

INTAKE AND THE NIGHT PROSECUTOR'S PROGRAM

THE YEAR IN REVIEW: 1978

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## INTRODUCTION:

The Night Prosecutor's Program has completed its sixth year of operation. It is considered one of the most successful and flexible mediation programs in the nation. Each innovative idea in the criminal justice system which is introduced as a program such as the Night Prosecutor's Program must progress through several stages: Planning, implementation, institutionalization, and re-examination. The year of 1978 was a time to re-examine the goals of the Night Prosecutor's Program and its means of achieving these goals.

Various aspects of the Night Prosecutor's Program was procedurally reorganized as a result of this re-examination. Some functions were redefined. For example to achieve the goal of screening all civilian-filed criminal complaints, the Intake Division was created.

I) INTAKE DIVISION:

The intake division is in charge of the initial screening of all civilian complaints. Nine law students have been designated as "intake counselors" who are supervised by a coordinator-attorney. The intake division is assisted in this screening process by "a duty prosecutor", a rotating position among the trial prosecutors for one week periods.

A) INTAKE PROCEDURE

The intake counselors interview the complainants in an attempt to identify (1) the problem and (2) the most appropriate action to be taken. Frequently, the complainant needs information and/or direction; thus, a phone call, interview, or referral is all that is necessary.

From the total number of screening interviews, approximately sixty per cent (60%) of the complainants are initially scheduled for a mediation hearing.

If a formal charge is necessary, the intake counselor will assist the complainant in completing a questionnaire. This questionnaire will then be reviewed by "the duty prosecutor." The duty prosecutor will evaluate the complaint and inform the intake counselor whether a charge should be filed. The intake counselor will then contact the complainant and advise him/her of the recommendation.

In crisis situations, the intake counselor may evaluate the complaint and if necessary assist the complainant in filing the charge.

B) COUNSELORS:

Frequently, the student human relations counselors will assist in the screening process. They will provide short term counseling and referrals to community agencies.

C) INTAKE STATISTICS:

Statistics were recorded from the intake cards on a random basis resulting in the following:

TYPE OF COMPLAINTS  
(Random Sampling)

<u>CATEGORIES</u>	<u>PERCENTAGE</u>	<u>NUMBER</u>
Animals	1.2%	15
Assaults	31.0%	378
Criminal Damaging	5.3%	65
Disorderly Conduct	1.2%	15
Harassment	11.5%	140
Interference with Custody	3.0%	37
Landlord/Tenant	1.1%	13
Menacing Threats	16.6%	202
Non-Support	.3%	4
Passing Bad Checks	3.7%	45
Failure to Deliver Title	1.2%	15
Telephone Harassment	1.2%	15
Theft	10.2%	124
Trespassing	7.3%	89
Unauthorized Use of Motor Veh. & Property	1.5%	18
Felony Charges	.4%	5
Other	3.3%	39
	100 %	1,218

DISPOSITION OF COMPLAINTS

<u>CATERGORIES</u>		<u>NUMBER</u>	<u>PERCENTAGE</u>
- Night Prosecutors Hearings		743	61%
- Criminal Complaints			
Summons	195		
Warrants	<u>97</u>	292	24%
- Dog Letters		0	0%
- Referred		73	
Det. Bureau	12		
Attorney	17		
Small Claims	5		
FCCS	5		
Clerk of Courts	10		
Other	<u>24</u>		6%
- Other			
(Cancel hearing drop charges, information, etc.)	110	<u>110</u>	<u>9%</u>
		1,218	100%

## II) NIGHT PROSECUTOR'S PROGRAM COMPONENTS

### A) COLUMBUS HEALTH DEPARTMENT

The Columbus Health Department has been an integral component of "the Night Prosecutor's Program" for the past two years. One evening each week a representative from the health department scheduled hearings. The department exhausts their own particular resources to obtain compliance with a health ordinance such as cutting weeds or removing trash. Then, before filing the criminal charge of "failing to comply," a hearing is scheduled.

The results have been impressive: Approximately sixty-five percent (65%) compliance after the hearing is scheduled. Frequently, the respondent does not realize the seriousness of the complaint. This is explained to them during the hearing.

