

EVALUATION OF THE CORONER SYSTEM
IN CHAUTAUQUA COUNTY, NEW YORK AND
RECOMMENDATIONS FOR IMPROVEMENT

November, 1974

Consultants

Dr. Samuel R. Gerber
Daniel J. Sullivan

NCJRS

MAR 8 1977

ACQUISITIONS

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
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WASHINGTON, DISTRICT OF COLUMBIA 20016

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NOTICE TO THE READER

There is a September 30, 1974 contract deadline for completion of all technical assistance assignments conducted under the auspices of The American University Criminal Courts Technical Assistance Project. Consequently, assignment reports received after August 20, 1974, cannot be edited by the project staff prior to their transmittal to the client agencies, as is our usual procedure. The present report is one of those for which our time schedule did not permit editing. We apologize for any inconvenience this may cause.

Joseph A. Trotter, Jr.
Director
Criminal Courts Technical
Assistance Project

This report was prepared in conjunction with The American University Law School Criminal Courts Technical Assistance Project, under a contract with the Law Enforcement Assistance Administration of the U.S. Department of Justice.

Organizations undertaking such projects under Federal Government sponsorship are encouraged to express their own judgement freely. Therefore, points of view or opinions stated in this report do not necessarily represent the official position of the Department of Justice. The American University is solely responsible for the factual accuracy of all material presented in this publication.

PART I. INTRODUCTION

In May, 1973, the Chautauqua County, New York, Legislature established a Criminal Justice System Task Force to conduct a comprehensive review of the County's criminal justice system. The Legislature's resolution mandated, specifically, that the Task Force:

- (1) Study the advisability of establishing a coordinated Criminal Justice System in Chautauqua County;
- (2) Determine possible federal and state assistance available to establish the local system, and
- (3) Determine what projects or programs would be needed for the courts, police, Public Defender, probation or District Attorney in order to improve the County's Criminal Justice System.

The Task Force, chaired by the County Sheriff, is composed of 45 members representing various aspects of criminal justice operations and includes County judicial officers, the District Attorney, the Public Defender, major municipal police chiefs, and the County Probation Chief. A list of these members is included in an Appendix to this Section.

To assist the Task Force in establishing the parameters of its efforts and to identify major problem areas of concentration, David Dawson, Government Coordinator for the Chautauqua County Department of Development, requested technical assistance through LEAA's Criminal Courts Technical

Assistance Project at The American University. On April 5, 1974, Joseph Trotter, Director of the Project, and Col. J. F. Lieblich, a specialist in criminal justice system analysis, visited Chautauqua County to meet with criminal justice officials and determine the scope of technical assistance necessary to guide the Task Force.

Based on these discussions, a summary of recommended areas for study was developed (Part II of this Report) and a multi-phase technical assistance effort was launched with each phase focusing upon a separate segment of criminal justice operations.

Since the County Public Defender's recent report* had called for immediate changes in public defender operations in the County, it was decided to focus the first phase of assistance upon the operation of the public defender program and other areas of criminal justice operations relating to pre-trial activity. Three consultants were assigned to perform this initial phase: Bruce Beaudin, Director of the District of Columbia Bail Agency; Daniel J. Sullivan, Executive Assistant District Attorney in Bronx County, New York; and David Collins, Senior Attorney with the King County, Washington Public Defender Association. This consultant team visited Chautauqua County April 24 through 26 during which time they conducted extensive interviews with the Public Defender, District Attorney, County Sheriff (and Task Force Chairman), Probation Department staff, judges, attorneys, and others, as well as reviewing the operation of the Public Defender Program and other aspects of pre-trial activities in the County.

*See Annual Report of the Public Defender included in Part III, Appendix H.

The consultants' findings for this initial phase of effort are documented in Part III of this Report.

It should be noted that, because of the urgency of this study, the team was necessarily hampered in its ability to identify and contact all key personnel involved in their study and to evaluate in great depth all factors which might have bearing. On the other hand, some critical areas in need of attention became obvious and others were suggested. Part III, therefore, represents the initial phase of a comprehensive effort designed to examine public defender and pre-trial services in particular as well as to identify and develop coordinated responses to a wide range of criminal justice system needs in conjunction with County Task Force officials.

The results of this initial study were submitted to Task Force officials in early May. During the weekend of May 16 through 18, Mr. Beaudin, accompanied by Allan M. Schuman, Director of Social Services for the Superior Court of the District of Columbia, visited Chautauqua County for the purpose of discussing the initial study with members of the Task Force and assisting them in developing coordinated pre-trial release, corrections and post-conviction programs and, if feasible, community service programs.

During their three-day site visit, the consultants discussed the initial study report with members of the Task Force and others as well as reviewed a grant application submitted by the County for Discretionary Funding of an Offender Rehabilitation Program. This application, which the consultants modified on the basis of the needs they perceived during their

site work, is included in this Report as Part IV. It provides for eight positions with a total requested funding of approximately \$107,000. These positions were determined as follows:

(1) Two Family Court Intake Screeners to operate in the Jamestown and Dunkirk areas, the County's two largest cities. Since only 100 of the 900 petitions filed in the Family Court Division in 1973 were able to be screened immediately and diverted from the system, the consultants and county officials concluded that two full-time screeners working out of two locations could screen and divert probably another 400 or 500 cases. All officials involved in court, law enforcement and Probation Department operations agreed that the formalization of a diversion program in the juvenile area could reap substantial benefits to the County.

(2) Two Misdemeanor Diversion/ROR Screeners operating full-time in the Jamestown area and Dunkirk area and working with the juvenile screeners to handle initial ROR screening for the Committing Magistrates in their areas. These screeners could, in cooperation with law enforcement and court officials, be able to formalize a Misdemeanor Diversion Program.

(3) Work Release Job Development Coordinator to coordinate community resources and needs with those of incarcerated defendants with a view to developing meaningful jobs which would address particular strengths in the system. Operating from the jail, the coordinator would be in a position at all times to know the needs of the jail population and the matching resources in the community. In addition, he could, in cooperation with the Probation Department, the Sheriff and the County Criminal Court

Judge; develop an alternative to straight incarceration by which the defendant might serve certain hours in the jail and be allowed community release for employment or school purposes. While a work release program presently exists, the Sheriff, in cooperation with the Probation Department, determines when an inmate is "ready".

(4) Recreational/Educational Director to coordinate such programs as "G.E.D.", college equivalency, travel to and from various community educational and recreational facilities, and, at the same time, assist the Sheriff with the professional recreational counseling that is essential in any prison environment. Although substantial educational opportunities were available, the consultants noted that inadequate staffing resources in the Sheriff's Office precluded more intensive involvement by the inmates in these programs. The recommended new staff position, together with the anticipated jail facility expansion could therefore permit a significantly expanded recreational and educational program.

(5) Coordinator of Volunteer Programs to coordinate transportation, publication and communication of County volunteer programs. Through the services of this coordinator, the activities of the community and the criminal justice system could be interfaced so as to promote not only the benefits of volunteer resources to the criminal justice system but, in addition, a healthy community climate to which convicted men and women might reenter with acceptance.

(6) Stenographer to provide support to the above positions.

The narrative of the grant application summarizes the objectives of the project which are, essentially, the creation of three new programs: (1) ROR; (2) Diversion in the Juvenile and Misdemeanor Adult areas; and (3) Coordination and Development of new community efforts. In the opinion of Messrs. Beaudin and Schuman, such programs should represent a model community criminal justice system effort in which, for the first time, both the defendant and the community would be involved in mutual efforts.

In the Fall of 1974, the final phase of technical assistance was provided to the Task Force and consisted of a review of the operations of the County Coroner's Office. The results of this study are documented in Part V of this Report.

The consultant assigned to this third phase of study was Dr. Samuel R. Gerber, Coroner for Cuyahoga County (Cleveland), Ohio, who is both a physician and an attorney. Dr. Gerber visited Chautauqua County on November 11-13 to meet with members of the Task Force, County Coroners, other County officials as well as officers of the nearby Jamestown Community College which offers a criminal justice curriculum which might have bearing on the County's criminal justice training needs - particularly as they apply to Coroner-Medical Examiner services. (Part V, Appendix A). Accompanying Dr. Gerber in his site study was Daniel J. Sullivan, Executive Assistant District Attorney for Bronx County, New York and a participant in the first phase of the technical assistance study.

Dr. Gerber focused his efforts upon reviewing the operations and procedures of the Coroner's Office serving Chautauqua County with a view to evaluating their adequacy and efficiency and indicating any potential areas which might be improved. In this regard, among the various subjects of interest to the Task Force were the relative merits and disadvantages of instituting the office of Medical Examiner in the County to assume the functions and responsibilities of the current Coroner's Office. This review was conducted in the light of the needs of the County and impending legislative changes affecting these services.

