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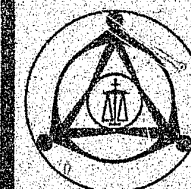
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REPORT OF TECHNICAL ASSISTANCE VISIT TO
COUNTY PROSECUTOR'S OFFICE
KALAMAZOO, MICHIGAN
March 20-27, 1973



THE AMERICAN UNIVERSITY

Criminal Courts Technical Assistance Project
Institute for Studies in Justice and Social Behavior
The American University Law School
Washington, D.C.

REPORT OF TECHNICAL ASSISTANCE VISIT TO
COUNTY PROSECUTING ATTORNEY'S OFFICE
KALAMAZOO, MICHIGAN
March 26-27, 1973

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REPORT OF TECHNICAL ASSISTANCE VISIT TO
COUNTY PROSECUTING ATTORNEY'S OFFICE

KALAMAZOO, MICHIGAN

March 26-27, 1973

I. INTRODUCTION

At the request of the Kalamazoo County Prosecuting Attorney, Mr. Donald A. Burge, and under the auspices of the LEAA Technical Assistance grants to the National Center for Prosecution Management and the American University, a technical assistance visit was made on March 26-27, 1973. Members of the Technical Assistance team were: James M. Etheridge, Deputy Executive Director, National Center for Prosecution Management; J. David Bourland, Staff Attorney, NCPM; Patrick Healy, Executive Director, National District Attorneys Association; and Andrew L. Sonner, State's Attorney, Montgomery County, Maryland.

The purpose of the visit was to assist the Prosecuting Attorney in identifying management problems and setting priorities for implementing improvements. Special emphasis was requested on helping to define

direct his activity in any or all of these areas, the National Center for Prosecution Management will assist him if he so desires.

The technical assistance team would like to extend their thanks and appreciation to the Prosecuting Attorney, Mr. Burge, for his cooperation and assistance during the visit. Our reception by all the staff members of his office was excellent and the frank discussion of the strengths and weaknesses of the office assisted us greatly in our analysis.

II. OVERVIEW OF THE KALAMAZOO CRIMINAL JUSTICE SYSTEM

Kalamazoo County has a mixture of urban, suburban and rural communities and is characterized by numerous colleges and educational institutions. The town of Kalamazoo has a population of about 85,000. All prosecution activities are centered in one office, which is located in the County Courthouse.

The Kalamazoo County Prosecuting Attorney's office is comprised of an elected prosecutor and nine assistant prosecutors. Recently, the position of Prosecutor Administrator has been established in the office to coordinate some administrative and statistical tasks. The Prosecuting Attorney serves a four-year term and Mr. Burge has been in office for ten years.

The annual budget for the prosecutor's office is about \$230,000. The Prosecuting Attorney receives \$25,215 yearly salary; the assistants have a salary range of about \$11,000 to \$18,000. The pay schedule seems to be consistent with community standards.

The prosecutor serves eleven police agencies in the County of Kalamazoo. The largest one, which serves the City of Kalamazoo, has a force of approximately 160 officers and 30 civilians.

The Kalamazoo office handled 777 felony and 1,194 misdemeanor cases in 1972. By statute, the prosecutor reviews all cases before they are filed with the court. All felony defendants have a right to preliminary hearing, which is generally initiated within twelve days.

There is an Appellate Division with the Prosecuting Attorney's office, headed by Stephen Wheeler. This division handled 25 appeals in 1972, and anticipates a load of about twice that amount in 1973. The Appellate Courts sits in Grand Rapids, Michigan.

The Prosecuting Attorney has the respect of all the various agencies and individuals who are part of the criminal justice system in his county. His relationship with the police is especially good, fostering an

atmosphere of cooperation which is indeed too rare. Relations with the community of Kalamazoo are also excellent, and the Prosecuting Attorney is well aware of his role as chief law enforcement officer.

