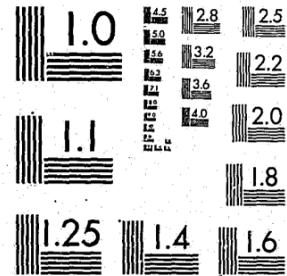


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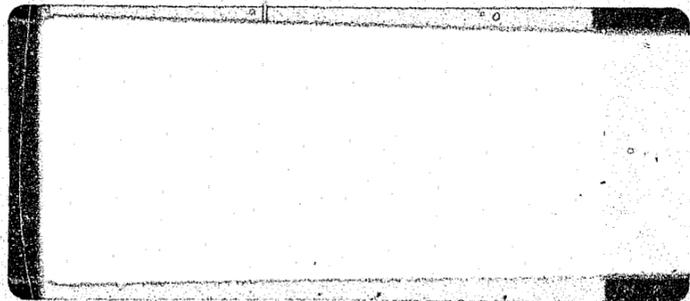


X REPORT ON THE
TECHNICAL ASSISTANCE VISIT TO THE
STATE'S ATTORNEY
COOK COUNTY, ILLINOIS
JUNE 9-11, 1981

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X
REPORT ON THE
TECHNICAL ASSISTANCE VISIT TO THE
STATE'S ATTORNEY

COOK COUNTY, ILLINOIS
JUNE 9-11, 1981

CRIMINAL PROSECUTION TECHNICAL ASSISTANCE PROJECT

LEONARD R. MELLON, PROJECT DIRECTOR

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

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

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INTRODUCTION

On June 9-11, 1981, a Technical Assistance team from the Criminal Prosecution Technical Assistance Project visited the offices of Richard M. Daley, State's Attorney for Cook County, Illinois. The Technical Assistance team examined the State's Attorney's management and operations functions in accord with the terms of a contract with the Law Enforcement Assistance Administration. Members of the team included:*

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The purpose of the visit was to analyze problems related to the Felony Review Unit, the Victim/Witness Assistance Program and the Juvenile Division. An overall assessment of the entire office was not attempted, nor was it desired. The purpose of a technical assistance visit is to evaluate and analyze specific problem areas and provide recommendations and suggestions for dealing with those areas. It is designed to address a wide range of problems stemming from paperwork and organizational procedures, financial management and budgeting systems, space and equipment

* Vitae are attached as Appendix A

requirements and specialized operational programs, projects and procedures unique to the delivery of prosecutorial services.

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

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

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

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

The visit to the State's Attorney for Cook County, Illinois focused on problems related to the Felony Review Unit, the Victim/Witness Assistance Program and the Juvenile Division.

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

II. SUMMARY OF RECOMMENDATIONS

1. Develop a written policy manual for the Felony Review Unit describing the functions to be performed as well as some general policy guidelines.
2. Draw clearer lines of command and responsibility, functional in nature, for the suburban review units
3. Eliminate the duplication of paperwork by developing an investigator's worksheet and a prosecutor's impression sheet to be made part of the official file. This will eliminate the necessity of using the log book.
4. Revise the official file folder to include check marks instead of requiring the assistants to write entries in long-hand.
5. Review the makeup of the paper itself as well as the paperflow.
6. Consider increasing the legal staff of the Juvenile Division to 40 attorneys.
7. Develop a Juvenile Division charging strategy, and increase the use of diversion and probation programs.
8. Establish short and long term goals for the Juvenile Division, set priorities, and develop an outline of specific duties of personnel with realistic standards of performance.
9. Review the juvenile referral paperflow to determine if redundant steps can be eliminated.
10. Consider increasing the office space for the Juvenile Division. At the present time, there is not enough space for the present staff and no room for expansion.
11. Consider the use of word processors and give the support staff the necessary technological assistance.
12. Consider developing a legislative liaison, a full-time police liaison deputy and a citizen juvenile advisory committee to coordinate needed juvenile changes.
13. Closely scrutinize the initial stages of contact between the new Victim/Witness Unit and its clients to insure a smooth and even flow without interruptions to the court processes.
14. Consider phasing out the Court witness notification system and replacing it with one operated solely by the Victim/Witness Unit.
15. Create a program to place witnesses on telephone call. Use the system for police officers.

16. Extend the proposed PROMIS system to include witness information. This will allow the unit immediate access to all continuance information which they can deliver to the witnesses.
17. Monitor the level of work of the new Victim/Witness Unit so to avoid the prospects of critically overloading the staff.
18. Closely watch the development of the Victim/Witness Unit so that potential problems with assigned trial attorneys do not develop.
19. Consider the creation of a Victim/Witness Passenger Van to transport victims and witnesses to court.
20. Centralize all disposition reporting through one source and place reporting responsibility on every assistant throughout the office.

III. SYSTEM OVERVIEW

The State's Attorney for Cook County, Illinois has held that office since January 1981. He oversees a staff of 933 employees, of whom 545 are attorneys, who serve at the pleasure of the State's Attorney. The office is organized into an Administrative Division with two assistants assigned to it; a General Criminal Prosecutions Bureau, which is comprised of a Felony Division and a Municipal Division, each with approximately 150 assistants; a Juvenile Section with 32 assistants, a Criminal Appeals Section with 57 assistants and a Traffic Section which employs 14 assistants. The Civil Actions Bureau is divided into the General Litigation Division, with 31 assistants, the Chancery Litigation Division and the Tax Litigation Division, each with several sections and employing approximately 24 assistants.

The Special Prosecutions Bureau is composed of several task forces, such as a task force on arson and one on drugs. Approximately 30 assistants are assigned to this bureau. The Public Interest Bureau deals with such matters as consumer fraud, child support and criminal housing violations.

With a population of over six million, the jurisdiction of the Cook County State's Attorney is served by 130 police agencies. The largest of these is the Chicago Police Department, which brings approximately 70 percent of the workload to the office. The three most prevalent felonies during the past year were burglary, theft and armed robbery.

The State's Attorney is responsible for prosecution of all actions, suits, indictments and prosecutions, civil and criminal, in the county. This includes juvenile matters and appeals. There are fourteen branch offices maintained throughout the county.

The Felony Review Section, which is part of the Municipal Division of the Criminal Prosecutions Bureau, advises the police in all felony cases and has responsibility for the evaluation of all serious felony charges occurring in the City of Chicago, as well as "suburban "overnight" and "holiday court" felony charges. The assistants in this Section decide whether or not a felony shall be charged and at what level. The practice in Cook County is to review the facts as the police present them, offer assistance relative to interviewing witnesses and evaluating physical evidence, and then to charge in accordance with what the facts support.

The Victim/Witness Assistance Program is not currently in full operation, although plans have been formulated and staff hired. It is anticipated that this program will supply notification and informational assistance to all victims and witnesses in felony crime categories. The program is also designed to provide outside services involving referrals to social service agencies and the Crime Compensation Board of Cook County.

Representatives of the unit will meet with all victims and witnesses in order to inform them of the court process and advise them on crime related problems. A major responsibility of the unit will be to notify all witnesses of court adjournments. A brochure has been planned and when completed, will be distributed to all witnesses.

The Juvenile Division has several responsibilities in addition to prosecuting charges brought against juveniles. This section prosecutes all criminal actions committed by parents and relatives against children if the charge brought is a misdemeanor. It also prosecutes all paternity cases involving mothers who are minors and non-support cases in which

parents were required to pay the placement costs for neglected children. The Juvenile Division screens all delinquent cases referred to the Juvenile Court from any police department within Cook County.

During 1980, it is estimated that the Juvenile Section received approximately 30,000 delinquency and child abuse referrals, with about 14,500 of these coming from the Chicago Police Department. Approximately 21,000 of the delinquency charges and 5,000 of the dependent and neglect petitions were filed in Circuit Court, of which each of the ten juvenile trial judges currently has approximately 1,000 cases pending.

IV. ANALYSIS

The analysis of the Cook County State's Attorney's office focused on improvements to the Felony Review Unit and the Juvenile Division. In addition, the plans for the offices' Victim/Witness Assistance Program were reviewed for their efficiency of operation.

A. Felony Review Unit

As the initial contact point in the criminal justice system for the State's Attorney's office, the Felony Review Unit has the responsibility for making the initial determination concerning the legal sufficiency of a case. As a review mechanism, screening units have traditionally been known as the "gatekeepers" of the prosecution function. As such, the Cook County Felony Review Unit was examined concerning its substantive output, general and specific policy, and points of control and responsibility. In addition, since paper flow and organizational structure have impact upon these areas, they were reviewed when deemed appropriate.