APPENDIX - PART I

MEMBERS OF CHAUTAUQUA COUNTY CRIMINAL JUSTICE TASK FORCE

	<u>Name</u>	<u>Home Address</u>	<u>Phone</u>
1.	John R. Burns, Sr.	R.D. #2, Mayville, N.Y.	789-3934
2.	Jerome G. Adams	R.D. #1, Bemus Point, N.Y.	386-2221
3.	Floyd W. Black	R.D.#1, E. Lake Rd., Westfield	326-3351
4.	Phillip Van Rensselaer	R.D. - Kennedy, N.Y.	267-3052
5.	Daniel Bentley	68 Fluvanna Ave., Jamestown, NY	487-1041
6.	Torrey Isaac	R.D. #1, Ashville, N.Y.	789-3775
7.	Joseph Feniello	48 W. 4th St., Dunkirk, N.Y.	366-5612
8.	Allan Austin	101 Center St., Fredonia, N.Y.	672-2272
9.	C. Berkeley Adams	63 Hammond St., Jamestown, N.Y.	488-1616
10.	Ted Leonard	Box 134, Maple Springs, N.Y.	386-7314
11.	Mark Hampton	11 Vista Way, Lakewood, N.Y.	763-7675
12.	Anna May D. Cole	72 Livingston Ave., Jamestown	484-0572
13.	Raymond E. Gordon	400 W. Fairmount Ave., Lakewood	763-1374
14.	Richard E. Davies	35 Union St., Westfield, N.Y.	326-4241
15.	James W. Mead	97 S. Portage St., Westfield	326-2506
16.	Jerry Tubbs	Pecor St., Portland, N.Y.	792-9614
17.	Samuel C. Alessi, Jr.	54 Chestnut St., Jamestown, NY	487-2025
18.	Jerome Ernewein	Lighthouse Point, Mayville	753-2687
19.	Margaret Kraemer	R.D. #1, Ashville, N.Y.	763-4759
20.	Chester L. Tarnowski	231 Nevins St., Dunkirk, NY	366-5579
21.	Edward Mulville	135 Point Drive N., Dunkirk, NY	366-2461
22.	Robert Sisson	36 Chautauqua St., Fredonia, NY	672-4455
23.	Arthur Goggin	8562 E. Main, Clymer, N.Y.	355-6624
24.	Richard H. Fessenden	15 Wiley Ave., Chautauqua, NY	357-2831
25.	Rodney A. Vanstrom	R.D. #1, Townline Rd., Jamestown	985-4153
26.	John H. Ball	19 Price St., Jamestown, N.Y.	484-7326
27.	Martin Pecoraro	25 Burgess St., Silver Creek, NY	934-2485
28.	Donald P. Studd	23 Hawkins. Silver Creek, NY	934-2880
29.	Ronald A. Butterfield	946 Diamond Ave., Dewittville, NY	753-2233
30.	John L. Goodell	413 N. Main St., Jamestown, NY	484-1378
31.	Carmen J. Basile	134 W. Virginia Blvd., Jamestown	664-3937
32.	Spencer E. Kirschman	137 Front St., Lakewood, N.Y.	763-1276
33.	John F. Rowé	20 W. Summit, Lakewood, N.Y.	763-1811
34.	William G. Young	Chautauqua Shores, RD2, Mayville	789-3965
35.	Stanley Fox	6 Maple Drive, E., Mayville, NY	753-2924
36.	Charles Gennuso	172 Berry St., Fredonia, N.Y.	679-1691
37.	Leonard Faulk	155 Myrtle, Jamestown, N.Y.	489-6659
38.	John R. Bentley	Sheriff, Chaut. County, Mayville	753-2131
39.	David Dawson	Model County Office, Mayville	753-7111
40.	Rolland Kidder	252 Hazzard St., Jamestown (Resigned)	
41.	Judge Lee Towne Adams	Chaut. County Judge	
42.	Judge Willard W. Cass, Jr.	Surrogate Judge	
43.	Thomas Costanzo	42 Allen St., Jamestown	
44.	William Arrison	Public Defender	
45.	Richard Slater	74 E. Terrace Ave., Lakewood	484-0044
46.	Michael Thies		
47.	Dr. Glen Ebersole	35 Sunset Ave., Lakewood	763-9597

(* Resigned)

48. Donald Coe
49. John Kohler
50. Ralph Tworek
51. Rev. Robert Shaver
52. John Scorse Ex officio member
53. Rev. Canon Howard
54. Paul King

BREAKDOWN OF COMMITTEES

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2. Edward J. Mulville - Co-chairman
3. Floyd W. Black
4. Jerome G. Adams
5. Raymond Gordon
6. Richard Davies
7. Martin Pecoraro
8. Charles Gennuso
9. Donald P. Studd
10. Mark Hampton
11. Richard H. Fessenden
12. John F. Rowe
13. R. A. Vanstrom
14. Anna May D. Cole
15. Ronald Butterfield
16. P. Van Rensselaer
17. Robert Sisson
18. Daniel Bentley
19. Torrey Isaac
20. Jerome Ernewein
21. Chester L. Tarnowski
22. Donald Cbe
23. John A. Kohler
24. John Bentley
25. Rev. Canon Howard

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2. Margaret Kraemer
3. Spencer Kirschman
4. John F. Rowe
5. Richard Slater

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3. Stanley Fox
4. Raymond Gordon
5. John Goodell
6. Joe Feniello
7. Anna May D. Cole
8. Ted Leonard
9. Carmen J. Basile
10. Charles Gennuso
11. Michael Thies
12. Leonard Faulk
13. Rev. Robert Shaver

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Donald P. Studd - Chairman
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Richard E. Davies
Edward J. Mulville
Martin Pecoraro
Chester Tarnowski
John H. Ball
Floyd W. Black
Jerome Ernewein
John F. Rowe
Paul King

COURTS

1. Judge Lee Towne Adams - Chairman
2. Judge Willard W. Cass, Jr.
3. Allan Austin
4. John R. Burns, Sr.
5. John Goodell
6. Samuel C. Alessi
7. James Mead
8. Jerry Tubbs
9. Anna May D. Cole
10. Arthur Goggin
11. Dr. Glen Ebersole
12. William G. Young
13. Ralph Tworek

CORONER

1. Thomas Costanzo

PART V.

EVALUATION OF THE CORONER SYSTEM
IN CHAUTAUQUA COUNTY, NEW YORK
AND RECOMMENDATIONS FOR IMPROVEMENT

NOVEMBER, 1974

CONSULTANTS:

Dr. Samuel R. Gerber

Daniel J. Sullivan

PART V.

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I. ANALYSIS OF EXISTING SITUATION

A. Timeliness

The new charter approved by the voters this year induces changes in County Government, among which are the provisions effective January 1, 1975 for appointment rather than election of Coroners. That date coincides with the expiration of terms of two of the Coroners in Chautauqua County. Terms of the other two Coroners extend to January 1, 1977. Worthy of note at this point is the fact that the new charter in essence provides for consolidation of Health Services into a single department.

If the Coroner's System is retained, each appointment will be for a four (4) year term and the appointments will be made by the County Legislature (Appendix B).

B. Background Law

Whatever decision Chautauqua County makes respecting the question of retaining or abolishing the Coroner System must be subject to the over-riding mandate of New York State Law codified in Article 17-A of the County Law (Appendix C). Article 17-A requires that the Coroner and/or Medical Examiner System be implemented in every County and it grants each County local option to choose between the systems. Thus far, Chautauqua County has opted for the Coroner System. However, regardless of the option selected on a County level, the duties of a Coroner or Medical Examiner are defined substantially by Article 17-A.

Essentially, either official is vested with jurisdiction to investigate all "violent deaths", i.e., deaths of unusual nature and incidents to cover such things as sudden and unexpected deaths occurring within the County. In exercising his jurisdiction, the official in question is required to function as the guardian of the death scene and the property found upon the person of the deceased. Furthermore, he is charged with the duty of fully investigating the essential facts concerning the death, in which process he may, if necessary, ultimately resort to subpoena powers and the examination under oath of witnesses in the same manner as a magistrate. Beyond that, he must make a written report of his findings and if deemed necessary to carry out his function, if he is not a licensed physician, he may designate a doctor to conduct medical examinations such as autopsies and chemical examinations. Coroner's reports and Medical Examiners reports must be filed in their respective offices and the reports must be available for inspection to the District Attorney and to other persons upon issuance of a court order. Lastly, significant now, Coroners/Medical Examiners must supply all records to the District Attorney, when in the former's judgement, there is any indication of criminality.

Highly relevant to this discussion is the fact that nowhere in the law of New York State or the present local law of Chautauqua County are qualifications for the position of Coroner or Medical Examiner described. Also, absent from state law is any discernible barrier to a County's establishing criteria for such employment.

C. The Coroner System As It Exists In Chautauqua County

Currently, the position of Coroner in Chautauqua County is an elective post and requires no specified qualifications. The four Coroners serving the county are compensated on a fee basis and, together, are responsible for approximately 300 calls per year. Since the Coroners are laymen, the services of either local pathologists or the police laboratory are used for necessary examinations. Reports of these examinations are maintained by the individual Coroner involved.

The four Coroners essentially possess the same background qualifications. None of them has had formal training for the position he holds, a position theoretically requiring the ability to function as a medical-legal investigator of a death scene. Rather, each possesses the background training of a funeral director, a field which each man engages in to some extent as a major part of his income producing labors. All four of the present Coroners have substantial practical experience as a Coroner. Actual experience ranges from 5 to 15 years.

Implicit in the Coroner System is the notion that such low paid, part-time officials must have some other major income generating source. The traditional interest of funeral directors in serving as Coroners suggests that such persons might well obtain some business as a consequence of also functioning as Coroners. Thus, the currently utilized Coroner System might well be characterized as the product of a governmental attitude of obtaining low cost services for part-time services that would be much more costly if furnished by persons possessing the proper medical-legal investigative training. Perhaps illustrative of that premise is the fact that Chautauqua

County, in 1973, expended less than \$25,000.00 to fund the entire Coroner's System, albeit, Coroners were involved in some 350 cases. Indeed, the maximum amount of money paid to a Coroner by Chautauqua County in 1973 was \$4,250.00. If the system is continued in 1975, the projected allocation for that purpose will be less than \$35,000.00. Appendices D, D-1, and D-2.