III. FINDINGS

The findings presented in this report are based upon the National Center for Prosecution Management management principles, which may differ from the prosecutor's view of his operation. Management of an office, in our view, consists essentially of three major work areas:

Operations: The major function of the management of any office is its operations. Operations means the processing of cases. It includes the intake of cases, investigation, screening, preliminary hearings, grand jury, indictments, arraignments, plea negotiation, trials and disposition. It also includes the operational relationships of the office to police, courts, corrections and other components of the criminal justice system.

Administration: This refers to those resources which are necessary to support the operations of a prosecutor's office. They include the management of

the money, manpower, material and information resources and the use of these systems for controlling the operations of the office. They include organization, control and personnel management systems, space and budget systems, paperwork and information systems, and support services such as clerical staff, investigators and para-legals.

Planning and Program Development: The final area of office management can be defined as planning and program development. These are the areas of management which concern themselves with long-range planning and programs to meet the anticipated needs of the office as the office is subjected to change. This group of activities includes management and statistical analysis, planning future workload, working with other elements of the criminal justice system (police, courts, corrections) to improve policies and procedures affecting the prosecutor's office, working with community groups on crime prevention efforts, lobbying the state legislature, and various other activities aimed at influencing the socio-economic-political environment of the office.

Thus the findings presented below will highlight all three areas of office management and are grouped accordingly.

A. Operations

One of the areas which seemed to cause some difficulties in the Kalamazoo Prosecuting Attorney's office was the issuance of warrants. Apparently, several different procedures have been tried over the past years in an effort to find the most efficient method of review of police reports. At the present time, the Prosecuting Attorney prefers that the police mail the offense report and request for warrant to his office. However, some officers are still hand-carrying reports to the Prosecuting Attorney's office in person. Reports received by mail are given immediate attention by a prosecutor for review and the issuance or denial of a warrant. Assurance of this immediate attention has not, however, deterred police officers from hand-delivering their reports. This creates several problems for the Prosecuting Attorney, one of which is the fact that there is no formalized screening procedure for reports which arrive at odd times. Police officers may have to wait one or

two hours to find a free assistant to handle their request. If the assistant is preoccupied with trial preparation or other tasks, he may resent the time spent on receiving and reviewing police reports. The result is an inadequate screening of cases where a thorough and careful screening should be the rule. Adequate screening at an early stage will help to decrease the prosecutor's caseload and to eliminate the development of a crippling backlog of cases. This warrant system now used may also tend to allow police to "prosecutor shop" in order to get a warrant approved. The establishment of a permanent, formal screening unit as described in Recommendation #1 should alleviate some of these problems.

One particularly notable procedure which has been established by the Prosecuting Attorney in regard to warrants is the practice of explaining to police, in writing, the reason for denial of a warrant request. In this way, the police officer is kept informed of the prosecutor's decisions about the strength of criminal cases, insufficient evidence, need for further investigation, and so on. Communicating the reasons for

warrant denials helps to train the police officers in the presentation of stronger cases and is a positive vehicle to good police/prosecutor relations.

The procedure described above and other cooperative efforts have resulted in an exceptionally good working relationship between prosecutor and police in Kalamazoo. Police feel free to call on the Prosecuting Attorney for legal opinion and advice in such matters as search and seizure and other legal constraints and technicalities. The prosecutor makes available to the police academy some of his own staff for legal courses. The police have a very high regard for Mr. Burge's efforts and activities and feel that he and his staff are well qualified to fulfill the prosecution responsibility in Kalamazoo. They do not feel the prosecutor is trying to shortchange them in court and they respect his decisions on critical issues before the court.

The Kalamazoo office engages in a fair amount of plea bargaining, but there seems to be little supervision over the individual assistants who are making dispositions. There also seems to be quite a variation of attitudes

among the assistants toward pleas and dispositions in various cases. It appeared that some of the assistants making plea bargains were reluctant to take certain cases to trial, with the result that many cases were being disposed of through negotiation. Regular formal discussion of actual cases and plea discussions by the assistants and establishment and enforcement of office policy on this matter should be considered.