Generally, the overriding consideration in any such review depends upon the function which the Chief Prosecutor, i.e. the Cook County State's Attorney, wants this unit to perform, and whether or not his concerns, intentions and policies are those communicated to and understood by the assistants actually performing this function on a day-to-day basis. Moreover, in addition to this down side communication, there is a continuation in the lateral movement of the cases, an active and open communication of the chief prosecutor's concepts. The vast majority of the cases in a system as large and complex as Cook County's are disposed of in a modular,

lateral manner, and since the Felony Review Unit is the source of all of these cases, its function is of paramount importance to carrying out the policies of the State's Attorney.

Perhaps the most noticeable aspect of the function performed by the Felony Review Unit is that it is not conducting the traditional screening function that has come to be associated with screening and review units in many prosecuting attorneys offices. It is clear that the exercise of discretion in the charging decision, at least as to the traditional factors promulgated by the American Bar Association Standards, has little or no bearing upon the actual charging of the case by the assistant state's attorneys in the Felony Review Unit. About the only screening that this unit performs is to keep cases out of the system where elements are missing or evidence is lacking. Rather than exercise discretion in such areas as the prosecutor's reasonable doubt, the extent of harm caused by the offense, punishment as it relates to the facts of the offense and other critical factors considered by most screening units of most prosecutor's offices, the attorneys in the Felony Review Unit seem more concerned with establishing facts, satisfying the elements of a particular crime and, if established, proceeding to authorize the charge requested by the police agency. Rather than a screening unit it appears to be more of an investigative assistance unit. Clearly that is what the police see as the function of this unit. They believe that as long as sufficient facts are there to establish the elements of a particular charge, that the assistants in the felony review units are then obliged to authorize that charge. Nonetheless, amongst the assistants there appears to be some difference of opinion relative to what the charge should be. One assistant

seemed to believe that the Felony Review Unit should authorize the charge that is simplest to prove at a preliminary hearing, simply because other charges could be added subsequently. Others note that at least one important function of the Felony Review Unit is to continue in the investigative area by obtaining more and better statements from witnesses where applicable, and then looking at the case and evaluating it to determine what laws have been broken. Looking strictly to the facts then, those attorneys will charge the felony that the facts support.

Thus, it would appear that the function performed by the Felony Review Unit is not the traditional screening function encompassing a wider exercise of discretion at the charging stage seen in many prosecuting attorneys offices around the country. The Cook County practice is to review the facts as the police present them, offers assistance relative to interviewing witnesses and evaluating physical evidence, and then make charges in accordance with what the facts support.

Assuming that the Felony Review Unit operates under an informal policy, the Technical Assistance team was unable to discover a formal written document establishing the policies, beliefs and desires of the State's Attorney anywhere within the office. Whatever the function of the Felony Review Unit should be, whatever the desires of the State's Attorney as to its function, some general standards and observations should be regularly provided for all assistant state's attorneys in Cook County; especially those who will be working in the Felony Review Unit, both in Chicago and the suburban area. A policy manual including brief general duties and responsibilities of the various units within the office would

be a start in that direction. The Felony Review Unit could be described in such a manual and the functions to be performed, as well as some general policy guidelines, could then be set forth within this manual. This information is for the benefit of not only people assigned to the Felony Review Unit, but for all assistant state's attorneys. Moreover, some more specific policy guidelines could be established in this area for those assistant state's attorneys actually working in the field within this unit. As an example of both the general departmental description as well as some specific policy guidelines see Appendix B and Appendix C.

Obviously, one of the most important aspects of using guidelines and informing the members of a Chief Prosecutor's staff what is expected of them, is to seek uniformity within the office. The uniformity expected is in accordance with the desires, intentions and philosophy of the Chief Prosecutor. The Technical Assistance team suggests that some demonstration of written policy would be extremely important not only to maintain uniformity within the Cook County State's Attorneys Office, but also to demonstrate to the many assistant state's attorneys in Cook County that there is in fact a philosophy of the State's Attorney; that there is in fact a direction which the State's Attorney seeks to maintain in the enforcement of the criminal laws within Cook County.

And, to insure uniformity, the State's Attorney must seek control. The assistants performing the day to day tasks require control supervision to insure performance in accordance with policy, and uniformity and control require a centralization of responsibility relative to that function being performed. The State's Attorney should have a central point to focus on, for each function being performed, in order to insure that his policy commitments are carried out.

In order to maintain control over the utilization and implementation of the State's Attorney's policies and thereby insure uniform application of his philosophies, it is necessary that within his organizational command there is a centralization of authority for functions to be performed, and thereby a centralization of responsibility. Organizationally, within the City of Chicago the Felony Review Unit function follows a definite and positive chain of command so that authority and responsibility are clearly noted not only by those who are supervisory, but also by those assistants who are performing the day-to-day functions.

A recent innovation within the State's Attorney's office has made the function performed by the Felony Review Unit in Chicago similarly performed in the out-country, suburban areas. The personnel performing this function in the suburbs were trained in the Chicago operation by the supervisory personnel in Chicago and are now assigned directly to the various suburban municipal district units. However, their sole function is to provide the same services as the Chicago Felony Review Unit and so they do not perform the preliminary hearing functions associated with other assistants in the municipal district units.

The Technical Assistance team suggests that policy guidelines to insure uniformity and control are perhaps even more necessary in the several municipal units in the suburban area, since there is a great deal less contact with the supervisory personnel in the Felony Review section in Chicago.

Indeed what contact there is between the Felony Review sections seems to be somewhat in question. Discussions with relevant personnel indicated a feeling of unsureness of the chain of review relative to the function being performed by the Felony Review Units in the suburban areas.

While the assistants performing the function are nominally assigned to a suburban municipal district, the function they are performing is more directly in line with the Felony Review Unit of Chicago. Nonetheless, authority was not clear even in the minds of those who assume they have it; therefore responsibility was not clear, making the State's Attorney's ability to control administratively weak. The Technical Assistance team realizes that this is the start of a new function being performed in the out-county suburban areas and that various individuals at the same level on an organizational chart cannot be automatically deleted or ignored by lesser ranking assistants working at the same locations. However, organizational and administrative control may depend more on function than physical location, and a direct chain of command, functional in nature, might better center responsibility. In any event, the Technical Assistance team recommends that clearer lines of command and responsibility be drawn. This will eliminate indecisiveness in the minds of those having supervisory control, and, therefore will aid and assist those performing the day-to-day function of felony review, both in Chicago and in the suburban out-county districts.

In reviewing the operations of the Felony Review Unit, the Technical Assistance team focused on the flow of paperwork, not only from the standpoint of ease and efficiency of operation, but also from the standpoint of lateral communication to other modular units of prosecution within the office. Moreover, since the Felony Review Unit is the initiating unit within the State's Attorneys office, the flow of paperwork becomes increasingly important because the data collection effort begins here.

At the present time there is a great deal of paper work being generated by the attorneys assigned to the unit as each individual case is commenced. It is also clear that one of the problem areas noted by the assistant prosecutors performing the day-to-day tasks was the duplication of paperwork, much of it being written out in long hand.

The assistant state's attorney in the Felony Review Unit must make a long hand entry in a "log book" reciting the facts of the case as he sees them as well as referring to witnesses, statements or other evidence which may have been accumulated during the course of his review of a particular case. However, he must then repeat that same entry on the State's Attorney's official file folder (work product file) so that his view of the facts are available for the assistant state's attorneys handling the case at later stages. The felony review attorney does have available at this time the initial police arrest report, which briefly summarizes the facts. Since this is available, (rather than use the hand written entries duplicated in both the log book and on the file folder), the Technical Assistance team recommends that the assistant state's attorneys use the police report as it is presently constituted, or devise a new one with carbons, which would then be inserted within the state's attorney's work product file folder. Moreover, to eliminate lost paper work problems, the file folder should be of the type which has a clip attached to the folder itself. Appendix D, "Details of Investigation Worksheet", is an example of the type of paperwork which can be prepared by the police and then utilized by the prosecutor in his own work product file.

Obviously there will be occasions where the police recitation of facts will be considered incomplete. However, rather than restating a new version both in a log book and on the file folder, a prosecutor's impression sheet (see Appendix E) could be devised. This will allow a continuation of the lateral communication to the assistant state's attorneys handling the next stages of a particular prosecution. It would also alleviate a problem foreseen by some of the assistant state's attorneys relative to the way the police agencies would recite facts, as compared to the way a state's attorney would phrase them. If the prosecutor's impression sheet is adopted, both the police version and any additions or corrections by the assistant prosecutor would all be within the file folder, and the duplicate entry in the log book would seem to have little or no value. Long hand duplicate entries by attorneys could be drastically curtailed, eliminating a clerical function from the duties to be performed by the professional. To the same end, it is also recommended that the file folder be revised as to require fewer long-hand written out entries by substituting check mark entries to be done by the attorneys working on the files (see Appendix F). Not only will this add to the feel of professionalism by those attorneys performing the felony review function, check mark entries can be a much simpler starting point for data accumulation. Word processing systems which are sufficiently sophisticated to categorize, add, subtract, and perform other simple functions are now available on the market which are user programable and should be seriously considered for use by the clericals within the Felony Review Unit.