In actual practice in Chautauqua County, the Coroners are autonomous in the sense that they are not directly responsible to any supervisory authority. Ordinarily, they are summoned to a death scene by a member of one of the County Police Agencies or the State Police. Although theoretically the Coroner then takes charge of the investigation, interviews with other persons also involved raise serious questions as to the adequacy of those procedures. It seems apparent that the Coroner and the Police Officer frequently reach a conclusion as to whether or not the death was due to natural causes merely on the basis of inquiry and appearances. Except where criminality is obviously involved, apparently no explicit guidelines have been delineated for determining the types of investigative efforts that should be employed in this County. Each Coroner is permitted unfettered discretion in determining whether there will be further investigation determining the cause of death. In any event, Coroners in Chautauqua County do not utilize the statutory power of subpoena or of enlisting a Coroner's inquest as aids in determining the cause of death. In criminal cases the investigative function is actually exercised by the District Attorney.

Study of the Coroner's practices in Chautauqua County discloses that police officers responding to death scenes have not had, generally speaking, particularized training in the area of "preserving legal rights of survivors", etc. Thus, the policemen in question do not offset the lack of formalized training on the part of the Coroners. That is to say, then that all officials ordinarily arriving at a death scene must rely solely on whatever practical experience they possess in making an assessment of what cause of action is proper. Once further investigation is ruled out, the Coroner's report (appendix D-1) is not subject to further evaluation, for the report is simply filed in the Coroner's own records. While it is true that one Coroner has made it a practice to file his reports in the Office of the County Clerk, no evaluation of the report ensues. Inherently, the absence of a filing requirement is to be faulted, particularly now that New York has enacted a "Freedom of Information Law". In passing, it is observed that the County Legislature now is moving towards requiring Coroners to submit a monthly statistical report (appendix E).

From the foregoing portrait of the Coroner's situation in Chautauqua County, it appears that possibility of error in determining the cause of death in a given case is inordinately high. Also there is inherent potential for abuse. What has been noted, and indeed acknowledged by the Coroners, are instances of loose practices bordering on opportunity for serious mistakes of omission or commission. Indeed, the typical example was the acknowledgement that Coroners, on occasion, have appeared at a death scene, sized up the situation and determined, by themselves, that the police need not be called into the matter. Another illustration is the episode sometimes

encountered wherein the Coroner, not present at the death scene where his presence is required statutorily, will accept over the telephone a family Doctor's opinion as to the cause of death and enter that cause upon the death certificate.

It would seem to appear therefore that the Coroner System in Chautauqua County is redispoused to criticism for not performing on an acceptable professional level due to lack of training prerequisites, for need of a proper reporting system, and for want of supervision or control; also there are no provisions to ensure consistency and there is a potential for fostering malfeasance.

II. THE POTENTIAL FOR IMPROVING UPON THE CORONER SYSTEM

IN CHAUTAUQUA COUNTY

Chautauqua County should devise and implement a Medical Examiner System tailored to meet the needs of the exigencies described by the individuals interviewed beginning July 1, 1974. As previously voted, Chautauqua County may legally continue the Coroner System augmented by local law prescribing the qualifications for that post, or opt to fashion its own version of a Medical Examiner System (i.e. as distinguishable from the type Medical Examiner System found in urban areas.) Defects in the present system militate against its retention. Moreover, existing facilities in the County could be utilized to upgrade the level of professional competency vis a vis the relevant function. Such a technique would tend to offset increased costs in implementing a new system, and, in the final analysis, the taxpayers would obtain full value for their money. Additionally, the time is ripe for innovation by the County in this area due to the adoption of the new charter. That is to say, a specially tailored Medical Examiner's project could be tested over the next two years--the period remaining in the terms of two of the present Coroners. With a two year experience with the co-existence of the two systems, the County should be prepared to make a permanent choice between them by the beginning of 1977.

When the functions of a Coroner/Medical Examiner are considered, it should be recognized that licensed physicians have some of the qualifications to function in that capacity but they must be given training concerning preservation

of evidence and other specialized expertise peculiar to the recognition and interpretation of physical as well as anatomic evidence. The caseload in Chauauqua County does not warrant employment of staff doctors on a full time basis. While the County has a limited number of physicians, it does maintain a most effective Health Department utilizing services of physicians. Inquiry has revealed that within the Health Department there is a willingness to assume responsibility for a Medical Examiner Program exclusive of providing "at the scene" services.

More specifically, the Health Department is emphatically committed to a projected program charging the Health Department for final determination of the cause, mode and manner of death, utilizing qualified persons, hopefully physicians, part-time, to discharge the present function of Coroners and to render assistance to any County effort to promote training for policemen and other concerned persons in the pertinent area of endeavor. If the Department of Health were to act as overseer, it would exercise ultimate authority as to the need for further medical procedures including engaging services of the five pathologists who now perform autopsies in this County. Nothing in this program as currently projected would preclude the District Attorney from selecting other doctors to perform autopsies or engaging experts for other investigative approaches. Administrative duties, such as the keeping of relevant records, would be handled by clerical personnel of the Health Department. Incidentally, the administrative personnel so involved might well be employed to keep general records of births and deaths by recording

information furnished from other departments of County Government. In other words, a tangential benefit from initiating the Medical Examiner System could well be the formation of a consolidated system of vital statistics registration-- a system long overdue in Chautauqua County.

If for any reason, the Health Department may not be utilized to implement the recommended program, the same result obviously could be achieved by part-time employment of other physicians with administrative assistance. In either case, the doctor in charge would have to contend with staffing problems. Ideally, he would employ the doctors on a part-time basis to respond to the scenes of death as prescribed in the codified code 17-A. Doctors would also be required to undergo training on the subject of preservation of evidence. Failure to obtain the services of a sufficient number of doctors, the director of the program would have to employ lay people properly trained in the relevant areas of expertise. In that vein, the County would be well advised to offer, at the point it embarks upon a Medical Examiner Program, an intensive training course on the subject of preservation of evidence for the benefit of all concerned persons. Longer term education for those concerned with the broader aspects of the Criminal Justice System and police science is already available in Chautauqua County at the Jamestown Community College--an institution also commendably embarked on the development of Forensic Laboratory procedures to serve communal needs (appendix F).

APPENDICES

APPENDIX A •

LIST OF PERSONS CONTACTED BY PROJECT TEAM

APPENDIX

List of persons contacted by Project Team.

John R. Bentley - Sheriff, Chautauqua County

Robert Sullivan - District Attorney, Chautauqua County

Dr. Arnold Mazur - Commissioner of Health, Chatauqua County

Steven B. Carlson - County Clerk, Chautauqua County

Joseph Gerace - County Executive-elect, Chautauqua County

Thomas Costanzo - Coroner, Chautauqua County

Frederick Hitchcock, Coroner, Chautauqua County

Ralph Wallace - Coroner, Chautauqua County

Anson Stewart - Coroner, Chautauqua County

Robert Kochersberger - Chairman, Division of Natural Services,
Jamestown Community College

Charles Shoup - Dean of Instruction, Jamestown Community College.

Harold J. Weiss, Jr. - Chairman, Division of Business and Social Sciences
Jamestown Community College.

APPENDIX B

QUESTIONS AND ANSWERS ABOUT THE CHARTER

Chautauqua
County
Charter

QUESTIONS AND ANSWERS ABOUT THE CHARTER

Q. Why Do We Need A Charter?
 A. Existing laws of responsibility and leadership are scattered through out our laws, statutes, and various committees and their leaders. There is no one person in charge of the administration of County Government. The Charter calls for a full time executive who would be responsible for the County's many Agencies and Departments, and if they were to perform, do not overlap or do the same job over and over.

Q. Will The Charter Cost More Money?
 A. In 1968, the County Executive should have a salary to match the salary of any and every top administrator of a \$40 million a year budget. Moreover, the Charter creates a new structure that is designed to expand, improve and develop facilities, equipment, and personnel. It also creates a new intelligence and administrative command in the County, the cost of the County Executive's salary and the other many times over by this streamlining of the government.

Q. Will The Charter Take The People Further From The Government?
 A. The County's citizens and County Executive will be elected by the voters every two years for the Legislature and every four years for the Council. County Legislators will continue to make County Government. The Charter calls for no changes in town or city government. The Charter will continue to have the County Clerk, the Sheriff, the District Attorney and a Comptroller who will act as an auditor or financial watchdog for the people.

Q. Why Does The Charter Call For A Comptroller Instead Of A Treasurer?
 A. Comptroller, as an officer of the government, is a "watchdog" of the people's money. Although the Treasurer was elected by the people, he or she has had no experience yet with responsible and comprehensive financial policy with no check by others in the government except for periodic state audits. Under the Comptroller, the quality of funds and program expenditures would be done on a daily basis, with the Comptroller reporting if he or she wishes, directly to the people. The County Treasurer responsibilities would become those of the appointed head of the Department of Finance, a position for which there could be qualifications.

Q. How Is This Charter Different From The One Defeated In 1968?
 A. The biggest difference is that this Charter calls for an elected executive. The 1968 Charter called for an appointed manager.