The State of Michigan, through its Supreme Court Planning Office, has initiated an ambitious computerized criminal justice system that is aimed at servicing all the counties within the State of Michigan. This system is designed to supply timely information on all facets of court actions to the entire Michigan criminal justice system.

BMCS is modular in design and the Criminal Case Subsystem (CCSS) is designed to provide detailed information on criminal cases to judges, prosecutors, attorneys, court clerks and court employees as well as certain citizens who are interested in court proceedings. This subsystem takes into account all operations taking place from the time of arraignment until the case is completed through dismissal, acquittal, or sentencing.

BMCS, which is located in Detroit, is now in the testing stages with an immediate objective to implement a computer-based information system for the Recorder's Court of the City of Detroit, consisting of both felony and misdemeanor cases. The next chronological step is to expand into the Wayne, Macomb, and Oakland County Circuit Courts; and the Detroit Common Pleas Court. In line with the Planning Office's future decisions, once the three prototype county systems are up and running, the needs of other Michigan Courts will be served.

It is conservatively estimated that BMCS will reach the Kalamazoo County Court System in late 1974. The Kalamazoo Prosecutor's Office, in conjunction with the Clerk of the Court and the city data processing people, is in the process of automating 3,500-4,000 cases that are handled by the Kalamazoo County Friend of the Court Office and the Social Services Department. A Social Services grant of approximately \$24,000, \$15,000 from the county and \$25,000 for new equipment have been allocated to support this and other data processing applications for a total of \$64,000 in seed money for ADP. With this kind of resources readily available, the need for other data systems is strongly

apparent, the outstanding relationships that the Chief Prosecutor enjoys with other county officials, and the hiring of an administrator naturally leans toward possible expansion into broader ADP areas.

The Prosecuting Attorney has indicated that he would like to develop a system that would provide him with the status of cases, statistics on cases and workload, resource allocation and case evaluation. BMCS has been conservatively promised to him by mid-1974, but he feels that with the resources now available to him, he could develop a rudimentary system within his own jurisdiction that would satisfy his immediate needs in addition to advancing him much further down the road by the time the State System reaches Kalamazoo.

The basic problem confronting the Prosecutor in this area is how to start. He has been looking at Service Bureau versus the County ADP routes and he is now looking toward NCPM for answers. However, as previously mentioned, the Prosecuting Attorney has an

extremely keen insight into the basic research to the problems in that he has already started to establish a joint coalition of criminal justice agencies within the county to support, plan and develop the systems.

Wes Freeland, who is a CPA and formerly worked in accounting systems for the County Board of Commissioners, has been hired as Prosecutor Administrator to develop, support and control the operating functions of the office including budgeting and accounting, personnel management, logistics, record-keeping, reporting and data processing. He appears to be eminently qualified to perform these tasks. He exhibits a good grasp in the methods of file control, paperwork flow and ADP and has, in fact, started to develop forms and flow-charts of the impending manual system. However, during the time of the NCPM team visit, he seemed to be having some problem in getting his plans approved by his immediate supervisor, who is the First Assistant to the Prosecuting Attorney. Proposed solutions to this type of problem are addressed under Recommendation #7.

The City of Kalamazoo data processing complex is staffed with a Director, Mr. Robert Foust, one secretary, 5 keypunch operators, 3 programmers and 2 computer operators. The hardware consists of an IBM System 3 Computer with two 5445 disk storage units and an 800 LPM 1403 printer, an 047 paper tape converter and three or four 96-card column 5496 data recorders. The software for the system is OCL (operator control language) and the straight programming is done in RPG-2 (Report Programming Generator). The core storage on the System 3 is going to be upgraded to 48k and a visual display terminal with a matrix printer is to be installed in the Friend of the Court Office to accommodate the Social Service Friend of the Court Support Payment System.