B. Juvenile Division

The Juvenile Division has the strong personal and public commitment of the State's Attorney, the support of the Chicago Police Department and the Juvenile Probation Department. The strong support of this division should be utilized in the future to promote the improved efficacy of the unit.

Perhaps the most noticable aspect of the examination of the Juvenile Division was the excessive case volume and paperflow for the available legal staff. In 1980, the Juvenile Division received approximately 30,000 delinquency and child abuse referrals, with nearly 14,500 delinquent cases from the Chicago Police Department alone. Of the total referrals received in 1980, according to the statistics of the Circuit Court of Cook County, approximately 21,000 delinquent charges and nearly 5,000 dependent and neglect petitions were filed in the Circuit Court. The Juvenile Division currently has 30 active trial deputies. Taking a conservative estimate that 14,000 petitions would reflect 21,000 delinquent charges (1.5 charges per petition), each juvenile deputy would have to close at least two juvenile cases (or petitions) a day to process the 1980 delinquency caseload. This type of caseload can only produce "assembly line justice" with little time for case preparation and adequate victim protection. In addition, it was indicated that each of the ten juvenile trial judges have approximately 1,000 cases pending before them.

The major consequence of an excessive caseload upon the Juvenile Division assistants is inadequate case preparation and witness management, with the additional collateral effects of personnel "burnout" and unnecessary case washouts.

To alleviate this situation, the Technical Assistance team recommends that the State's Attorney immediately consider increasing the legal staff of the Juvenile Division, either by hiring new attorneys or through internal reallocation of personnel. The Technical Assistance team feels that a total of 40 assistant state's attorneys are required as follows:

30 trial attorneys (3 attorneys per courtroom)

2 supervisors (Division Chief and First Assistant)

3 gang task force attorneys

3 suburban attorneys

1 child abuse supervisor

1 attorney for miscellaneous court call.

In addition, since the State's Attorney is faced with the contemporary dilemma of excessive public demands on limited resources, he must decide, with the advice of his Juvenile Division Chief, the most effective and efficient application of Juvenile Division energies. To accomplish this, the Technical Assistance team recommends that, first, a juvenile charging strategy be developed which would permit the elimination of select cases from the screening and trial caseload that, on balance, do not merit the immediate prosecution of the Cook County State's Attorney. In addition, juvenile diversion and probation departmental adjustment programs can assist in reducing the juvenile screening and trial workload. For example, the Probation Department may be permitted to initially screen certain non-serious misdemeanor and felony offenses committed by juveniles between the ages of 8 - 12, leaving them the options of adjustment or petition request. Also, city diversion programs should be encouraged for similar juvenile offenders.

The Technical Assistance team also suggests that the Juvenile Division Chief consider incorporating the principles of Management By Objective. As part of this process, she should immediately begin establishing short and long term goals for the office, setting appropriate priorities, and developing an outline of specific duties for her respective personnel with realistic standards of performance.

In addition, the Juvenile Division Chief should review the present juvenile referral paper flow to determine if unnecessary or redundant steps can be eliminated. The Technical Assistance team suggests considering whether, in the long run, the Juvenile Division and the interfacing public agencies would benefit from a screening system that would have the State's Attorney's office filing petitions after reviewing long form police reports and complaints.

During its visit to the Juvenile Division of the Cook County State's Attorney's office, the Technical Assistance team noted that there was inadequate office space for the present staff as well as for any future expansion. Presently, the Juvenile Division consists of 32 attorneys, six secretaries, three clerks, and one receptionist. These personnel are compressed into a small area that necessitates the multiple sharing of office space by attorneys, without adequate facilities for research, witness interviews or telephone communication. In addition, file cabinets line the office corridor making entrance and exit difficult as well as inhibiting efficient office communication and traffic.

At a minimum, the Technical Assistance team suggests that each assistant state's attorney should be provided with approximately 120 square feet of office space with the corresponding office necessities (e.g., phone, desk, file cabinets, Illinois Statutes, etc.). Each clerical assistant should have the appropriate business and personal space for effective production. Cramped space and lack of necessary professional tools prompt low self-image, low moral and less than optimum productivity and effectiveness.

The Technical Assistance team also noted the needs of the clerical staff for appropriate technological assistance. The absence of contemporary word processing equipment and storage capacity inhibits the output capabilities of the support staff. The appropriate use word processors and paper flow management is cost effective and can substantially improve office productivity. After the appropriate personnel have acquired management training and the support staff have received the necessary technological assistance, then the issue of increased clerical staffing should be reviewed.

In the long run, the proposed computerized management information system should be developed to permit the State's Attorney to determine not only what the Juvenile Division is doing but also how well they are doing it. Accurate case and workload statistics are necessary to adequately perform the management functions of planning, organizing, staffing and controlling.

Repeatedly, in interviews with Juvenile Division assistants and with probation officers, it became apparent to some members of the Technical Assistance team that with some notable exceptions, the juvenile bench in Cook County was not highly regarded. In some instances, several of those interviewed said that some of these judges lacked a "knowledge of the law," and in deciding many of their cases "were so out of touch with reality that they were unable to effectively represent the legitimate interests of either the community or the juvenile."

Finally, some other suggestions that may benefit the Juvenile Division would be to consider developing a legislative liaison to coordinate the legislative programs for the office, including the Juvenile Division; consider developing a full-time police liaison deputy who would effectively interface the combined efforts of the two offices; and consider developing a carefully selected citizen juvenile advisory committee that could effectively lobby for needed Juvenile Division changes. In addition, the Juvenile Division Chief should review the following areas to determine if viable and cost effective changes can be made: (1) the automatic criminal prosecution for certain classes of "juvenile" offenders; (2) lengthening the mandatory trial date of in-detention juveniles; and (3) determining probable cause at the initial hearing upon police reports without witness testimony.

C. Victim/Witness Assistance Program

At the time of the site visit, the Victim/Witness Assistance Program was not operational but was almost totally developed. The Victim/Witness program had originally been developed under the auspices of an LEAA grant to the National District Attorneys Association, with Cook County one of eight

localities involved throughout the United States. In 1974, the Cook County State's Attorney's office began its share of the funding and the framework of the program continued until LEAA funding was terminated in 1977. No attempt was made at that time to continue the program with local funding and accordingly the program was phased out.

Since the beginning of 1981, the Victim/Witness Assistance Unit Chief has been researching the issues of victim witness and developing a viable program for the office. In an effort to develop an overall perspective of the issues, input was gathered from both the Felony Division and Municipal Division attorneys. At the time of the site visit, all members of this unit had been hired and were undergoing an extensive training and orientation session. The unit is comprised of eleven full-time professionals directed by the Unit Chief.

As originally conceived, the unit is intended to supply notification and informational assistance to all victims and witnesses in felony crime categories. The program is also designed to provide outside services involving referrals to social service agencies and the Crime Compensation Board of Cook County.

Since all felony arrests are ultimately forwarded to a preliminary hearing stage in Felony Court, it is the intention of the unit to engage in an initial contact with these witnesses at the time of first court appearance. Similar contact is intended with those that are immediately presented to the Grand Jury.

The Technical Assistance team recommends that, at the initial contact with the witness, specific efforts should be made to verify all pedigree information gathered at intake by the Felony Review Unit. The

Unit Chief should determine the format for this initial interview and decide whether or not there will be any attempt to standardize it. At this time, it is difficult to project the length of time necessary to conduct these very important initial interviews. It is strongly suggested, however, that the Unit Chief closely scrutinize this area and that proposals and modifications be made to insure a smooth and even flow without interruptions in the court processes.

It is also the intention of the Victim/Witness Assistance Unit to meet directly with all victims and witnesses in an effort to inform them of the court process and advise them on relevant crime related problems. A major responsibility of the unit is to notify all witnesses of future court adjournments. These notifications may take the form of either telephone or mail contact. Apparently a current notification system based on clerk calendars is operated by the Court and supplemented by the Chicago Crime Commission. The Technical Assistance team suggests that the continued need for this program be determined so that the duplication of notification contact is totally eliminated. If the Unit Chief were to make the policy judgment that the Victim/Witness Unit alone is responsible for the notification of all State witnesses, it would be extremely helpful in establishing the unit's identity and integrity.