Q. Why Does The Charter Call For An Elected Executive Instead Of An Appointed One?

A. The Charter Commission and the Legislature felt it was a definite call for the Charter was based on this issue. The people apparently felt that they would have to elect control over an appointed manager. Consequently the Charter was drafted. The Commission felt that an appointed government official would not necessarily be an "above party" in fact, an appointed manager could well be in a position to be unacceptable to the majority party in the Legislature. An elected executive would have to be responsible to the people who elected him.

BASIC CHANGES UNDER THE CHARTER

- ELECTED COUNTY EXECUTIVE
- ELECTED COMPTROLLER
- NO ELECTED TREASURER - APPOINTED DIRECTOR OF FINANCE
- ADDS DEPARTMENT OF LAW
- ADDS DEPARTMENT OF CENTRAL SERVICES
- CONSOLIDATES HEALTH SERVICES IN ONE DEPARTMENT
- CONSOLIDATES HIGHWAYS BUILDINGS, PARKS IN PUBLIC WORKS DEPARTMENT
- CALLS FOR APPOINTMENT NOT ELECTION OF CORPORATES
- NO LEGISLATOR NOR EXECUTIVE MAY HOLD ANY OTHER PUBLIC OFFICE

THE CHARTER

A CHARTER IS A WRITTEN DOCUMENT THAT DEFINES THE ORGANIZATION AND DUTIES OF GOVERNMENT.

IF ADOPTED BY THE VOTERS, THE CHARTER WILL TAKE EFFECT ON JANUARY 1, 1974. THE FIRST COUNTY EXECUTIVE WILL BE ELECTED IN NOVEMBER 1974.

THE CHARTER MUST BE ADOPTED BY A MAJORITY OF THOSE VOTING IN THE TOWNS, TAKEN AS A WHOLE, AND A MAJORITY OF THOSE VOTING IN THE CITIES OF DUNKIRK AND JAMESTOWN TAKEN AS A UNIT.

FOURTEEN COUNTIES IN NEW YORK STATE NOW HAVE CHARTERS. FOUR HAVE APPOINTED MANAGERS AND TEN HAVE ELECTED EXECUTIVES.

QUESTIONS AND ANSWERS ABOUT THE CHARTER

Q. If The County Executive Has The Power To Appoint Department Heads, Make Up Budgets, And Vote Legislation, What Controls Does The Legislature Have Over Him?
 A. The Legislature must approve all department head appointments. It also has the power to override the executive veto with a 2/3 vote of the Legislature. The budget that the Executive prepares must be approved by the Legislature. Also, the Legislature sets the Executive's salary.

Q. What Will Be The Legislature's Responsibilities Under The Charter?
 A. The Legislature will continue to form policy through legislation, serve on committees from which they gather information for making laws, adjust the budget, levy taxes, create an administrative code and bring in greater detail the administration of the County Charter.

Q. What New Departments Would Be Created Under The Charter?
 A. A Department of Law and a Department of Central Services. By bringing all the attorneys who work for the County together in one Department, there would be a pooling of resources and time. In addition, this would create a Department of Health who would be responsible for the County's health care. All County legal services are fragmented and need to be handled all the time.

County services have been needed to handle all the time claiming for the County. It should have the taxpayers' money for the money for purchasing an apartment and a minimum of the Department of services and especially throughout individual departments.

Q. Why Does The Charter Call For An End To The Election Of Corporates?
 A. It has always been difficult to find candidates to run. These candidates have not really formed any laws of judgment for the election. Moreover, the eight laws on the ballot tend to add to the general confusion in the election. It is when there is a crowded ballot, especially when the voters do not know the candidates. Under the Charter, the Legislature will approve the laws concerning every four years, and any set qualifications for the office which they cannot do under existing procedures.

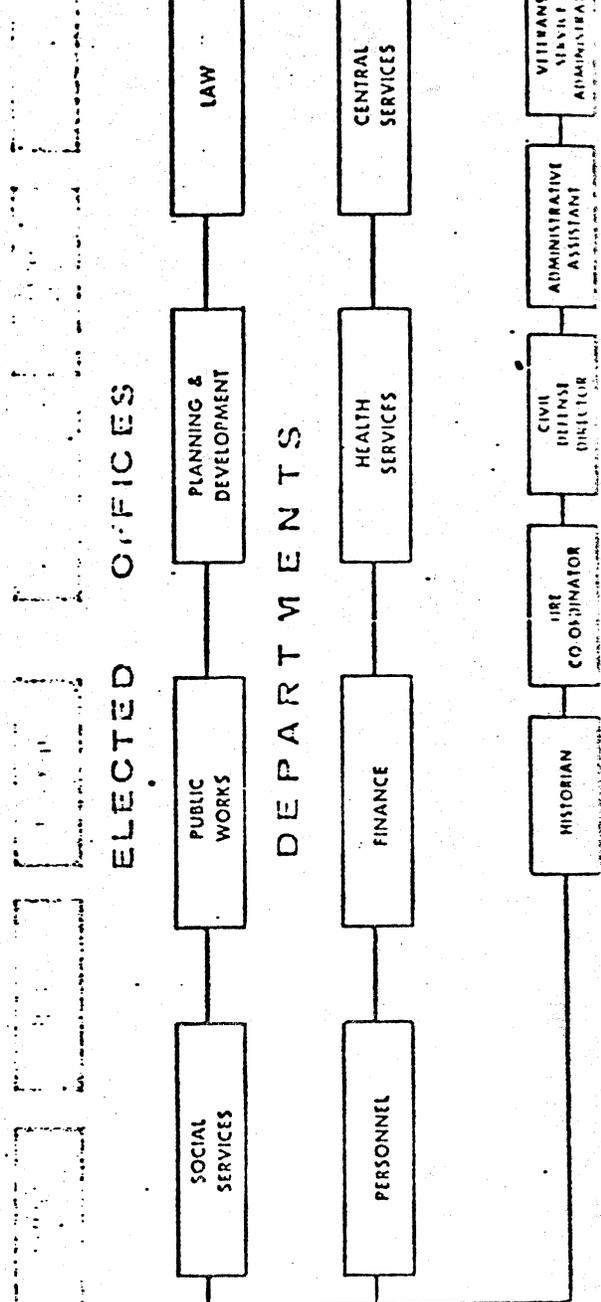
Q. Does The Charter Include Some Of The Recommendations Of The "Little Hoover Commission," The Government Efficiency Study?

A. Yes, it includes many of the same departments and organizational plans recommended by the Commission.

Q. Is The Charter A Partisan Document?

A. No. The Commission that was set up to study up of men and women from both political parties. The County Legislature approved it by a majority vote of 100 parties with a final vote of 73 to 2.

ELECTED OFFICES



- EXHIBIT B
- LEGISLATURE
- APPENDIX
- ELECTED EVERY TWO YEARS
 - APPROVES APPOINTMENTS OF DEPARTMENT HEADS
 - ADOPTS ANNUAL BUDGET
 - MAKES COUNTY LAWS
 - SETS SALARIES FOR ALL COUNTY EMPLOYEES
 - HAS POWER TO OVERRIDE VETO
 - SERVES ON POLICY COMMITTEES
 - APPOINTS CORONERS



COUNTY RESOLUTION NO. 17
 ADOPTED ON THE 11TH DAY OF

QUESTION NUMBER TWO

PROVIDING A COUNTY CHARTER FOR THE COUNTY OF
 CHAUTAUCUE

Should there be approved and adopted in the County of Chautauque New York, Local Law Introductory No. 12 1973 entitled, A Local Law Providing A County Charter For The County of Chautauque and as said local law was enacted by the Chautauque County Legislature on August 2, 1973?

VOTE NOV. 6

County
 Charter

- ELECTED BY THE PEOPLE EVERY FOUR YEARS
- APPOINTS ALL DEPARTMENT HEADS
- ADOPTS ALL LOCAL LAWS
- PREPARES ANNUAL BUDGET
- HAS VETO POWER OVER LEGISLATION
- APPOINTS COUNTY HISTORIAN, CIVIL DEFENSE DIRECTOR, FIRE COORDINATOR

Appendix C

Article 17-A:
Coroner, Coroner's Physician and Medical Examiner

ARTICLE 17-A (NEW) APPENDIX
 Coroner, Coroner's Physician and Medical Examiner EXHIBIT C

- § 670. Application of article.
- § 671. General duties of coroner, or coroner and coroner's physician, or medical examiner; additional duties may be directed.
- § 673. Deaths concerning which a coroner, coroner and coroner's physician or medical examiner has jurisdiction to investigate.
- § 674. Manner of investigation.
- § 676. Advice, consultation, assistance, examinations, analyses and reports.