### B) BUREAU OF MOTOR VEHICLES:

The Bureau of Motor Vehicles' (State Department of Highway Safety) participation in the Night Prosecutor's Program began in March, 1978. After the Bureau exhausts its resources in attempting to obtain compliance in returning the driver's license, license plates, and/or auto registration, the bureau representative schedules a night prosecutor hearing. These hearings involve drivers who have accumulated twelve (12) or more points against their record in a two year period or who have an unsatisfied judgment arising out of an auto accident.

Approximately seventy percent (70%) of the hearings result in compliance without the filing of a criminal complaint. Frequently, the respondent needs additional information or does an explanation of the situation during the hearing.

C) COUNSELING:

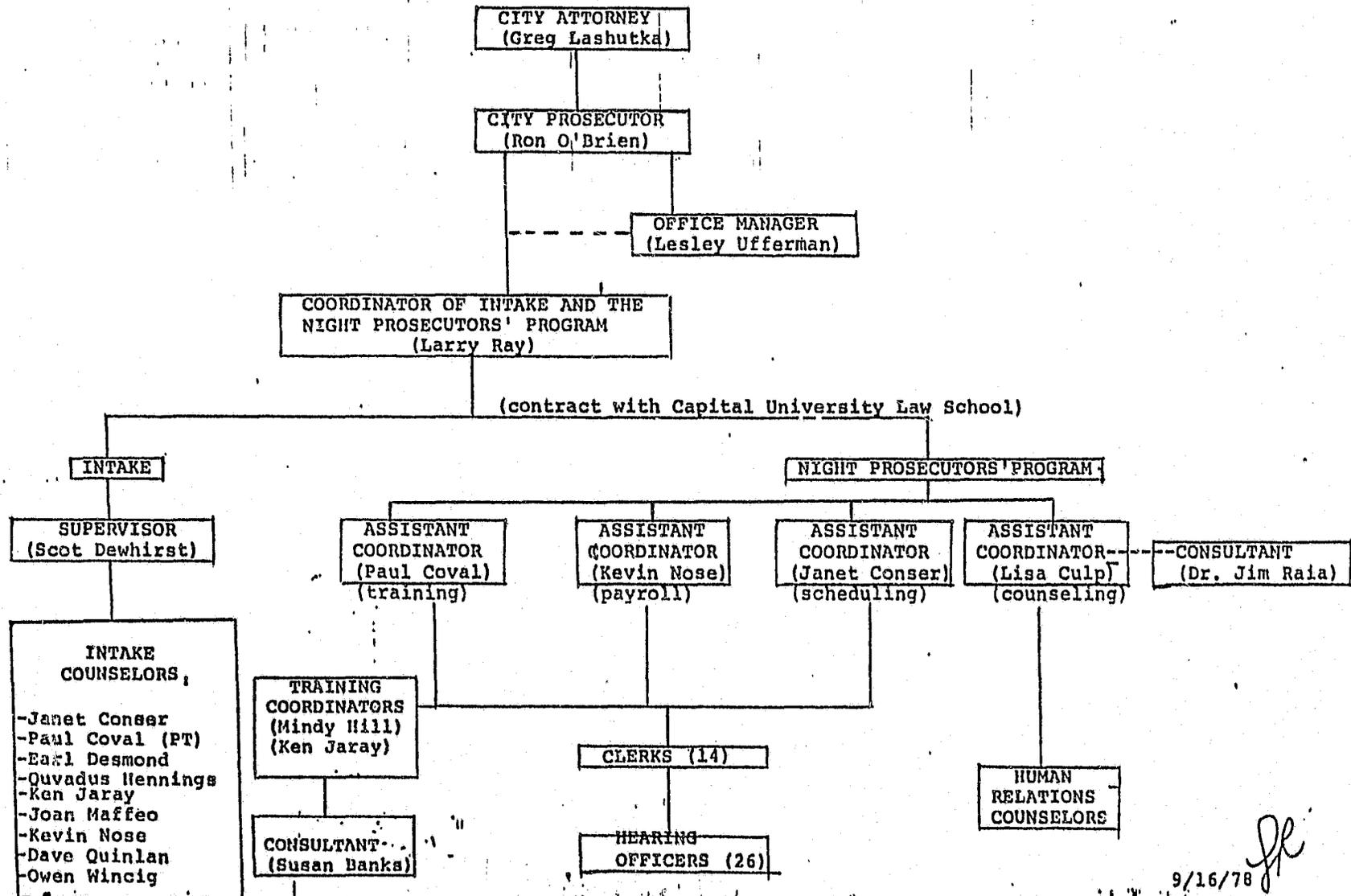
Records indicate that the majority of the cases referred to the Night Prosecutor's Program involve domestic strife, or other forms of human relations dysfunctionality. Recognizing that many "crimes" result from the inability of citizens to resolve their interpersonal disputes by themselves, it is evident that continued counseling would be an effective means to prevent new interpersonal crises. The Human Relations Counseling Program as an integral adjunct to the Night Prosecutor's Program helps meet a critical need; personalization of human needs in the criminal justice system. In order to fill this need, graduate students from the Ohio State University School of Social Work and graduate students from the Lutheran Theological Seminary at Capital University are available in the Prosecutor's Office to provide further counseling. Undergraduate students from Otterbein College and Ohio Wesleyan also participate.