Inherent in the victim witness notification component is the need to develop an extensive and centralized telephone notification system. Since there is no assurance that the case will proceed on the first adjournment at preliminary hearing, there is a need to create some program to place the witnesses on telephone call. The unnecessary physical appearance of a witness in court when the case is to be continued by the defense,

can only serve to frustrate, if not lessen, the continued cooperation of the victim in future appearances. If the witness remains at his home or place of business and is near a telephone, a call can simply be made requesting his appearance in court within a two hour time period. Such a system should also be developed with respect to on-call notifications of police officers.

The introduction of a PROMIS System into the office is scheduled for delivery some time in the early fall of 1981. It was unclear at the time of the site visit whether or not the Victim/Witness Assistance Unit would be able to utilize the system for its purposes. Notwithstanding the pros and cons of the system design, it is the recommendation of the Technical Assistance team that the unit be plugged into the system to the extent that witness information be a part of the computerization format. First, this might eliminate the need for constantly preparing streams of handwritten continuance material. Secondly, given the decentralization of the file room and the fact that the unit will not have immediate control of prosecution files, computer contact will enable the unit to efficiently handle all inquiries from the witnesses by enabling them to immediately locate the case on a computer screen and provide the witness with relevant adjournment information.

Given the volume of felony intake cases, and the boundover ratio to either information or Grand Jury, it is very difficult to project the volume that the unit will handle. Generally speaking, the numbers will probably reach into the thousands. There is a need to constantly monitor the level of work so as to avoid the prospects of critically overloading the staff. It will be virtually impossible for a unit member to carry a caseload of several hundred cases on an ongoing basis.

Since, at the time of the visit the Victim/Witness program was not operational, it remains difficult to assess or predict the extent of success that the program will accomplish. The program format certainly has incorporated some of the classical designs of a model Victim Witness Assistance Unit. However, it is clear that the program is adopting a very small portion of that model and is conceptually operating under very specified limitations established by the State's Attorney. The emphasis of the unit is simply geared to service the needs of the assistants in victim witness matters. The very essence of the program seems to be controlled by the principle that it is the lawyer who should have direct and immediate contact and control with the witnesses. There is a very definite impression given that under no circumstances should the unit interfere with or affect that relationship. Given this emphasis, it is very conceivable that problems may develop with the assigned attorneys as the unit commences its involvement with witnesses.

There appears to be a general positive reaction from the various assistants in the office to the introduction of a Victim Witness Unit into the system. But also a certain degree of oversensitivity to the prospect that if the Victim Witness Unit is active and helpful, that it may be construed as an inability of the assistant to "do the job." The attorneys feel very committed to the premise that it is they who must develop the contact with the witness and insure court presence when needed. It is quite possible that if the individual attorneys do not contact the unit and seek to involve them in the case, the unit will have virtually nothing to do with felony trials. It is somewhat counterproductive to

believe that the unit may only be activated at this level based upon the individual feelings of the assigned prosecutor. Presumably, the unit has dealt with the witness throughout the preliminary stage and conceptually this interaction should be unhampered until the completion of the case.

The Technical Assistance team recommends that this potential area of conflict should be closely scrutinized by the leadership of the Cook County State's Attorney's office and that a standard for professional interaction of the staffs be developed.

Finally, the burden of transporting witnesses to the Courthouse has traditionally fallen upon the shoulders of the Chicago Police Department. It is the team's understanding that this system has proved to be dependable over the years. Notwithstanding, in an effort to forge ahead with Victim Services and establish a framework of viability, the Court should consider developing and operating its own transportational services. Perhaps the creation of a Victim Witness Passenger Van might be in order. There is also a public relations aspect to this issue which should not be discounted.

The examination of the office also provided the team with a glimpse at the entire statistical and reporting system. Most of the statistical data generated is compiled on a bureau by bureau basis. This emphasis on decentralized data reporting often loses the overall impact intended and results in questionable accuracy. The Technical Assistance team suggests that all disposition reporting be centralized through one source and an "action form" be designed to accomplish this end. The reporting responsibility should be placed on every assistant throughout the office no matter what state of the prosecution they are involved with.

V. CONCLUSIONS

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

The Cook County Felony Review Unit does not perform what many in the prosecution field believe to be the traditional screening function. They screen cases for their legal sufficiency rather than exercise discretion in such areas as the prosecutor's reasonable doubt, the extent of harm caused by the offense, punishment as it relates to the facts of the offense, and other critical factors considered by the screening units of many prosecutor's offices. Under the Cook County practice the State's Attorney reviews the facts as the police present them, offers assistance relative to interviewing witnesses and evaluating physical evidence, and then charges in accordance with what the facts support.

The decisions made later in the prosecution process are strongly influenced by what occurs at the intake and review stage. It is at the intake stage that the State's Attorney has his greatest opportunity to form his policy for the rest of the office to follow. He may decide to have his review assistants do minimal screening, similar to what is being done at the present time, or he may decide to become more actively involved in shaping the philosophy of the criminal justice process. However, these policy decisions are those of the Cook County State's Attorney and his advisors to make.

Obviously, one of the most important reasons for establishing policy and communicating it to the members of the staff, is to achieve uniformity and consistency in decisionmaking in the office. The uniformity expected is in accordance with the desires, intentions and philosophy of the State's Attorney. One of the most efficient and useful ways to accomplish this is through a policy manual designed in the most general way to set out duties and responsibilities for the various units within the office. The Felony Review Unit could be described in such a manual and the functions to be performed by them; there could also be some general policy guidelines set out for those assistants working in the field.

The policy guidelines are perhaps even more important for the Felony Review units located in the out-county, suburban areas as there is a great deal less contact with the supervisory personnel in the Felony Review section in Chicago. Uniformity, and the attendant organizational and administrative controls, depend on a direct chain of command, functional in nature, to better center responsibility. The Technical Assistance team recommends that clearer lines of command and responsibility be drawn. This will eliminate indeciveness in the minds of those having supervisory control, and, therefore, will aid and assist those performing the day-to-day function of felony review, both in Chicago and in the suburban out-country districts.

At the present time there is a great deal of paperwork being generated by the attorneys assigned to the Felony Review Unit. Much of this is duplicated information, with the same set of facts written out in longhand for the log book and for the official file folder. The Technical Assistance team recommends that the Felony Review Unit adopt some simple, easy to complete forms such as an "Investigator's Report" which can be completed by the police, and a prosecutor's impression sheet

to update the police recitation of the facts. In this way, both the police version and the additions and corrections by the prosecutor will be within the official file folder. In addition, the file folder should be revised to require fewer longhand written entries by substituting check mark entries for the attorneys working on the file. This will also become a simple starting point for the accumulation of data through automation. Examples of these forms are attached as Appendices D-F.

The examination of the Juvenile Division by the Technical Assistance team focused on the problems associated with caseload, space requirements and the need for automated word processing equipment.

The most noticeable aspect of this examination was that excessive case volume and paperflow exists for the available legal staff. With a staff size of 30 active trial attorneys, the Juvenile Division is insufficiently staffed to effectively process the amount of petitions and delinquent charges that are filed. To alleviate this situation, the Technical Assistance team recommends that the State's Attorney immediately consider increasing the legal staff of the Juvenile Division to a total of 40 assistant state's attorneys. This could be accomplished by either hiring new attorneys or through the internal reallocation of personnel. The recommended needs in the Juvenile Division are as follows:

- 30 trial attorneys (3 attorneys per courtroom);
- 2 supervisors (Division Chief and First Assistant);
- 3 gang force attorneys;
- 3 suburban attorneys;
- 1 child abuse supervisor;
- 1 attorney for miscellaneous court call.

In addition, the State's Attorney and his Juvenile Division Chief need to establish priorities for the Juvenile Division and develop them in a juvenile charging strategy. This would eliminate cases early in the process which do not merit the immediate prosecution of the State's Attorney's office. Diversion and probation programs should also be utilized to reduce the juvenile workload.

The Juvenile Division Chief should begin establishing short and long term goals for the office and develop an outline of specific duties for her personnel with realistic standards of performance. Paper flow should also be examined to determine if unnecessary or redundant steps can be eliminated.

The Technical Assistance team also noted the lack of office space available for the present staff, as well as for any future expansion. At the time of the site visit, the Juvenile Division was compressed into a small area that necessitated attorneys sharing office space, leaving inadequate facilities for research, witness interviews and telephone communication. The team suggests that each attorney be provided with an individual office complete with the corresponding office necessities. Each clerical assistant should have appropriate business and personal space for effective production. Cramped workspace and the lack of professional tools have a negative effect on productivity and effectiveness.