§ 674. COUNTY LAW

- 6. Admissibility of evidence
 - Refusal to receive evidence, in action against town arising out of death of motorcyclist, of test results relating to alcoholic content of blood and urine of motorcyclist which were obtained during an autopsy, was proper under subd. 3(b) of this section where, although at time the test were made the results would have been admissible, at time of trial such was not the case, and where town had no vested right in the former rate of evidence. *Cook v. Town of Nassau, Russellburg County, 1972, 49 A.D.2d 1059, 338 N.Y.S.2d 544, affirmed, 32 N.Y.2d 7, 317 N.Y.S.2d 165, 260 N.E.2d 766.*
- 7. Purpose of autopsy
 - Where parents of deceased were Orthodox Jews and one of the tenets of their religion prohibited any procedure in the nature of an autopsy, where deceased sustained multiple serious injuries in automobile accident and purpose of proposed autopsy was to determine which of the injuries was the cause of death, and where there was no evidence nor suspicion of criminality or foul play involved in the accident, the autopsy was not sufficiently "necessary" to justify the performance thereof. *Wilensky v. Greco, 1973, 74 Misc.2d 512, 343 N.Y.S.2d 77.*

§ 677. Records; reports

- 5. The coroner, coroner's physician or medical examiner shall promptly report to the commissioner of motor vehicles, in a form and manner specified by the commissioner, the results of all quantitative tests for alcohol performed upon bodies of victims of motor vehicle accidents pursuant to the requirements of subdivision three of section six hundred seventy-four of this chapter.
 - As amended L.1974, c. 500, § 2.
 - 1974 Amendment, Subd. 5, L.1974, c. 500, § 2, eff. on 9th day after June 7, 1974, substituted "in a form and manner specified" for "in a form specified."
- 2. Inspection—Generally
 - Autopsy reports are not public records within the meaning of Public Law 92-500, § 552, b(7)(D).

[See main volume for text of 1 to 4]

ARTICLE 17-A—CORONER, CORONER'S PHYSICIAN AND MEDICAL EXAMINER

- § 671. General duties of coroner, or coroner and coroner's physician, or medical examiner; additional duties may be directed
- 3. Compatibility of offices
 - The two public offices of member of a county board of health and assistant medical examiner of that county may be held by the same person at the same time. 1972, Op.Atty. Gen. (Int.) Mar. 14.
- § 674. Manner of investigation
 - [See main volume for text of 1 to 3(a)]

(b) The coroner or coroner and coroner's physician, or the medical examiner, also shall make or cause to be made, quantitative tests for alcohol on the body of every operator of a motor vehicle or a pedestrian sixteen years of age or older who was involved in and died as a result of a motor vehicle accident; provided, however, such tests shall not be made pursuant to the provisions of this paragraph if such coroner, coroner's physician or medical examiner has reason to believe that the decedent is of a religious faith which is opposed to such test on religious or moral grounds. Such results shall be used only for the purpose of compiling statistical data and shall not be admitted into evidence or otherwise disclosed in any legal action or other proceeding.

As amended L.1974, c. 800, § 1.
 1974 Amendment, Subd. 3, par. (b). L.1974, c. 800, § 1, eff. on 90th day after June 7, 1974, substituted "sixteen years" for "eighteen years", and "reason to believe" for "actual knowledge."

Supplementary Index to Notes
 Admissibility of evidence 6
 Purpose of autopsy 7

2

1 § 3. The county law is hereby amended by inserting therein a
2 new article, to be article seven-eleven-a, to read as follows:

3 **ARTICLE 17-A**

4 **CORONER, CORONER'S PHYSICIAN AND MEDICAL EXAMINER**

5 *Section 670. Application of article.*

6 *671. General duties of coroner, or coroner and coroner's*
7 *physician, or medical examiner; additional duties*
8 *may be directed.*

9 *673. Deaths concerning which a coroner, coroner and*
10 *coroner's physician or medical examiner has juris-*
11 *isdiction to investigate.*

12 *674. Manner of investigation.*

13 *675. Advice, consultation, assistance, examinations, anal-*
14 *yses and reports.*

15 *676. Employment of stenographer.*

16 *677. Records; reports.*

17 *678. Disposition of money or property found on deceased.*

18 § 670. Application of article. 1. The provisions of this article
19 insofar as they are (a) in conflict with or in limitation of a pro-
20 vision of any alternative form of county government heretofore or
21 hereafter adopted by a county pursuant to section one of article
22 nine of the constitution, or any administrative code, county govern-
23 ment law, county charter or civil divisions act enacted by the
24 legislature and applicable to such county as now in force or here-
25 after amended, or (b) in conflict with any local law heretofore or
26 hereafter adopted by any county under an optional or alternative
27 form of county government, or (c) in conflict with any special act

3

1 of the legislature applicable to a county, or (d) in conflict with or
2 limitation of a county charter or charter law adopted pursuant to
3 article four of the municipal home rule law constituting the county
4 charter law, or an administrative code or local law of a county which
5 has adopted a county charter pursuant to such article, as now in
6 force or as hereafter amended, shall not be applicable to such
7 county.

2-7-43

County Law

§ 673

in force or as hereafter amended, shall not be applicable to such county.

2. In the exercise of its power to enact local laws, and in addition to any such power conferred by article two or article four of the municipal home rule law or other applicable law, the board of supervisors or other elective governing body of any county, other than a county wholly included within a city, may adopt and make applicable to such county, or to its officer performing the functions of a medical examiner, by whatever name designated, any provision of this article which is inapplicable to such county under the provisions of subdivision one of this section, provided that such power shall be exercised in the manner and subject to any veto, referendum or other requirement provided by applicable law.

HISTORY: Add. L 1965, ch 545, eff Sept 1, 1965.

CASE NOTES

Q 1. The coroner or the coroner and a coroner's physician or the medical examiner, shall make inquiry into unnatural deaths within his county as prescribed by law. 1966 Ops Atty Gen May 3.

Q 2. The provisions of Article 17-A of the County Law do not apply in a county where such provisions are in conflict with any special act of the Legislature applicable to that county. *Widziewicz v Golding*, 52 M2d 837, 277 S2d 62 (1955).

Q 3. Assuming that section 677(3) of the County Law is a "general law" as that term is defined in the Municipal Home Rule Law, Broome County may adopt a local law designating an office other than the coroner's office as custodian of coroner's records. It may do so, however, after the effective date of the Broome County Charter (January 1, 1968). 1967 Ops St Compt File # 508.

Q 4. The two offices of deputy sheriff and coroner are incompatible and may not be held by the same person at the same time. 1968 Ops Atty Gen March 27.

§ 671. General duties of coroner, or coroner and coroner's physician, or medical examiner; additional duties may be directed.—1. The coroner, or if he is not a physician duly licensed to practice medicine in this state, the coroner and a coroner's physician, together, or in counties in which the office of coroner has been abolished, the medical examiner, shall make inquiry into unnatural deaths within his county as prescribed by law.

2. The coroner shall perform such additional and related duties as may be prescribed by law and directed by the board of supervisors.

3. In those counties in which the office of coroner has been abolished, the medical examiner shall perform such additional and related duties involving exercise of professional skills and training as may be prescribed by the board of supervisors and the district attorney.

HISTORY: Add. L 1965, ch 545, eff Sept 1, 1965.

CASE NOTES

Q 1. Where a county coroner, who is compensated on a per diem basis, testifies for the plaintiff in a civil action for the wrongful death of the person whom he examined as coroner, the giving of such testimony is not in the performance of his duties as coroner and he is not entitled to per diem compensation for so testifying, with the result that he may retain the witness fees and mileage. 1965 Ops St Compt File # 262.

[2 CLS Supp]

Q 2. Unsigned decisions of a deceased coroner should be filed by County Clerk. 1965 Ops Atty Gen Jan 22.

Q 3. An investigation into the death of any person is to be conducted by the coroner or medical examiner of the county in which that person died and at the expense of that county. The facts that the decedent resided in and received his injuries in an adjacent county do not alter this responsibility. 1966 Ops St Compt File # 521.

Q 4. A coroner who is not a duly licensed physician is required to go at once, together with a coroner's physician, to the scene of every unnatural death within his county as prescribed by law. 1967 Ops Atty Gen Jan 19.

Q 5. The coroner or the coroner and a coroner's physician or the medical examiner, shall make inquiry into unnatural deaths within his county as prescribed by law. 1966 Ops Atty Gen May 3.

Q 6. The two offices of deputy sheriff and coroner are incompatible and may not be held by the same person at the same time. 1968 Ops Atty Gen March 27.

§ 673. Deaths concerning which a coroner, coroner and coroner's physician or medical examiner has jurisdiction to investigate.

—1. A coroner or medical examiner has jurisdiction and authority to investigate the death of every person dying within his county, or whose body is found within the county, which is or appears to be:

(a) A violent death, whether by criminal violence, suicide or casualty;

(b) A death caused by unlawful act or criminal neglect;

(c) A death occurring in a suspicious, unusual or unexplained manner;

(d) A death caused by suspected criminal abortion;

(e) A death while unattended by a physician, so far as can be discovered, or where no physician able to certify the cause of death as provided in the public health law and in form as prescribed by the commissioner of health can be found;

(f) A death of a person confined in a public institution other than a hospital, infirmary or nursing home.

2. When a coroner is not a physician duly licensed to practice medicine in this state, the jurisdiction and authority specified in this section must be exercised jointly by the coroner and a coroner's physician.

HISTORY: Add. L 1965, ch 545, eff Sept 1, 1965.

REFERENCES: This section referred to in 1634

CASE NOTES

Q 1. In the investigation of a death defined in 1673 and occurring in his county, the coroner, or coroner and coroner's physician, or the medical examiner, may remove and transport the body to the extent required for the investigation. 1965 Ops Atty Gen Oct 7.

Q 2. A coroner who is not a duly licensed physician is required to go at once together with a coroner's physician, to the scene of every unnatural death within his county as prescribed by law. 1967 Ops Atty Gen Jan 13.