- Objectives:
- (1) To alleviate the immediate crisis situation,
  - (2) To determine the precipitating factors leading to the crisis situation,
  - (3) To foster an understanding of the interpersonal relationships bearing upon the case,
  - (4) To discover additional sources of help within the community in terms of social agencies.

Prior to the beginning of each hearing session, a Human Relations Counselor should review each case that is scheduled for that particular evening to determine beforehand (if possible) which cases obviously entail purely legal problems; for example, writing of bad checks, and which other cases involve problems which appear to indicate domestic disharmony or other human relations difficulties which probably would be assigned to the Human Relations Counselor later.

All cases which are handled internally by the Night Prosecutor's Program must have a follow-up: that is, calling each party to inquire into the status of the situation post-hearing. This follow-up is done either by the hearing officer or the Human Relations Counselor.

FORMAL ORGANIZATIONAL CHART



D) BAD CHECK PROGRAM:

"The Bad Check Program" is an integral component of Night Prosecutor's Program. More than 9,000 bad check hearings were scheduled during 1978. In most cases, scheduling the hearing should be the first step in processing a bad check complaint. The purpose of the hearing is twofold:

- (1) To settle the dispute which usually means restitution to the complainant, AND
- (2) To educate the respondent as to the possible ramifications of writing a check which subsequently "bounces." The hearing officer should inquire,
  - why the incident occurred,
  - how it could have been avoided, and
  - if there are additional outstanding checks.

The Prosecutor's Office is not a collection agency, but rather the last step before the filing of formal charges. The Bad Check Program provides an opportunity for the complainant to notify the respondent that he/she intends to pursue the complaint through formal channels if necessary.

HEARING TIME AND PLACE:

All bad check hearings for merchants or individuals having three (3) or more respondents and/or planning to use the program on a regular basis are to be held on MONDAY AND WEDNESDAY evenings from 6:00 P.M. to 8:00 P.M. in COURTROOM #12 on the first floor of the CITY HALL ANNEX, 67 North Front Street.

III) PROGRAM OPERATIONS

The Columbus Night Prosecutor Program is one of the most successful diversionary programs in terms of its effectiveness in existence. Designated as an Exemplary Project by the National Institute of Law Enforcement and Criminal Justice of L.E.A.A., the goals of this program are: (1) to develop a procedure which would be able to rapidly and fairly dispense justice to citizens of Franklin County who become involved with minor criminal conduct; (2) to eliminate one of the burdens on the criminal justice system by reducing the number of criminal cases which cause a backlog in the courts; (3) to ease community and interpersonal tensions by helping the parties involved find equitable solutions to their problems without resorting to a criminal remedy; (4) to provide a public agency forum for the working population during hours which would not interfere with their employment; and (5) to remove the stigma of a criminal arrest record arising from minor personal disputes.