There is also the need for the clerical staff to obtain the necessary technological assistance. The appropriate use of word processors and paper flow management is cost effective and can substantially improve office productivity. In the long run, the proposed computerized management information system should be developed to provide accurate case and workload statistics for the Juvenile Division as well as the rest of the State's Attorney's office.

The Juvenile Division may also benefit by considering: (1) a legislative liaison to coordinate legislative programs for the office; (2) a full-time police liaison deputy who could combine the efforts of the two offices; and (3) a carefully selected citizen juvenile advisory committee that could effectively lobby for needed changes in the juvenile law area.

In addition to the Felony Review Unit and the Juvenile Division, the Technical Assistance team reviewed the proposed plans for the new Victim/Witness Assistance Program. As originally conceived, the program is intended to supply notification and informational assistance to all victims and witnesses in felony crime categories.

One area that deserves close scrutiny is the initial contact point with the victims and witnesses of felony crimes. The Program Chief should develop an interview technique which would verify all pedigree information gathered at intake by the Felony Review Unit. The Program Chief may decide later whether or not to standardize this interview format.

The program as contemplated also intends to notify all witnesses of future court adjournments (continuances). However, a current notification system is operated by the Court and supplemented by the Chicago Crime Commission. The Technical Assistance team suggests that the continued need for the Court program be appraised so that the duplication of notification contact is totally eliminated. To establish the Victim/Witness Assistance Program's identity and integrity, it may be useful to announce that the Unit will be responsible for the notification of all State witnesses from a certain time forward. If the unit will be assuming this function there is a need to develop an extensive and centralized telephone notification system.

A program should be created to place a witness on telephone call requesting his appearance in court within a two hour time period. This will serve to lessen the frustration of witnesses who continually appear only to find that the case has been adjourned. Such a system should also be developed with respect to on-call notification of police officers.

The Technical Assistance team recommends that the Victim/Witness Unit become a part of the proposed computer management information system to the extent that witness information be a part of the computerized format. This will enable the unit to efficiently handle all inquiries from witnesses by locating the case on the computer screen and providing the witness with relevant, up-to-date adjournment information.

The underlying assumption in the creation of the Victim/Witness Assistance Unit is that it is the prosecutor who should have direct and immediate contact and control with the witnesses. As such, the unit is geared to service the needs of the prosecutors in victim witness related matters. Given this assumption, it is conceivable that problems may develop between the members of the unit and the assigned attorneys as the unit commences its involvement with witnesses. Although there appears to be a general positive reaction to the introduction of a Victim/Witness Unit into the system, prosecutors interviewed feel very committed to the premise that it is they who must develop the contact with the witness and insure court presence when needed. It is possible that if the unit is not contacted by the assigned prosecutor, it will have virtually nothing to do with felony trials. It is counterproductive to believe that the unit may only be activated at this level based upon the individual feelings of the assigned prosecutor. The interaction between the unit and the

witness should be unhampered until the completion of the case. The Technical Assistance team recommends that this area be closely scrutinized by the leadership of the Cook County State's Attorney's office, and that standards for professional interaction be developed.

The implementation of these suggestions and recommendations should result in a more efficient and effective office. The savings in time and money it will produce will make the State's Attorney's office a more cost effective productive one.

APPENDIX A

LEONARD R. MELLON

Research Associate, Bureau of Social Science Research, since January 1978. Formerly, Project Director, National District Attorneys Association, 1975-1977; special counsel, National Center for Prosecution Management, 1974-1975; chief assistant state attorney, 12th Judicial Circuit of Florida, Sarasota, 1974; assistant state attorney, 11th Judicial Circuit of Florida, Dade County, Miami, 1971-1974; Counsel, Transcommunications Corporation, 1969-1971; sole practitioner, Miami, 1965-1969; assistant attorney general, Florida, 1958-1965.

Instructor, Florida State University, 1958-1960; Florida Sheriff's Bureau of Law Enforcement Academy, 1960-1964; Florida Bar Association's Continuing Legal Education Program, 1966; Criminal Justice Institute, Miami Dade Community College, 1972-1973; University of Oklahoma, 1974; Northwestern University School of Law, Summers of 1976 and 1977.

Education: B.S. (political science), Florida State University; B.S.F.S. and Lib. Georgetown University.

Current Research:

Project Director, Criminal Prosecution Technical Assistance Project--a facility to provide national level technical assistance in the prosecution area and participate in the development and improvement of criminal prosecution projects and programs supported by LEAA (Law Enforcement Assistance Administration).

Deputy Project Director, Phase II, Research on Prosecutorial Decisionmaking--a continuation of the Phase I program to conduct research on prosecution nationwide and to test techniques and procedures to measure uniformity and consistency in decisionmaking (Law Enforcement Assistance Administration).

Recently Completed Research:

Research Associate, White Collar Crime Study--a systematic review and analysis of major data sources relevant to white collar crime, supported by a grant from the Law Enforcement Assistance Administration.

Deputy Project Director, Phase I, Research on Prosecutorial Decisionmaking--a nationwide research program to develop techniques and procedures for increasing uniformity and consistency in decisionmaking, supported by the Law Enforcement Assistance Administration.

Past Experience:

As Project Director, National District Attorneys Association, directed a large-scale DHEW-supported study which assisted and encouraged prosecutors and others nationally to participate in the

Federal Child Support Enforcement Act (Title IV-D of the Social Security Act). In connection with the study, conducted regional orientation and training conferences nationwide, developed a reference source for prosecutors on child support enforcement, and a clearinghouse on current child support data; directed and participated in technical visits by child support enforcement consultants to prosecutors offices nationwide.

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

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

Selected Publications:

"The Prosecutor Constrained by His Environment: A New Look at Discretionary Justice in the United States" (with Joan E. Jacoby and Marion A. Brewer). Journal of Criminal Law and Criminology (in press).

"A Concept for Measuring the Legal Evidentiary Strength of a Criminal Case." Paper presented at 1979 Annual Meeting of the American Society of Criminology, November 7-9, 1979, 14pp.

Transmitting Prosecutorial Policy: A Case Study In Brooklyn, New York (with Joan E. Jacoby, et al.). Research Report No. 2, Project 556, November 1979.

A Quantitative Analysis of the Factors Affecting Prosecutorial Decisionmaking (with Joan E. Jacoby, et al.). Research Report No. 1, Project 556. October 1979.

Policy Analysis for Prosecution (with Joan E. Jacoby) Final report for Phase I of Project 550, Bureau of Social Science Research, April 1979.

Policy Analysis for Prosecution: Executive Summary (with Joan E. Jacoby) Final report for Phase I of Project 550, Bureau of Social Science Research, April 1979.

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

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

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

"Can Effective Restrictive Legislation Be Written" Paper delivered to the Southeastern Association of Boards of Pharmacy in 1962 and published in The Journal of the American Pharmaceutical Association.

(November 10, 1980)

DOMINICK R. CARNOVALE

BIOGRAPHY

Dominick R. Carnovale, a native of Geneva, New York, received a Bachelor of Arts Degree from Hobart College in up-state New York, and after service in the Armed Forces, attended the Detroit College of Law. Upon graduating with the number one scholastic average in his class, he was awarded the Degree of Juris Doctor in 1960. He thereupon served as law clerk for the Honorable Theodore Souris in the Michigan Supreme Court. Mr. Carnovale then worked as both appellate and trial lawyer in the Wayne County Prosecutor's Office for two years, before going into private practice with the firm of Carnovale and McCall. He spent six years in private practice as a criminal defense trial and appellate lawyer until November of 1969, when he was appointed by Prosecutor Cahalan to be Chief of the Appellate Department of the Wayne County Prosecutor's Office. In 1973, his duties were expanded and he became Chief of the Recorder's Court Trial and Appellate Departments until March of 1974, when he was appointed Chief of the Criminal Division, in which capacity he served until his appointment in February, 1977 as Chief Assistant Prosecuting Attorney.