Q 3. The coroner or the coroner and a coroner's physician or the medical examiner, shall make inquiry into unnatural deaths within his county as prescribed by law. 1966 Ops Atty Gen May 3.

§ 674. Manner of investigation.—1. When a coroner or medical examiner is informed of the occurrence of a death within his jurisdiction as defined in section six hundred seventy-three, he shall go at once to the place where the body is and take charge of it. If the coroner is not a physician duly licensed to practice medicine in this state, he shall at once notify and designate a coroner's physician to act with him. If no coroner's physician is available, he shall employ and designate a physician qualified to make postmortem examinations and dissections and to testify thereon, and the physician so employed shall be deemed a coroner's physician for the purpose of the investigation, and any statute referring to a coroner's physician shall be applicable to him so far as concerns that investigation. Such coroner's physician so notified or employed, and designated, shall also go to the place where the body is, and the coroner and such coroner's physician shall jointly take charge of the body. Notwithstanding any general, special or local law, the coroner, or coroner and coroner's physician, or the medical examiner, shall have authority to the extent required for the investigation to remove and transport the body upon taking charge of it.

2. The coroner, or the coroner and coroner's physician, or the medical examiner, shall fully investigate the essential facts concerning the death, taking the names and addresses of as many witnesses thereto as it may be practicable to obtain, and before leaving the premises shall reduce all such facts to writing. He or they shall take possession of any portable object which, in his or their opinion, may be useful in establishing the cause or means of death.

3. In the course of the investigation, the coroner or coroner and coroner's physician, or the medical examiner, shall make or cause to be made such examinations, including an autopsy, as in his or their opinion are necessary to establish the cause of death, or to determine the means or manner of death, or to discover facts, the ascertainment of which is requested in writing by a district attorney, or a sheriff, or the chief of a police department of a city or county, or the superintendent of state police, or the commissioner of correction; provided, that if the coroner is not a physician duly licensed to practice medicine in this state, the determination whether an autopsy or any subsequent examination or analysis of tissue or organs is necessary shall be made by the coroner's physician, and any such autopsy, examination or analysis shall be made by him or at his direction, and provided further that, if so provided by local law of the county, written concurrence of the district attorney or the county health officer or the sheriff, or written concurrence of all or any of them, as the local law shall specify, shall be required for any determination by a coroner's physician under this subdivision whether acting as such physician or as deputy coroner pursuant to subdivision four-b of section four hundred of this chapter, or for any determination by the medical examiner, that an autopsy or any subsequent examination or analysis of tissue or organs is necessary. The authority to make any examination as pro-

vided in this section includes authority to remove, retain and transport or send, for the purpose of the examination, any tissue or organs and any portable object.

4. A coroner, coroner's physician or medical examiner shall have power to subpoena and examine witnesses under oath in the same manner as a magistrate in holding a court of special sessions.

HISTORY: Add. L 1965, ch 545, eff Sept 1, 1965.

CASE NOTES

Q 1. In the investigation of a death defined in § 673 and occurring in his county, the coroner, or coroner and coroner's physician, or the medical examiner, may remove and transport the body to the extent required for the investigation. 1965 Ops Atty Gen Oct 7.

Q 2. A coroner who is not a duly licensed physician is required to go at once, together with a coroner's physician, to the scene of every unnatural death within his county as prescribed by law. 1967 Ops Atty Gen Jan 19.

Q 3. The coroner or the coroner and a coroner's physician or the medical examiner, shall make inquiry into unnatural deaths within his county as prescribed by law. 1968 Ops Atty Gen May 3.

Q 4. This section grants to the medical examiner the power to subpoena and examine witnesses under oath, but the exercise of such power is discretionary and should be used only when necessary to determine the cause of death. *Widziewicz v Golding*, 52 M2d 837, 277 S2d 62 (1966).

Q 5. A coroner may, in his discretion and whenever necessary in the course of an investigation, employ at county expense a physician qualified to make an autopsy.

Q 6. A coroner may consult with and request advice, consultation or other assistance, when necessary in his opinion in the course of an investigation, from other qualified persons or from public laboratories, subject, however, to the examination and audit of any claims against the county therefor by the county comptroller prior to payment. 1968 Ops St Compt File #325.

§ 675. Advice, consultation, assistance, examinations, analyses and reports.—1. A coroner, coroner's physician or medical examiner shall have authority when necessary in his opinion to consult with and to request advice, consultation or other assistance from any officer of a department of the state government, from any medical examiner of any city or county, from any other coroner or coroner's physician of any county, or from the head of any public health laboratory, police laboratory or state or municipal laboratory or from any member of the staff of such laboratory designated for such purpose by the head thereof, or from any physician qualified to make postmortem examinations and to testify thereon; and to request from any such person such tests, examinations or analyses and reports with respect thereto as are necessary in his opinion, with respect to the body of the deceased or any part thereof or with respect to any other matter related to his investigation.

2. Subdivision one of this section does not empower a coroner, coroner's physician or medical examiner to incur charges against county funds except as authorized by the board of supervisors.

HISTORY: Add. L 1965, ch 545, eff Sept 1, 1965.

CASE NOTES

Q 1. The coroner or the coroner and a coroner's physician or the medical examiner, shall make inquiry into unnatural deaths within his county as prescribed by law. 1966 Ops Atty Gen May 3.

Q 2. A medical examiner is under no statutory mandate to conduct examination and/or analyses of whatever portable objects he may take into his possession during the investigation of a homicide. *Widziewicz v Golding*, 52 Md 837, 277 S2d 62 (1966).

Q 3. A coroner may, in his discretion and whenever necessary in the course of an investigation, employ at county expense a physician qualified to make an autopsy.

Q 4. A coroner may consult with and request advice, consultation or other assistance, when necessary in his opinion in the course of an investigation, from other qualified persons or from public laboratories, subject, however, to the examination and audit of any claims against the county therefor by the county comptroller prior to payment. 1968 Ops St Compt File #325.

§ 676. Employment of stenographer.—When the services of a stenographer shall not have been provided by the board of supervisors, or if a stenographer so provided is not available, the coroner, coroner's physician or medical examiner shall have power to employ a stenographer for the purpose of taking statements and reducing to writing the testimony of witnesses or of transcribing or reproducing any report or document required by his investigation. If the board of supervisors has not fixed any rate of compensation, such stenographer shall be paid for taking and transcribing minutes at the rate charged by official court stenographers in the county.

HISTORY: Add, L 1965, ch 545, eff Sept 1, 1965.

§ 677. Records; reports.—1. The writing made by the coroner, or by the coroner and coroner's physician, or by the medical examiner, at the place where he takes charge of the body, shall be filed promptly in the office of the coroner or medical examiner. The testimony of witnesses examined before him and the report of any examination made or directed by him shall be made in writing or reduced to writing and thereupon filed in such office.

2. The report of any autopsy or other examination shall state every fact and circumstance tending to show the condition of the body and the cause and means or manner of death. The person performing an autopsy, for the purpose of determining the cause of death or means or manner of death, shall enter upon the record the pathological appearances and findings, embodying such information as may be prescribed by the commissioner of health, and append thereto the diagnosis of the cause of death and of the means or manner of death. Methods and forms prescribed by the commissioner of health for obtaining and preserving records and statistics of autopsies conducted within the state shall be employed. A detailed description of the findings, written during the progress of the autopsy, and the conclusions drawn therefrom shall, when completed, be filed in the office of the coroner or medical examiner.

[2 CLS Supp]

3. (a) The coroner or coroners of each county, or the medical examiner, shall keep full and complete records, properly indexed, stating the name, if known, of every person whose death is investigated, the place where the body was found, the date of death, if known, and if not known, the date or approximate date as determined by the investigation, to which there shall be attached the original report of the coroner, or coroner and coroner's physician or physician employed, or medical examiner, and the detailed findings of the autopsy, if any. Such records shall be kept in the office of the coroner or medical examiner.

(b) Such records shall be open to inspection by the district attorney of the county. Upon application of the personal representative, spouse or next of kin of the deceased or of any person who is or may be affected in a civil or criminal action by the contents of the record of any investigation, or upon application of any person having a substantial interest therein, an order may be made by a court of record, or by a justice of the supreme court, that the record of that investigation be made available for his inspection, or that a transcript thereof be furnished to him, or both.

4. The coroner, coroner's physician or medical examiner shall promptly deliver to the district attorney copies of all records pertaining to any death whenever, in his opinion, or in the judgment of the person performing the autopsy, there is any indication that a crime was committed.

HISTORY: Add, L 1965, ch 545, eff Sept 1, 1965.

CASE NOTES

Q 1. Assuming that section 677(3) of the County Law is a "general law" as that term is defined in the Municipal Home Rule Law, Broome County may not adopt a local law designating an office other than the coroner's office as custodian of coroner's records. It may do so, however, after the effective date of the Broome County Charter (January 1, 1968). 1967 Ops St Compt File #508.

Q 2. The relief provided by Article 17-A was never intended to enable a criminal defendant to discover evidence by way of a civil proceeding which he would not be entitled to in the criminal action against him. *Widziewicz v Golding*, 52 Md 837, 277 S2d 62 (1966).

Q 3. A defendant under indictment for first degree murder, who had received an autopsy report concerning the victim's death, was not entitled to disclosure of investigation reports and tests of portable objects and of depositions of witnesses taken by the medical examiner, since only the District Attorney had the right to inspect the records kept on file in the office of the medical examiner and anyone else seeking to inspect those records must apply for a court order, the issuance of which lies within the sound discretion of the court. *Widziewicz v Golding*, 52 Md 837, 277 S2d 62 (1966).