According to Mr. Foust, the complex is currently operating on a two-shift basis and is now processing water billing, tax billing, inventory control, parking violations, voter registrations and jury selections, among other things, for various city and county agencies. However, he sees no problem as to enough available time on the system to accommodate the prosecutor.

A prosecution report is filled out in duplicate on all defendants except those arrested for minor traffic or other city ordinance violations where collateral is forfeited. Those arrested on felony or sex charges are all fingerprinted and mugged and assigned a unique identifying number. This number, provided for on the form, is not presently being entered and forwarded to the prosecutor. Lt. Col. Reagan, the Deputy Chief, states that it would be no problem for the Kalamazoo Police Department to start recording the ID number on the form if the prosecutor so desired. Each police department, however, submits a different form to the prosecutor. This is one difficulty with which the prosecutor will have to deal in order to gather information for any statistical system.

B. Administration

The Prosecuting Attorney in Kalamazoo has devoted much attention and office resources to the administrative aspects of his office. For many prosecutors, this management area is too often relegated to second-class status due to the press of cases and other demands on the time and resources of the prosecutor and his staff.

Mr. Burge, however, seems well aware of the importance of his administrative role and the necessity for smooth office procedures.

The Kalamazoo office has a well-deserved reputation for the excellent quality of its office manuals and annual report. The Prosecuting Attorney has placed a high priority on the development of the procedural manual and its use in the office. The annual report is especially useful in helping to communicate with county officials and the public.

The development of a good statistical base and formalized reporting procedures is another area where the Prosecuting Attorney has taken initiative. Statistical information which is useful to the Prosecuting Attorney in measuring and evaluating performance is being gathered on a routine basis. There appears, however, to be some deficiency in the system used presently for information retrieval on case status. A 5x7 case-status card system is in use, but with the growth of the office and caseload over the past few years this system seems to have become inadequate. There is a problem of ensuring that current information on the individual cases is recorded on the status card.

This one step is a key factor in the success of the system and the Prosecuting Attorney may wish to establish policy which would ensure cooperation in maintaining up-to-date case information. It may be possible to have a courtroom clerk be responsible for notations on changing case status or to obtain copies of the clerk's minute entries for this system.

Another area to which the Prosecuting Attorney may wish to direct his attention is file control. The secretaries in charge of the files informed us that, on occasion, there is a problem with misplaced files. This leads to the expenditure of much time and effort by the secretaries to locate mislaid case jackets. The file control problem is probably due to the removal of case jackets from the file cabinets without the use of a check-out card or to the transfer of case jackets among the assistants without notation of change on the charge-out card. This is a difficult problem in any filing system, but one which warrants the attention of the Prosecuting Attorney to determine the best solution for this office.

The actual arrangement of the file cabinets in the office is good; active files are adjacent to the file secretary's desk and inactive files are located separately.

The use of space for other office functions has been well thought out, but the quarters available to the Prosecuting Attorney are extremely limited. Secretaries are located in crowded spaces, some even in the aisles, and the assistant prosecutors must share small offices. In spite of the crowded conditions, the Prosecuting Attorney's office is neat and well organized. It is apparent that Mr. Burge has made optimum use of available space, but more facilities are urgently needed.

Organization of the support staff in the Kalamazoo office seems to be very functional. The office administrator is responsible for delegating tasks among the secretaries and for making sure that assignments are completed on schedule. The secretaries are assigned work by function and do not work for individual assistants. Dictation directly to a secretary is not permitted; dictating equipment is available for each assistant and recorded tapes are distributed for transcription according to secretarial load.

trial activities. At any rate, formal job descriptions and clarification of responsibilities and authority of the division heads would be a useful undertaking.