Dominick R. Carnovale

Biography

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While Mr. Carnovale was Chief of the Appellate Department, he was instrumental in obtaining LEAA funding for law student intern programs, and served as the project director and immediate overseer of these programs for the next three years. A number of these former student interns are now members of the Wayne County Prosecuting Attorney's staff, another is the Prosecuting Attorney of Hillsdale County, Michigan, and others are assistant prosecuting attorneys in other jurisdictions throughout Michigan and in other states. Mr. Carnovale was also instrumental in creating the Victim-Witness Assistance Program of the Wayne County Prosecutor's Office, without the benefit of LEAA funding or any additional County funding, solely through the use of regular budget funds and the solicitation of donated time and services from a local printer and the Criminal Justice Institute. Mr. Carnovale was also the initiating project director under Federal funding for three additional units of the Wayne County Prosecutor's Office: The Consumer Protection Agency, the Prosecutor's Management Information System (PROMIS), and the Prosecutor's Repeat Offenders Bureau (PROB), which is Wayne County's Career Criminal Unit.

Dominick R. Carnovale

Biography

Page -3-

Mr. Carnovale is a member of the Michigan State Bar Association, is a Charter Member of the Criminal Law Section of the State Bar of Michigan, and an elected Council Member of that Section. He is a former elected member of the Representative Assembly of the State Bar. He is a member of the National District Attorneys Association, as well as of the Prosecuting Attorneys Association of Michigan, and the Detroit Bar Association. He is a former member of AFSCME. A Democrat, he served as a Special Group Chairman for the 1976 Jefferson-Jackson Day Dinner of the Democratic Party of the State of Michigan.

RESUME

Michael Belson
197 Rugby Road
Brooklyn, New York
Tel # 282-9246

Born: November 19, 1947

Married: Children

ACADEMIC

Erasmus Hall High School
Brooklyn, New York
Graduated June 1960

Brooklyn College
Brooklyn, New York
Graduated June 1964

Brooklyn Law School
Brooklyn, New York
Graduated June 1967

ADMITTED

Appellate Division Second Department
March 1968

United States District Court
Eastern and Southern District

United States Circuit Court of Appeals
Second Circuit

EMPLOYMENT

OFFICE OF THE DISTRICT ATTORNEY KINGS COUNTY
ASSISTANT DISTRICT ATTORNEY

CHIEF OF THE SUPREME COURT BUREAU
October 1976 to Present

Supervising the disposition and trial of
all felony indictments, including Major
Offense Cases and Juvenile Prosecutions.
The bureau is comprised of 60 Assistant
District Attorneys and 40 Detective
Investigators.

CHIEF OF THE CRIMINAL COURT BUREAU
January 1972 to October 1976

Supervised the prosecution of all criminal
cases in the Brooklyn Criminal Court of the
City of New York. Under my tenure the Victim
Witness Assistance Project of the Vera
Institute and the Early Case Assessment
Program were created.

RESUME

Michael Belson
197 Rugby Road
Brooklyn, New York
Tel # 282-9246

Born: November 19, 1942

Married: Children

ACADEMIC

Erasmus Hall High School
Brooklyn, New York
Graduated June 1960

Brooklyn College
Brooklyn, New York
Graduated June 1964

Brooklyn Law School
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January 1972 to October 1976

Supervised the prosecution of all criminal
cases in the Brooklyn Criminal Court of the
City of New York. Under my tenure the Victim
Witness Assistance Project of the Vera
Institute and the Early Case Assessment
Program were created.

DEPUTY CHIEF OF THE INDICTMENT BUREAU
June 1971 to October 1971

TRIAL ASSISTANT DISTRICT ATTORNEY IN SUPREME -
COURT and HOMICIDE BUREAUS
January 1970 to June 1971

Conducted jury trials in over 25 felony
cases, including 15 murder indictments.

TRIAL ASSISTANT DISTRICT ATTORNEY CRIMINAL COURT
September 1969 to January 1970

ASSISTANT DISTRICT ATTORNEY APPEALS BUREAU
April 1968 to September 1969

Prepared briefs and oral argument before
the Appellate Term; Appellate Division;
and Court of Appeals.

MEMBER

Brooklyn Bar Association
National District Attorneys Association
New York State District Attorneys Association
Brandeis Association
Kings County Criminal Bar Association
New York State Association of Community Mayors
Brooklyn Law School Alumni Association

CREDITS

Unit Chief National District Attorneys Association
Commission On Victim Witness Assistance,
Washington, D.C.

Staff Lecturer Prosecutors Institute

Representative guest speaker before many
community, civic and religious organizations
in Kings County.

REFERENCES

Upon request.

RESUME OF:

WARREN K. SMOOT

PERSONAL DATA:

Date of Birth: December 27, 1937
Marital Status: Married (Two Children)
Address: 524 East Meadow Lane, Phoenix, Arizona 85022

EDUCATIONAL DATA:

<u>Scholastic Record</u>	<u>Period</u>	<u>Degree</u>
High School * Dearborn High (Michigan)	1951-55	H.S.D.
College * Calvin College (Michigan)	1955-56	-
* Wheaton College (Illinois)	1956-69	A.B.
Law School * University of Michigan	1961-64	J.D.

Honors & Awards

High School * National Honor Society
Michigan Boys' State Representative
College * Superior Rating in the College Comprehensive Examination
Member of the Wheaton College MCSO CO - Champions

Professional * Faculty Lecturer.

"Prisoner Civil Rights" The National College of District Attorneys; University of Houston, Bates College of Law; October, 1971.

"Prisoner Civil Rights" The National District Attorneys' Association; Regional Seminar, Williamsburg, Virginia; November, 1972.

"State Tactics and Philosophy in Defending Against Prisoner Civil Rights Litigation: Practicing Law Institute Seminar; Chicago, Illinois; December, 1972.

Speaker. "Prisoner Civil Rights" 20th National Institute on Crime and Delinquency; New Orleans, Louisiana; June 1973.

Lecturer. "State and Federal Drug Laws: Illinois Cook County Drug Education Conference; December, 1971.

Panelist. Chicago Tribune's Seminar on Youth & Drug Abuse.

Member of the Advisory Board. The National Council on Drug Abuse and National Federation of Concerned Drug Abuse Workers (Phoenix).

Consultant. Supreme Court of Arizona and Arizona Prosecuting Attorneys' Advisory Council re: Arizona Revised Criminal Code (October 1, 1978).

RESUME OF: WARREN K. SMOOT (Continued)

- Professional *
- Supreme Court of the United States. Briefed and Argued (Pro Hac Vice) for the Respondents, Haines v. Kerner, et al., No. 70-5025 (1971).
 - Briefed for the Appellees, United Airlines, Inc. v. Mahin, et al., No. 71-682 (1972).
 - Of Counsel on the brief for the Respondents in Lego v. Twomey, No. 70-5037 (1972).

Publications

- * "Introductory Outline to Selected Prisoner Federal Civil Rights Problems, Article 34, Chapter 12, Volume II, Prisoner Rights, (Practicing Law Institute, 1972).
- * Criminal Justice System Research Projects Report:
 - Sub-Project I: A Study of the Cost of Enforcement of Selected Statutory Offenses
 - Sub-Project II: A Study of the Comparative Costs of Rehabilitation and Incarceration
 - Sub-Project III: A Study of the Volume of Adjudicatory Activity and Sentencing
 - Sub-Project IV: A Study of Attitudes and Opinions Relative to the Criminality and Severity of Selected Statutory Offenses
- *(Sponsored by the Arizona State Legislature and Criminal Code Commission, 1974)
- * Heroin Addiction in Arizona: A State-Wide Study of the Hard-Core Addict (Sponsored by the Arizona State Legislature and Criminal Code Commission, November, 1974).
- * Poly-Drug Use & Abuse: A Study of the State of Arizona (Sponsored by the Arizona State Legislature and Criminal Code Commission, March, 1975).
- * Arizona Revised Criminal Code (Sponsored by the Arizona State Legislature and Criminal Code Commission, November, 1975).
- * "Juvenile Law", Chapter 24, Law Enforcement Officer's Manual (A Joint Project by Arizona Prosecuting Attorney's Advisory Council and Arizona Law Enforcement Officers' Advisory Council).