Q 4. Records of investigations of death by a coroner or medical examiner, including reports of an autopsy, are not public records, may be inspected by the district attorney only and by all others only by court order. 1968 Ops Atty Gen Jan 10.

§ 678. Disposition of money or property found on deceased.—1. Money and other property found upon the body of the deceased, not required for the purposes of the investigation, shall be delivered to the county treasurer. Unless claimed in the meantime by the legal representatives of the deceased, articles held for the pur-

poses of the investigation, except such writings of the deceased as may be relevant to the diagnosis of means or manner of death, shall be delivered to the county treasurer at the conclusion of the investigation.

2. Upon the delivery of money to the county treasurer he must place it to the credit of the county. If other property is delivered to him he must, within one year, sell it at public auction upon reasonable public notice, and must, in like manner, place the proceeds to the credit of the county.

3. If the money in the treasury be demanded within six years by the legal representatives of the deceased, the treasurer must pay it to them, after deducting the amount of expenses incurred in connection therewith, or it may be so paid at any time thereafter, upon the order of the board of supervisors; provided, however, that such money may be so paid at any time upon the written order of the surrogate of the county.

4. Before auditing and allowing the account of the coroner or medical examiner, the board of supervisors must require from him a statement in writing of any money or other property found upon persons whose deaths he has investigated, verified by his oath to the effect that the statement is true and that the money or property mentioned in it has been delivered to the legal representatives of the deceased, or to the county treasurer.

HISTORY: Add, L 1965, ch 545, eff Sept 1, 1965.
Derived from Crim Code §§ 785-788.

ARTICLE 18

District Attorney

[New sections added in this supplement]

§ 702-a. Appointment of special assistant district attorneys during a period of civil disorder.

§ 700. District attorney; powers and duties.

(Added, L 1969)

8. The district attorney of a county having a population of more than one hundred thousand according to the last federal census shall give his whole time to his duties and shall not engage in the practice of law, act as an arbitrator, referee or compensated mediator in any action or proceeding or matter or engage in the conduct of any other profession or business which interferes with the performance of his duties as district attorney.

HISTORY: Sub 8, add, L 1969, ch 415, eff Apr 1, 1970 and applicable to district attorneys who are elected, re-elected or appointed after such day.

REFERENCES: This section referred to in § 927; Jud Law § 100; amount of recovery in action for penalty, 22 Carmody-Walt 2d § 135:33; disposition of proceeds, 22 Carmody-Walt 2d § 135:38; recognizances generally, 22 Carmody-Walt 2d §§ 135:47, 135:51.

CASE NOTES

Q 1.1. An assistant district attorney must be a resident of the county in which his official functions are required to be exercised. 1965 Ops Atty Gen Mar 22.

Q 5.2. The duties of the office of District Attorney require not only the prosecution of crime but also include the obligation to safeguard and insure the constitutional rights of defendants to a fair and impartial trial. *People v Lucdecke*, 22 AD2d 625, 258 S2d 115 (1965).

Q 5.3. The primary duty of a lawyer engaged in a public prosecution is not to convict but to see that justice is done. And this duty is particularly applicable to the position of district attorney. For example, language which might be permitted to counsel in summing up a civil action is not necessarily permissible to a public prosecutor who is a quasi-judicial officer, representing the people of the state and presumed to act impartially and solely in the interest of justice. *People v Castelo*, 21 AD2d 827, 264 S2d 136 (1965).

Q 5.4. Any practice by which a prosecutor makes himself an unsworn witness supporting his case by his own veracity and position is to be utterly condemned. And a statement of an assistant district attorney in his summation that he is morally convinced of the defendant's guilt is unethical, highly improper, and a sufficient ground for reversing a conviction. *People v Castelo*, 21 AD2d 827, 264 S2d 136 (1965).

Q 5.5. When Justice dies leaving undisposed traffic tickets District Attorney must, or complainant may, apply to County Court for reassignment on notice to defendant. 1965 Ops Atty Gen May 25.

Q 5.6. The district attorney is accorded latitude in the exercise of his discretion as to personal appearances and prosecutions in criminal proceedings in his county, but must have knowledge of all of them and consent to appearances by others for him. 1966 Ops Atty Gen Aug 8.

Q 9.1. District Attorney and not Attorney General charged with criminal prosecution of offenses. Attorney General must bring civil action for penalties on demand of Conservation Commissioner. 1967 Ops Atty Gen Dec 18.

Q 11.1. District Attorney has wide discretion in prosecution of minor crimes and misdemeanors in Courts of Special Sessions. 1965 Ops Atty Gen July 1.

Q 11.2. A district attorney is a quasi-judicial officer having the duty to conduct criminal investigations, to prepare criminal cases for trial, to call witnesses and present evidence in open court, and to do everything necessary to convict those guilty of crimes and offenses. And in his official capacity he has the power to withhold prosecution forever. *People ex rel. Luetje v Ketcham*, 45 M2d 802, 257 S2d 681 (1965).

Q 20.1. In the absence of any statutory or charter provision to the contrary, it is my opinion that presently it is not the duty of the City Attorney of the City of Geneva to prosecute violations of the Vehicle and Traffic Law of the state of New York, occurring in the City of Geneva. 1968 Ops Atty Gen Oct 15.

Q 23.1. A village attorney must be designated an assistant district attorney as a prerequisite to his prosecuting for the village the violation of a village ordinance. 1967 Ops St Compt File #772.

Q 25.1. The cost and expenses of a criminal prosecution, including fees allowed assigned counsel, are a charge upon the county in which the proceeding originated, though the trial has been transferred to another county. 1967 Ops St Compt File #1021.

Q 33. The District Attorney is a quasi-judicial officer and as such has wide discretion as to the manner in which his duty shall be performed, and this discretion cannot be interfered with by the courts unless he is proceeding or about to proceed in the exercise of jurisdiction. *People v Mazza*, 43 M2d 627, 251 S2d 715 (1964).

Q 39. Denial of a motion to disqualify the District Attorney and members of his staff from appearing to prosecute defendant on a misdemeanor charge in the City Court of Utica, which motion was based upon §§ 33 and 34 of the

Appendix D

County Expenditures (excerpt) 1973-1975

Schedule 1-A

1975 Budget
as Adopted

1975 Budget
Off. Recom.

1975 Committee
Recommendation

1975 Depart-
mental Req.

1974 Budget
as Modified

1973
Expenditures

	1973 Expenditures	1974 Budget as Modified	1975 Depart-mental Req.	1975 Committee Recommendation	1975 Budget Off. Recom.	1975 Budget as Adopted
<u>1180. JUSTICES & CONSTABLES</u>						
1180.4 Contractual Expenses	\$ 1,900.00	\$ 1,900.00	\$ 1,900.00	\$ 1,900.00	\$ 1,900.00	\$ 1,900.00
1180. TOTAL JUSTICES & CONSTABLES . . .	<u>\$ 1,900.00</u>	<u>\$ 1,900.00</u>	<u>\$ 1,900.00</u>	<u>\$ 1,900.00</u>	<u>\$ 1,900.00</u>	<u>\$ 1,900.00</u>
<u>1185. MEDICAL EXAMINERS & CORONERS</u>						
1185.1 Personal Services	\$ 14,000.00	\$ 14,000.00	\$ 17,500.00	\$ 17,500.00	\$ 17,500.00	\$ 17,500.00
1185.4 Contractual Expenses			\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00
Autopsies			600.00	600.00	600.00	600.00
Toxicology			125.00	125.00	125.00	125.00
X-Ray			1,200.00	1,200.00	1,000.00	1,000.00
Mileage & Travel Expenses			10,925.00	10,925.00	10,728.00	10,728.00
Total Contractual Expenses	\$ 10,170.00	\$ 10,500.00	\$ 10,925.00	\$ 10,925.00	\$ 10,728.00	\$ 10,728.00
1185.8 Employee Benefits		\$ 2,050.50	\$ 6,362.85	\$ 6,362.85	\$ 6,363.00	\$ 6,363.00
1185. TOTAL MEDICAL EXAMINERS & CORONERS	<u>\$ 24,170.00</u>	<u>\$ 26,550.50</u>	<u>\$ 34,787.85</u>	<u>\$ 34,787.85</u>	<u>\$ 34,591.00</u>	<u>\$ 34,591.00</u>
<u>1190. GRAND JURY</u>						
1190.4 Contractual Expenses	\$ 9,853.12	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 11,000.00	\$ 11,000.00
Witness & Jurors Fees & Mileage						
1190. TOTAL GRAND JURY	<u>\$ 9,853.12</u>	<u>\$ 12,000.00</u>	<u>\$ 12,000.00</u>	<u>\$ 12,000.00</u>	<u>\$ 11,000.00</u>	<u>\$ 11,000.00</u>
TOTAL JUDICIAL			\$1,036,142.37	\$1,035,043.27	\$1,161,294.00	\$1,161,294.00
<u>1290. COUNTY EXECUTIVE</u>						
1290.1 Personal Services		\$ 45,536.80	\$ 45,536.80	\$ 45,536.80	\$ 45,714.00	\$ 45,714.00
1290.2 Equipment						
(2) Filing Cabinets		\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00
1290.4 Contractual Expenses		\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
Travel & Mileage		300.00	300.00	300.00	300.00	300.00
Subscriptions		2,800.00	2,800.00	2,800.00	2,500.00	2,500.00
Total Contractual Expenses		\$ 2,800.00	\$ 2,800.00	\$ 2,800.00	\$ 2,500.00	\$ 2,500.00
1290.8 Employee Benefits		\$ 13,104.45	\$ 13,104.45	\$ 13,104.45	\$ 13,176.00	\$ 13,176.00
1290. COUNTY EXECUTIVE	<u>\$ 61,741.25</u>	<u>\$ 61,741.25</u>	<u>\$ 61,741.25</u>	<u>\$ 61,741.25</u>	<u>\$ 61,690.00</u>	<u>\$ 61,690.00</u>
TOTAL COUNTY EXECUTIVE			\$ 61,741.25	\$ 61,741.25	\$ 61,690.00	\$ 61,690.00

Appendix D-1

Coroner's Report

CORONER'S REPORT

F-214

PROPERTY FINDINGS

Case

Address

Where Found

Date of Death

Time

By Whom Reported

YES

NO

INQUISITION HELD? IF YES, ATTACH RECORD OF TESTIMONY TO COUNTY CLERK'S COPY.