C. Planning and Program Development

In the area of planning and program development, Mr. Burge seems to be doing an excellent job. The Prosecuting Attorney makes an effort to keep informed on new management techniques and to implement new programs and concepts which will improve his office functions.

One aspect of planning which is important to any prosecutor is the development and continuation of good community relations. It was evident to the team members that Mr. Burge is respected by the people of Kalamazoo County and by the other individuals and groups in the criminal justice system. As mentioned before, his relationship with the police forces that he serves is exceptionally strong. He is also active in state and national organizations. Maintaining good communication with other law enforcement agencies is an essential factor in the prosecutor's ability to make decisions, plans and improvements which will benefit the public he serves.

Training for new employees, both professional and support staff, is another aspect of planning which the prosecutor should be dealing with. At this time, the Prosecuting Attorney has a very minimal training program, based on the "tag-along" method, for new assistant prosecutors. Though the shortage of manpower for a formal training program poses difficulties, it would by no means be impossible to strengthen the training program to make it more effective in assimilating the new assistant into office procedures and familiarizing him with office policy.

IV. CONCLUSIONS AND RECOMMENDATIONS

The following recommendations are made by the Technical Assistance team for the Prosecuting Attorney's consideration:

1. It is suggested that the prosecutor carefully examine his case screening procedures to ensure that this most important aspect of prosecution is given high priority among office tasks. Decisions on charging or on plea negotiation should be made as early as possible in order to keep caseload to a minimum. There should be formal policy guidance for the assistant prosecutors

so that screening decisions are consistent.

The prosecutor may wish to establish a screening unit to be funded by an LEAA grant, wherein one experienced man would be hired specifically for the purpose of meeting with the public and with police officers and for reviewing warrant requests. Screening should also take place at various points in the system to identify those cases which can be speeded up or eliminated. All screening decisions should, however, be subject to a central control such as approval by the Prosecuting Attorney or the experienced assistant assigned to the screening unit.

2. There seems to be a problem with some cases being delayed in getting to trial. Sometimes the cause of delay in a particular office is difficult to determine. It is suggested that the Prosecuting Attorney institute the Center's Snapshot-Spin Around Method of pinpointing areas where delay occurs in case processing. [This method is described in an NCPM publication which was made available to the

Prosecuting Attorney soon after the Technical Assistance visit.] By first identifying areas in the system where cases are delayed on the way to disposition, the Prosecuting Attorney then can begin to determine the reasons for delay and possible solutions to this problem. The Prosecuting Attorney may find that a possible source of delay in his system may be the granting of continuances to defense attorneys who are hoping that their case will be assigned to a different prosecutor the next time it is scheduled for trial. This "prosecutor shopping" could be eliminated by assigning the assistants to a certain court to handle all cases which come before it. This would also help to give continuity to case preparation since each case would be handled by only one assistant. Precautions should be taken, however, to avoid the tendency for an assistant to become the "judge's man." Assignments to individual courts could be rotated from time to time to avoid this.

3. A formal training program for new assistants in the office should be considered. Training is

an important aspect of office operations which should not be neglected, even in an office where manpower and resources may be in critical supply. The "one-to-one, tag-along" method is not effective. The Kalamazoo Prosecuting Attorney's office has an excellent policy manual which could be used to assist a training function. A similar manual which would contain information on office procedures, organization charts, names of key figures in the county's criminal justice system and pertinent information on landmark decisions and case law could be developed and used for training purposes and to support actual court and office experience.

4. Some method of formal evaluation of performance of the assistant prosecutors should be developed and used in the office on a regular basis. This evaluation would be used periodically as a check on performance and as a justification for salary increases. Such an evaluation system was developed in the Denver District Attorney's office and the program and its forms are described in the Vol. 8, No. 6 (Summer 1973) issue of The Prosecutor. It

is recommended that the Prosecuting Attorney consider the application of a similar evaluation procedure in his own office.

5. The file control procedures should be carefully examined to ensure that files are handled by a minimum number of people and that the location of any particular file is known at all times.