A) SCHEDULING MEDIATION HEARINGS:

In operation, the intake counselor (described previously) will schedule the mediation hearing. It is possible that a night prosecutor may schedule the hearing. The hearing is scheduled for a date that does not interfere with employment, approximately one week later. The complainant is informed that he/she may bring "a witness" to the hearing. Notice is mailed to the respondent stating the date of the hearing and captioning the complaint (assault, harassment, dog running at large, landlord-tenant problem, etc). Hearings are scheduled on a docket sheet at one half hour intervals:

6:00 - 10:00 P.M. during weekdays,  
10:00 - 3:00 P.M. Saturdays, and  
2:00 - 10:00 P.M. Sundays

In a crisis situation, the hearing may be scheduled within twenty-four (24) hours. Notification may be made to the respondent by phone call or the police department may deliver the notices.

B) HEARING PROCEDURE:

Hearings are conducted in a private room in the office of the prosecutor. Present at the hearing are the hearing officer, the complainant, the respondent, a human relations counselor, attorneys (which is rarely the case) and witnesses (if necessary). The hearing officer conducts the hearing informally, in such a way that each party has an opportunity to tell his/her side of the story without interruption. The hearing officer asks questions and the parties may talk with each other in an attempt to work out a resolution to the underlying problem.

The hearing officer, acting in the role of a mediator and conciliator, pays special attention to what the parties are saying in an effort to discover and reveal the basic issues which may in fact have precipitated the dispute which brought the parties into the prosecutor's office.

The most successful resolutions have proved to be those in which the parties themselves suggest a solution and agree about what should be done. Often, the most effective solution is suggested by a witness, who in many cases, is a friend of both parties. If, however, the parties are not capable of or willing to do this, the hearing officer will suggest a solution which is palatable to the parties. An additional responsibility of the hearing officer is to inform the parties of the law and criminal sanctions which may apply. This may include criminal statutes or city ordinances which carry criminal penalties.

Occasionally, the problem involves many parties or even an entire neighborhood. In such cases, the hearing moves to a court room. These hearings usually last one hour or more.

Hearings are free flowing without regard to rules of evidence burdens of proof or other legalities. Emotional outbursts are common with the responsibility of the hearing officer being to insure that they do not get out of control. Experience has shown that without the opportunity for the controlled display of emotion- alism, shouting and other forms of confrontation, the basic truth often does not come to the surface.

Hearings are scheduled for thirty minutes; in many cases, however, additional time was needed to try and sort out the basic problems underlying the legal problem.

#### C) FIELD HEARING OFFICER:

The Field Hearing Officer is a position designed primarily to serve the needs of those individuals who have a need for the Night Prosecutor's Program, but are unable to use the services due to lack of transportation, age or disability. This hearing officer also handles those cases where a "view of the site" is critical to the decision-making process (that is, decision making by the parties involved with the aid of a third party mediator -- the hearing officer).

Usually, the hearings are held in one party's home. Although this situation creates a more personal relationship with the hearing officer, it may be viewed as a violation of neutrality by the other party. In that case, negotiations must be conducted in separate locations, with possibly the hearing officer traveling to and fro.

The hearings for the Field Hearing Officer are scheduled for the convenience of the parties; therefore, the hearings are not necessarily held at night.

#### IV. CRISIS INTERVENTION TRAINING:

A Crisis Intervention Conflict Management Training Program has been tailored for use with the Night Prosecutor Program. This is a twelve (12) hour training program for clerks, hearing officers, and intake counselors, on how to handle conflict situations, how to run a hearing, and how to take a mediational approach rather than an adversarial one to the hearing process. The ability of hearing officers to effectively handle their hearing dockets is a direct result of the training they receive in this program. The Crisis Intervention Training Program not only helps to alleviate the time burden on hearing officers but also offers them guidelines on how to effectively structure the informal hearing in a fair, impartial way that will result in a fair and just hearing.

In addition to these twelve hours, all the law students are required to attend four to six hours of "in-house" training which focuses on procedure of intake and mediation.

This training is facilitated by a counselor/psychologist from the local mental health center. The facilitator works with program student administrators in the planning and the implementation stage. This facilitator has proven invaluable to the program, not only in facilitating the crisis training using his/her particular expertise, but as a consultant. The facilitator is not integrally involved in the daily operations of the program and usually provides an objective view of program concerns.

