa.

Graduated Toledo Iowa High School 1957.

Attended Iowa State University, Ames, 1957-1958.

Graduated (A.B.) Westmar College, Le Mars, Iowa, 1960.

Vice President U.S. National Student Association 1959-1960.

Graduated LL.B Drake Law School, Des Moines, Iowa, 1964.

APPENDIX B

[illegible][illegible][illegible]

Figure 1. The effect of the concentration of the  $\text{H}_2\text{O}_2$  solution on the amount of the released  $\text{H}_2\text{O}_2$  from the  $\text{H}_2\text{O}_2$ -loaded hydrogel. The amount of the released  $\text{H}_2\text{O}_2$  was measured by the amount of the released  $\text{H}_2\text{O}_2$  from the  $\text{H}_2\text{O}_2$ -loaded hydrogel. The amount of the released  $\text{H}_2\text{O}_2$  was measured by the amount of the released  $\text{H}_2\text{O}_2$  from the  $\text{H}_2\text{O}_2$ -loaded hydrogel.





APPENDIX C

# INTAKE REPORT

[illegible]



## MONTHLY REPORT OF DISPOSITIONS

[illegible]

## WEEK OF: \_\_\_\_\_ TO \_\_\_\_\_, 1980

[illegible]



# APPENDIX D

NATIONAL CENTER FOR PROSECUTION MANAGEMENT MODEL PROSECUTION REPORT				EVENT NO.		PROSECUTORS	
DEF. TRUE NAME (ID ONLY)				DEF. ID NO.		CHARGES	
DEF. STATED NAME				BOOKING NO.		STATUTE	
ALIASES OR NICKNAMES				SOC. SEC. NO.			
				SEX	RACE	DOB	
				TIME IN AREA	RELEASE STATUS		
ADDRESS (INCLUDE APT. NO.)				PHONE	AUTHORIZING AGENCY	DATE	
				BUS.		COURT OR VENUE	
				RES.			
DATE AND TIME OF OFFENSE				DATE AND TIME REPORTED TO POLICE		BY WHOM	
DATE AND TIME OF ARREST				LOCATION OF ARREST			
CO-DEFENDANTS: STATUS arrested (A) wanted (W) : LOCATION jail (J) bond (B)							
(1) NAME	ADDRESS	STATUS	LOC.	(2) NAME	ADDRESS	STATUS	LOC.
OR NAME	ADDRESS	STATUS	LOC.	(4) NAME	ADDRESS	STATUS	LOC.
DEFENDANT CHARACTERISTICS:							
PRINCIPLE DEF:	YES <input type="checkbox"/>	NO <input type="checkbox"/>	UNK. <input type="checkbox"/>	ANY RELATION TO: (IF YES DESCRIBE)			
PREVIOUS RECORD:	YES <input type="checkbox"/>	NO <input type="checkbox"/>	UNK. <input type="checkbox"/>	VICTIM: _____			
STATEMENT:	SWORN <input type="checkbox"/>	ADMITTED <input type="checkbox"/>		OTHER WITNESSES: _____			
IF ADMITTED	ORAL <input type="checkbox"/>	SUMMARY <input type="checkbox"/>		CRIMINAL JUSTICE STATUS: _____			
	WRITTEN <input type="checkbox"/>	ATTACHED <input type="checkbox"/>		UNUSUAL CONDITIONS: _____			
CRIMES AGAINST PERSON :				CRIMES AGAINST PROPERTY:			
EXTENT OF INJURIES:				AMOUNT TAKEN:	OWNERS NAME :		
				AMOUNT RECOVERED:	ADDRESS :		
				AMOUNT DAMAGE:	TELEPHONE:		
EVIDENCE: (PHYSICAL PROPERTY, STATEMENTS, OTHER)							
DESCRIPTION	HOW, WHERE, WHEN, RECOVERED	IN WHOSE CUSTODY NOW		SCIENTIFIC TESTS AND TYPE			
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ADDITIONAL INVESTIGATION REQUESTED				DATE REQUESTED		DATE HELD	

COPY 1

COPY 1 TO I.D. - COPY 2 & 3 TO PROSECUTOR - COPY 4 TO OFFICER - COPY 5 TO DISTRICT

REVERSE CARBON AND FILL IN REVERSE SIDE OF THIS FORM

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BRIEF DESCRIPTION OF CRIME		REVERCE CARRON			
WITNESS STATEMENTS IN THE FOLLOWING ORDER: VICTIM, POLICE, EXPERTS, OTHERS					
(1) NAME:		ADDRESS	PHONE		
		BUS.	OCCUPATION:		
		RES.	ALT. CONTACT		
SYNOPSIS OF TESTIMONY:		NAME:			
		PHONE:			
		AVAILABILITY:			
(2) NAME:		ADDRESS	PHONE		
		BUS.	OCCUPATION:		
		RES.	ALT. CONTACT		
SYNOPSIS OF TESTIMONY:		NAME:			
		PHONE:			
		AVAILABILITY:			
(3) NAME:		ADDRESS	PHONE		
		BUS.	OCCUPATION:		
		RES.	ALT. CONTACT		
SYNOPSIS OF TESTIMONY:		NAME:			
		PHONE:			
		AVAILABILITY:			
(4) NAME:		ADDRESS	PHONE		
		BUS.	OCCUPATION:		
		RES.	ALT. CONTACT		
SYNOPSIS OF TESTIMONY:		NAME:			
		PHONE:			
		AVAILABILITY:			
(5) NAME:		ADDRESS	PHONE		
		BUS.	OCCUPATION:		
		RES.	ALT. CONTACT		
SYNOPSIS OF TESTIMONY:		NAME:			
		PHONE:			
		AVAILABILITY:			
(6) NAME:		ADDRESS	PHONE		
		BUS.	OCCUPATION:		
		RES.	ALT. CONTACT		
SYNOPSIS OF TESTIMONY:		NAME:			
		PHONE:			
		AVAILABILITY:			
ATTACHMENTS BROUGHT TO PROSECUTOR					
ITEM	ITEM	NAME OR ID NO. OF WITNESS DIRECTED TO APPEAR (PROS. ONLY)			
		ARRAIGN.	PREL. HRG.	G.J.	TRIAL
CONTINUATION REPORT	ARREST WARRANT				
ARREST REPORT	LOCAL RECORD				
OFFENSE REPORT	FBI RECORD				
SUPPLEMENTAL REPORT	STATEMENTS				
SEARCH WARRANT					
SIG OF OFFICER	BADGE AGENCY UNIT DATE	SIC REVIEWING OFFICER		BADGE AGENCY UNIT DATE	
COPY 1					

END