Extra Curricular Activities

- High School *
- Boys' State Representative, Basketball, Baseball, Golf, Choir & Glee Club, Chapel Speaker, Latin Club, Oratorical Contestant
- College *
- Business Club, Soccer, Basketball, Golf, Varsity Club
- Law School *
- Case Club

CONTINUED

1 OF 2

RESUME OF: WARREN K. SMOOT (Continued)

Extra Curricular Activities (Continued)

Professional * Bar Association
American Bar Association
Illinois State Bar Association
Arizona State Bar Association
American Judicature Society

EMPLOYMENT EXPERIENCES:

<u>Employer</u>	<u>Period</u>	<u>Position</u>
Madison School (Illinois)	1960-61	Instructor/Coach
University of Michigan	1962 Summer	Research Assistant
St. Thomas School (Michigan)	1963	Director: Physical Fitness
John Nuveen & Co. (Illinois)	1964-65	Investment Banking
Riverside-Brookfield H.S. (Illinois)	1966-68	Instructor/Coach 1. Economics 2. Law
Office of the Attorney General State of Illinois	1969-72	Assistant Attorney General - Deputy Chief, Criminal Justice Division
	1972	Assistant Attorney General - Chief, Civil Appeals Division
Arizona State Legislature	1972-75	Executive Director, Arizona State Criminal Code Commission
Office of the Maricopa County Attorney	1976-77	Deputy County Attorney (Criminal Trial Group Supervisor, 1977)
	1978-80	Bureau Chief, Juvenile Division

MILITARY SERVICE STATUS:

Classified 3-A

REFERENCES:

The Honorable James R. Thompson
Governor
State of Illinois
554 West Fullerton Parkway
Chicago, Illinois 60614

The Honorable Jack L. Ogg, Judge
Arizona Court of Appeals
Division One, Department A
Capitol Annex, West Wing
Phoenix, Arizona 85007

RESUME OF: WARREN K. SMOOT (Continued)

REFERENCES: (Continued)

The Honorable Joel Flaum
United States District Court Judge
For the Northern District of Illinois
Dirkson Building, Room 2378
219 South Dearborn Street
Chicago, Illinois 60604

Mr. Charles Hyder
Maricopa County Attorney
101 West Jefferson
Phoenix, Arizona 85003

APPENDIX B

I.
WARRANT SECTION
MAIN OFFICE AND OUT-COUNTY OFFICE

Assistant Prosecuting Attorneys assigned to a Warrant Section will review Reports of Investigation presented by police agencies and determine whether to recommend that a criminal warrant be issued by a judge. Each Report of Investigation will be assigned a P-number in regular order before presentation to an Assistant Prosecuting Attorney and shall be randomly assigned for determination except as determined by the head of the Warrant Section of his superior. Upon presentation of a P-number and properly assigned Report of Investigation, an Assistant Prosecuting Attorney shall review it and any other report (e.g., Preliminary Complaint Reports (PCR), criminal records, laboratory analysis reports, etc.), and interview the officer in charge of the case, the complainant, and any other person as necessary to determine whether to recommend that a criminal warrant issue. If it is determined that additional investigation is required, that fact should be noted on the face of the Report of Investigation and the police officer instructed as to what additional information is required.

It is recommended that any Assistant Prosecuting Attorney assigned to the Warrant Section review the American Bar Association Standards Relating to the Administration of Criminal Justice The Prosecution Function, particularly:

3.9 Discretion in the charging decision.

(a) It is unprofessional conduct for a prosecutor to institute or cause to be instituted criminal charges when he knows that the charges are not supported by probable cause.

(b) The prosecutor is not obliged to present all charges which the evidence might support. The prosecutor may in some circumstances and for good cause consistent with the public interest decline to prosecute, notwithstanding that evidence may exist which would support a conviction. Illustrative of the factors which a prosecutor may properly consider in exercising his discretion are:

- (i) the prosecutor's reasonable doubt that the accused is in fact guilty;
- (ii) the extent of the harm caused by the offense;
- (iii) the disproportion of the authorized punishment in relation to the particular offense or the offender;
- (iv) possible improper motives of a complainant;
- (v) reluctance of the victim to testify;
- (vi) cooperation of the accused in the apprehension or conviction of others;
- (vii) availability and likelihood of prosecution by another jurisdiction.

(c) In making the decision to prosecute, the prosecutor should give no weight to the personal or political advantages or disadvantages which might be involved or to a desire to enhance his record of convictions.

(d) In cases which involve a serious threat to the community, the prosecutor should not be deterred from prosecution by the fact that in his jurisdiction juries have tended to acquit persons accused of the particular kind of criminal act in question.

(e) The prosecutor should not bring or seek charges greater in number or degree than he can reasonably support with evidence at trial.

The decision to recommend the issuance of a criminal warrant necessarily includes consideration of what crime or crimes should be charged and an Assistant Prosecuting Attorney is also to be guided by the specific policy statements that follow. After appropriate entries have been made on the Recommendation form, the Assistant Prosecuting Attorney is to sign his/her name and enter below the signature and his/her State Bar P-number.

It is the duty of each Assistant Prosecuting Attorney when recommending that a felony warrant issue to insure that the names of all res gestae witnesses are on the witness list to be endorsed on the Information.

Finally, the Prosecutor's Impression Sheet is to be filled out for each felony recommendation noting peculiarities or difficulties regarding the case and listing those witnesses necessary for the Preliminary Examination.

Assistant Prosecuting Attorneys assigned to the Main Office Warrant Section sign in in Room 1100 Frank Murphy Hall of Justice and are assigned to an office by the head of the Section.

Assistant Prosecuting Attorneys assigned to the Out-County Section sign in outside of Room 126, 3000 Henry Ruff Road.

A Prosecutor's Office Manual Does Not Confer Substantive Rights On Criminal Defendants. The manual "lacks the force of law" and does not alter or change standards for determining whether prosecutorial misconduct exists in a given case. So ruled the U.S. District Court for Southern New York. The defendant claimed the procedure specified for U.S. Attorneys in the "U.S. Attorneys Manual" had not been followed in his case. The court ruled that the manual

...represents an attempt by the department to guide, indoctrinate and control the large number of persons in the districts who are vested with prosecutorial functions. Formerly, this was done by word of mouth, tradition and the constraints of judicial precedent.

The opinion notes and perhaps prosecutors should also note a section of the manual quoted in the court's opinion:

This manual provides only internal Department of Justice guidance. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any manner civil or criminal. Nor are any limitations hereby placed on otherwise lawful litigative (sic) prerogatives of the Department of Justice.

U.S. v Shulman, USDC SNY, 24 CrL 2523, 3/28/79.

APPENDIX C

RE: SEX CRIME UNIT - NOTICE - DISMISSALS

All assistant prosecuting attorneys are requested to advise the Sex Crime Unit of the Detroit Police Department immediately if dismissal of one of its cases which involves a complainant and accused living in the same household is being considered. This policy applies to cases in our office or in court, so that a recommendation from the Sex Crime Unit may be included in determining the proper disposition of these cases. This is particularly important when dismissal is based upon failure of the complainant to appear.

An assistant prosecuting attorney who denies such a warrant or is present in a courtroom when such a case is dismissed, is to immediately contact the Deputy Chief, Screening and Trial Preparation.

RE: CRIMINAL SEXUAL CONDUCT

Under the criminal sexual conduct legislation, it is entirely possible that a given course of conduct may constitute more than one offense under the new law, i.e. that the complainant is between the ages of 13 and 16, and that the complaint is related to the defendant.

In these cases where the same action may constitute more than one offense, the assistant prosecutor recommending issuance of the warrant is advised that he should recommend multiple counts couched in the alternative.

If, in the discretion of the Assistant Prosecuting Attorney recommending the warrant, the number of counts available is unwieldy for trial, he should then go with the best provable counts.

RE: POSSESSION OF FIREARM IN COMMISSION OR
ATTEMPTED COMMISSION OF ANOTHER FELONY

MCLA 750.227b (Public Act 6 of 1976) provides for a mandatory term of imprisonment of two (2) years for those persons convicted of committing or attempting to commit a felony while in possession of a firearm. This act further provides that upon a second conviction under this section, a person shall be imprisoned for five (5) years and upon a third or subsequent conviction under this section, a person shall be imprisoned for ten (10) years.

At the warrant stage the prosecutor will recommend warrants under this statute if the elements of the offense are present. This will be a second count in the charging documents because the underlying felony or attempt to commit a felony will also be charged. This count will be charged even in those instances where a person is charged with possession of Heroin and is found to possess a firearm at the same time.

In those instances in which more than one defendant is arrested for the underlying felony and in which there is any evidence that the co-defendants had knowledge that one of them possessed a firearm, all defendants will be charged the second count of possession of a firearm during a felony on an aider and abettor theory.

RE: POSSESSION OF FIREARM IN COMMISSION OR
ATTEMPTED COMMISSION OF ANOTHER FELONY (cont.)

If there is no evidence that the other co-defendants knew of the gun; i.e., the gun was in the pocket of one of the defendants at all times, was never displayed, nor were there conversations concerning the gun, the other defendants will not be charged with the second count of possession of a firearm during a felony.

At the pre-trial conference no reduced plea will be accepted on a count of possession of a firearm during the commission or attempt to commit a felony. Pre-trial prosecutors should exercise care, however, so that the underlying felony or attempt to commit a felony is not reduced to a crime which would not support the second count.