Miles Traveled
Investigation

Miles
Going To Court

Days in Court

Expenses

DETERMINATION

Remarks:

COUNTY OF CHAUTAUQUA SS.:

..... deposes and says that the above statement is true and that the property listed has been delivered to the legal representatives of the deceased, or the County Treasurer.

Notary Public in the State of New York
Residing in Chautauqua County
My Commission expires March 30, 19.....

Date Filed

Coroner

Appendix D-2

Estimate of Expenditures and Request for
Appropriations for 1974: Medical Examiner
and Coroners

ESTIMATE OF EXPENDITURES AND REQUEST FOR APPROPRIATIONS FOR 1974

100 PERSONAL SERVICES

DEPARTMENT MEDICAL EXAMINERS & CORONERS

BUDGET # A1185.

Employee Number	Name, Title & Position	1973 Longevity	1973 Hourly Rate	Date Employed	1974 Longevity	1974 Hourly Rate	1974 Grade, Step	1974 Shift Diff.	1974 Yearly Wages	REMARKS:
1.	Frederick L. Hitchcock								4,250.00	5300.00
2.	Ralph Wallace								2,750.00	3200.00
3.	Anson Steward								4,250.00	5300.00
4.	Thomas J. Costanzo								2,750.00	3200.00
5.									14,000.00	17,000.00
6.										
7.										
8.										
9.										
0.										

TOTAL 1972 Appropriations \$ 13,000.00

TOTAL 1973 Appropriations \$ 14,000.00

TOTAL 1972 Expenditures \$ 14,000.00

Appendix E

Chautauqua County Coroner: Monthly Statistical Report



CHAUTAQUA COUNTY CORONER

Signed _____

Date _____

MONTHLY REPORT

Coroner Calls	Jan.	Feb.	Mar.	Total Apr.	May	June	Total July	Aug.	Sept.	Total Oct.	Nov.	Dec.	Total	Total Year
Natural Causes														
Accidently														
Auto														
Fire														
Others														
Homicide														
Suicide														
Drugs														
Undetermined														
Total Cases														
Days														
Autopsie														
Mileage														

Jamestown Community College

TRANSFER — LIBERAL ARTS AND SCIENCES

**CRIMINAL JUSTICE
(Associate in Arts)**

The program suggested is a Social Sciences concentration in Criminal Justice, leading to transfer to a four-year college or university, and is appropriate for students preparing for careers in law enforcement, criminalistics, security administration, penal and correctional administration, or the legal profession.*

FIRST SEMESTER		SECOND SEMESTER	
Courses	Hours	Courses	Hours
ENG 153 Composition and Literature.....	3	ENG 154 (continuation of ENG 153).....	3
PSY 151 General Psychology.....	3	PSY 152 (continuation of PSY 151).....	3
SOC 151 Introduction to Sociology.....	3	POL 152 American Politics.....	3
CRI 151 Intro to Criminal Justice.....	3	CRI 154 or CRI 252 ²	3
Mathematics or Science elective ¹	3-4	Mathematics or Science elective ¹	3-4
PHE 151 Physical Education ⁴	1	PHE 152 (continuation of PHE 151) ⁴	1
	15-17		15-17
THIRD SEMESTER		FOURTH SEMESTER	
Courses	Hours	Courses	Hours
Humanities elective.....	3	Humanities elective.....	3
Social Sciences electives (2).....	6	Social Sciences electives (2).....	6
CRI 253 Procedures & Subs. Crim. Law.....	3	CRI 254 or CRI 256 ³	3
Criminal Justice elective.....	3	Criminal Justice elective.....	3
PHE 251 Physical Education ⁴	1	PHE 252 (continuation of PHE 251) ⁴	1
	15-16		15-16

¹Recommended mathematics or science electives include: INT 151 Health Science; BIO 155 Science and the Citizen; MAT 151 Introduction to Mathematics; MAT 153 College Algebra; CHE 151-152 A Chemical View of Life; CHE 155-156 College Chemistry.

²CRI 154 Introduction to Legal Systems is intended primarily for students with no previous experience in the criminal justice field; CRI 252: Introduction to Administration in Criminal Justice is designed primarily for students currently employed in the field.

³CRI 256 Criminal Justice Internship is intended for students with no previous experience in the criminal justice field.

⁴Physical Education courses are optional.

*NOTE: See Page 79 for career option in Criminal Justice-Police Science.

Appendix F

Criminal Justice Curriculum Offered by Jamestown Community College

APPENDIX

Suggested Programs

CAREER – CRIMINAL JUSTICE

CRIMINAL JUSTICE—POLICE SCIENCE (Associate in Applied Science)

This program has a three-fold purpose: (1) to provide the pre-service student (no previous employment in the field) with the occupational skills and background necessary for entering employment with law enforcement agencies; (2) to upgrade the skills and background knowledge of in-service personnel; and (3) to provide both pre-service and in-service students with a broader understanding of human nature through general education.*

FIRST SEMESTER		SECOND SEMESTER	
Courses	Hours	Courses	Hours
ENG 131 Human Communications.....	3	ENG 132 (continuation of ENG 131).....	3
HUS 123 Human Behavior.....	3	HUS 126 Minority Groups.....	3
SPE 151 Public Speaking.....	3	CRI 132 American Police Systems ¹	3
CRI 151 Intro. to Criminal Justice ¹	3	General Elective.....	3
Mathematics or Science elective ²	3-4	Mathematics or Science elective ²	3-4
PHE 151 Physical Education.....	1	PHE 152 (continuation of PHE 151).....	1
	-----		-----
	16-17		16-17
THIRD SEMESTER		FOURTH SEMESTER	
Courses	Hours	Courses	Hours
CRI 233 Criminal Law-Police Officer.....	3	CRI 254 Criminalistics.....	3
CRI 235 Traffic Enforcement ¹	3	CRI 252 ¹ or CRI 256 ¹	3
CRI 237 Investigation-Interviewing.....	3	POL 122 Community-Its Organization.....	3
PSY 126 Applied Psychology.....	3	HUS 128 Contemporary Family.....	3
General Elective.....	3	SOC 256 Criminology-Delinquency.....	3
	-----		-----
	15		15

¹Students with previous or concurrent employment in law enforcement agencies may make the following substitutions: Basic Police Recruit School, for both CRI 151 and CRI 132; Police Intermediate School, for CRI 235; and Police Supervisor School, for CRI 252. (Arrangements for corresponding credit toward the Associate degree for completion of police schools must be made through Criminal Justice faculty.)

²Recommended electives include: INT 151 Health Science; BIO 155 Science and The Citizen; CHE 151-152 A Chemical View of Life; CHE 155-156 College Chemistry; or a mathematics course appropriate to the background of the student.

³CRI 252 Introduction to Administration in Criminal Justice is for in-service students only; CRI 256 Criminal Justice Internship is for pre-service students only.

*NOTE: See page 72 for transfer option in Criminal Justice.

PART VI.

CONCLUSION

PART VI. CONCLUSION

Under the leadership of Sheriff Bentley, the Task Force, in conjunction with numerous other officials involved in the County's criminal justice system operations, have explored the observations and recommendations of the consultants as described in the foregoing report. In many cases, their recommendations were implemented immediately.

For example, a full-time investigator has been hired to assist in the operations of the District Attorney's office and a full-time attorney has been engaged to administer Public Defender operations. The Discretionary Grant to fund an Offender Rehabilitation Program was approved as requested and by January 1975, the Program was already operational and fully staffed. Through its activities, such services as juvenile diversion, Release on Recognizance and jail counselling are being provided to the County's citizens. While the County elected to remain with a Coroner System rather than provide these services through a Medical Examiner's Office, planning is being undertaken to develop a training curriculum for the County's Coroners as well as to make technical assistance available through a local laboratory when such back-up services are needed.

Many other recommendations have been implemented or are undergoing study and numerous issues raised by the consultants are being carefully considered by the Task Force and other County officials. Because of

the commitment and seriousness with which this technical assistance effort has been launched and coordinated, it is anticipated that the examination of Chautauqua County's criminal justice system operations will become an on-going effort with a view to assuring that the needs of all segments of the community are adequately and effectively served.