A check-out system should be instituted whereby requests for a case jacket are made to one file clerk and all jackets are returned to the same person along with appropriate notations on any change in status of the case. The Center recommends the use of a file charge-out card which is larger than the actual file jacket and is a bright color. When the case jacket is removed from the files, the charge-out card is left in its place to indicate who has the file and when it was removed. If an assistant is seen holding a case jacket which still has the conspicuous charge-out card, it can be easily observed that he has not followed the proper file procedures.

6. The office space available to the Prosecuting Attorney is certainly inadequate. It may be possible to acquire some of the 9,000 square feet of vacant space on the fifth floor of the courthouse building for expansion. We would recommend that the Prosecuting Attorney petition for an increase in office space at the earliest possible time.

7. In regard to the question of an automated statistical system for the office, it appears that Mr. Burge has adequate resources and personnel to begin developing an automated system now. His approach in formulating a coalition of City and County criminal justice representatives is sound and feasible.

The first order of business should be the establishment of policy guidelines which will focus on the prosecutor's office needs in order to get the system off the ground. A standardized reporting form should be developed that will satisfy the requirements of each police agency,

the Sheriff's office and the Court administrator, as well as the prosecutor himself. It may be that all felons and sex-crime violators could be processed through the Kalamazoo Police Department, regardless of where they were arrested, for the purpose of obtaining a unique identifying number that will stay with them throughout the system. A local rap sheet should accompany the prosecution report, if available. Since the prosecutor will be the principal contributor as well as user of any automated system that the coalition agrees upon, it is essential that the Prosecutor Administrator have direct access to the Prosecuting Attorney to insure that any policy guidelines or changes are in accordance with the policies of the Prosecuting Attorney. He should be the key person who can interpret the Prosecuting Attorney's requirements to the city ADP personnel and, in turn, translate the impact of the automated system on the Prosecuting Attorney's office. In addition, a journeyman programmer should be hired to work directly under the Prosecuting Attorney's control to aid in this task and to perform the

actual programming tasks for the Prosecutor's office.

The Chief of the ADP complex should be included as a member of the coalition board to aid in the development of a set of automation management principles for the Prosecutor's office personnel so that they may become better educated in the concepts, limitations, techniques and capabilities of computer technology. The system cannot be effective unless both management and support personnel are dedicated to its efficient use and understand its principles. Any system that is developed and implemented by the Prosecutor should be designed to include any and all basic requirements of the larger BMCS system.

8. Because of the general esteem in which Mr. Burge is held by other members of the criminal justice system in Kalamazoo, he is in an excellent position to initiate the formation of a coordinating board which would involve the chief policy-makers for police, judges, corrections, prosecutors and others. This board could meet on a regular basis to discuss problems, new programs and issues of general concern and to hash out differences among

the members on an informal level. Communication among all groups involved in the criminal justice system should be a clearly defined goal of the prosecutor. This is one method which has been found to be most effective in other areas of the country.

V. SUMMARY

The above suggestions are made with the realization that the Kalamazoo Prosecuting Attorney's office has already made great strides toward the goals of good office management. The team members were impressed with the energy and dedication of the Prosecuting Attorney to improving the criminal justice system in Kalamazoo.

These recommendations are presented in the context of the National Center's goal to see the prosecutor assume his rightful role as the key and central element in the criminal justice process.

It should be mentioned here that Mr. Burge has taken an important step in achieving these goals by taking advantage of the resources available to him through LEAA and the National Center for Prosecution Management.

He is to be commended for his sincerity and interest in improving office management skills. The Technical Assistance Program, we feel, is an excellent way for the prosecutor to identify management problems and initiate evaluations of his office procedures.

The National Center for Prosecution Management appreciates this opportunity to assist the Prosecuting Attorney and is willing to assist him in any manner to pursue the goal of excellence in prosecution management.

END