After the weekend of crisis training, the facilitator returns to the program and does twenty (20) hours of follow-up training. The facilitator observes and evaluates the trainees' mediation skills and leads group process at the evening's end.

V) PROGRAM STATISTICS

Statistics for the year 1978 are as follows:

<u>TOTAL SCHEDULED</u>	<u>TOTAL HELD</u>	<u>TOTAL SETTLED</u>	<u>SUMMONS ISSUED</u>	<u>WARRANTS ISSUED</u>
<u>Interpersonal Hearings</u>				
7,422	4,548	4,213	318	83
<u>Bad Check Hearings</u>				
8,342	4,197	5,654	1,184	219
<u>Columbus Health Department</u>				
547	313	406	81	-0-
<u>Bureau of Motor Vehicles *</u>				
<u>920</u>	<u>644</u>	<u>644</u>	<u>152</u>	<u>-0-</u>
17,231	9,702	10,917	1,735	302

A total of 17,231 hearings were scheduled. Hearings were held in 56% of the cases. Of the interpersonal hearings held, 93% were settled. Of the total bad check hearings scheduled, 68% were resolved.

\* The Bureau of Motor Vehicles hearing component began March of 1978.

## VI) FUTURE CONSIDERATIONS:

The new facilities for the Night Prosecutor Program in the Municipal Court Building should greatly enhance the effectiveness of the program, as separate facilities on a permanent basis should increase the level of public acceptance. In addition the expanded centralized quarters will provide for a smoother operation of business in both keeping of records and the screening of complaints.

The Domestic Violence Bill (amend. Subst. H.B. 835) recently passed by the State Legislature presents many new factors to consider in the intake procedure, as well as in the Night Prosecutor hearings. Since domestic violence problems are quite numerous, the evaluation of new procedures, which the Bill allows, should contribute to a more effective resolution of domestic violence situations.

### A) INTAKE-REFINING INTAKE PROCEDURE

The first contact an individual has with the Prosecutors office is when he/she speaks with an intake counselor. Continued examination of all facets of solving an individual's problem is made with emphasis on finding an effective out-of-court solution. A more complete utilization of community resources which can provide alternative remedies is contemplated.

Availability of record checks would increase the intake counselors effectiveness in determining what course of action to follow. Since the emphasis is on solving problems outside the formal court process, the individual's previous contact with the legal system could indicate whether an out-of-court settlement is possible or even desirable.

Closer and more direct contact with police officers involved in an incident would contribute to the intake counselor's analysis of the complaint. Since police have first hand knowledge of the incident, then input into the intake process could prove to be invaluable.

Increased use of human relations counselors (HRC) in the intake procedure is of extreme importance. Many of the problems seen in the office are ones in which an HRC can assist and provide important counseling and/or necessary referrals. The addition of HRC'S between the hours of 8:30 a.m. - 6:00 p.m. is desirable and necessary for the continued growth of the program.

B) NIGHT PROSECUTOR PROGRAM

The refinement of the process of notifying parties of a Night Prosecutor's hearing is contemplated. Many complaints demand immediate attention and resolution. Police cruiser delivery of notices of emergency hearings can be done rapidly and is being done now on a limited basis. Plans for expansion and refinement of cruiser delivery of notices is being studied. In addition, telephone notice of hearings would increase the program's acceptability to the public. A phone call to a respondent would be less threatening than a notice received in the mail, and it would allow the party to ask questions about the complaint and the process in which he will be participating.

Increased follow-up of hearings is needed to ensure that agreements made by the parties are being fulfilled. Extreme time pressures and heavy work loads of hearing officers have prevented effective and structured follow-up in the past. Procedures are being developed that will contribute to a quicker and more intensive follow-up.

The goal of the Night Prosecutor Program is to have human relations counselors present in 60% of all hearings. Their skills are of extreme importance in handling the numerous non-legal problems that are encountered in the hearing process.

Continual training of hearing officers and human relation counselors is a necessary component. New procedures and services are always arising. Training is a vital component of the program that will insure a coordinated and informed staff prepared to handle the public in an intelligent and effective way.

**END**