In summary, it is the policy of the Wayne County Prosecuting Attorney that an additional count charging a violation of MCLA 750.227b be charged in every instance where the facts will support such a charge and that there be no reduced pleas of any charge of a violation of MCLA 750.227b.

Every instance in which a trial court reduces or dismisses a count charging a violation of MCLA 750.227b must immediately be brought to the attention of the head of the Appellate Department by memorandum.

RE: WARRANT RECOMMENDATION PROCEDURES

ADDITIONAL INSTRUCTIONS:

RECOMMENDATION FORMS -

A handwritten recommendation form is required for every warrant recommended.

WITNESS LIST

A witness list is required for every warrant recommended. The last name on the witness list must be the name of the Officer in charge of the case, his badge, and Precinct number.

COMPLAINANT:

Is always the VICTIM of the crime.

COMPLAINING WITNESS -

Is always the person signing the complaint (could be the same as complainant).

RE: WARRANT RECOMMENDATIONS PROCEDURES (con.t)

ADDITIONAL INSTRUCTIONS (cont.)

ADMISSIONS-CONFESSIONS -

If any, do not remove form from typewriter. At the bottom of the form in the space provided therefore type name of person making confession or admission and date of same. Not necessary to indicate whether oral, written, etc.

DEFENDANTS

If more than one defendant is charged, they should be numbered.

IMPRESSION SHEET

Every felony warrant should be accompanied by a Prosecutor's Impression Sheet, filled in by the assistant prosecuting attorney who had recommended the warrant.

RE: WARRANT RECOMMENDATION PROCEDURES (cont.)

ADDITIONAL INSTRUCTIONS: (cont.)

RECORDING

Upon completion of the warrant process, the Prosecutor's copy of the warrant and related papers should be forwarded to the employee at the desk for entry in the Master Log.

CRIMINAL RECORD

In the event that the defendant has an outstanding criminal record, a copy of such record should be attached to the Prosecutor's packet.

RE: WARRANT RECOMMENDATION PROCEDURES (cont.)

ADDITIONAL INSTRUCTIONS:

POLICE IDENTIFICATION NUMBER -

No warrant for a felony or high misdemeanor shall be recommended unless the Report of Investigation bears a defendant identification number, with the exception of not-in-custody warrants for defendants with no previous police contact.

If the defendant is in custody but has no previous police contact (ie. no identification number) and upon determination by the assistant prosecutor that a warrant shall be recommended; the officer in charge is to obtain the new identification number by telephone. The number is to be secured and placed in the Report of Investigation before the assistant prosecutor signs the warrant recommendation.

RE: WARRANTS - SHOPLIFTING

All assistant prosecuting attorneys are advised that warrant recommendations for shoplifting cases are to be charged as Simple Larceny and not Larceny in a Building.

In the event the prospective defendant has three convictions for Simple Larceny in the last two years, the assistant prosecuting attorney may charge Larceny in a Building.

In the event that a defendant does not fit into this exception but the assistant prosecuting attorney is of the opinion that for other reasons the defendant should be charged with the felony, the case should be referred to the Chief of the Warrant Section for approval.

POLICY MANUAL: November 5, 1976

**RE: EXECUTION OF SEARCH WARRANTS FOR NARCOTICS:
MULTIPLE COMPLAINTS AND WARRANTS**

Whenever a report of investigation is presented which results from the execution of a search warrant for narcotics, the assistant prosecuting attorney will inquire whether warrant recommendations will be sought against other persons.

If the answer is affirmative, the assistant will adjourn the matter until such time as all reports of investigation are submitted to him.

If an arrest warrant is to be recommended after the presentation of all reports, a single complaint and warrant which lists all counts of felonies against all defendants should be drafted.

POLICY MANUAL: November 5, 1976

RE: WARRANT REQUESTS - MULTIPLE WARRANTS AGAINST
SAME DEFENDANT, MULTIPLE DEFENDANT WARRANTS, MULTIPLE COUNT WARRANTS

I. Multiple Warrants Against Same Defendant -

Where an individual has committed two or more separate and distinct offenses (not committed at the same time, as part of a continuing course of conduct, or arising out of the same transaction), the offenses must be charged in separate complaints and warrants.

II. Warrant Request Involving More Than One Defendant -

Where more than one defendant has joined in the commission of a crime, or has participated in part of a continuous course of criminal conduct, or has committed a criminal act in the same transaction, all defendants may be charged in one complaint and warrant, using one or more counts as appropriate.

POLICY MANUAL: November 5, 1977

RE: WARRANT REQUESTS - MULTIPLE WARRANTS AGAINST
SAME DEFENDANT, MULTIPLE DEFENDANT WARRANTS,
MULTIPLE COUNT WARRANTS (continued)

III. Multiple Count Warrants -

(a) Same Act Constitutes More than One Offense -
Assistant should recommend multiple counts in one warrant covering other offenses.

(b) Multiple Offenses Committed in the Course of, or Arising Out of the Same Transaction - That is, offenses which are "committed in a single time sequence and display a single intent and goal." People v White, 390 Mich 5 (1973). Assistant must recommend all such offenses in separate counts of one warrant. No more than one warrant is to be recommended against any defendant on any possible multiple offense. Failure to charge all such offenses in one prosecution forever bars the prosecution from charging uncharged offenses within the "same transaction." Thus, it is imperative that an assistant know and understand the application of People v White, supra.

POLICY MANUAL: January 23, 1980

RE: WARRANTS - JUVENILES INVOLVED

Whenever an assistant prosecuting attorney recommends issuance of a warrant against an adult and the Report of Investigation indicates the involvement of a juvenile - ages 15 or 16, and the warrant prosecutor is of the opinion that either because of the active participation of the juvenile in the offense or trial strategy would indicate that the case against the adult would be lost without charging the juvenile, the warrant prosecutor, on the attached form, should make a request to the Prosecutor's Juvenile Division to review the report of investigation for the purpose of seeking a waiver.

The form should be filled out in duplicate, one being sent to the Prosecutor's Juvenile Division with a copy of the report of investigation, and and and the other to be placed in the prosecutor's file for the purpose of alerting all assistants later dealing with the file that a waiver on the juvenile may be sought.

It will be the responsibility of the Juvenile Department to consider waiver to a criminal court, upon receipt of the request and report of investigation, and to call for the complete file and to review same for the purpose of determining if a waiver will be sought with an eye to seeking a waiver if at all possible. Further, the assistant prosecutors in the Juvenile Department are responsible for answering the request to consider waiver as soon as possible, indicating:

RE: WARRANTS - JUVENILES INVOLVED (cont.)

- a. They will not seek a waiver
- b. They will seek a waiver
- c. If they have sought a waiver, the end result of such petition.

and communicating such information both to the Deputy Chief, Trial and Appellate and Deputy Chief, Screening and Trial Preparation.

It will further be the responsibility of the prosecuting attorneys in the Juvenile Department that should they seek a waiver on a juvenile in a case wherein an adult was also involved upon which they have received no request from a warrant prosecutor, to communicate with the warrant section and inform them of their actions.

RE: WARRANT - NAMES OF WITNESSES

At the time of the recommending of a warrant by an assistant prosecuting attorney, it is also his duty to review the witness list for the following purposes:

1. That the full names of all other witnesses are included.
2. That all res gestae witnesses are included.
3. That witnesses included on the witness list be witnesses whose testimony will be admissible, i.e., the wife of a defendant cannot be listed unless the crime is against the wife and the children of the wife and/or defendant.
4. That unnecessary witnesses are not endorsed, i.e., generally a police officer who responded in the second or third car who took neither evidence nor admission or confession from a defendant.

RE: WARRANTS - FUGITIVE

The Detroit Police Department is a participant in a system whereby outstanding warrants are centralized state-wide by the computer for the purpose of effecting an arrest.

One of the requirements is that the detective in charge of the case must also indicate to the centralized computer whether or not our office will stand the expense of returning a fugitive and if so, for what offenses and how far within the state we will be interested in seeking a return.

On a state-wide basis, we have advised the Detroit Police Department that we will authorize the return of any fugitive against whom there is a felony or high misdemeanor warrant outstanding and we will authorize the return of any non-traffic misdemeanor defendant who is located within the lower Michigan Peninsula.

On a national level, the Detroit Police Department is participating in the National Crime Information Center which performs the same function on a nation-wide basis.

We have advised the police departments that we will return the following type of felony defendants from other states:

1. All defendants in crimes of violence;
2. All defendants in which a bondsman or complainant will pay the cost.

When other felony fugitives are apprehended, the facts will be presented to this office for decision as to whether or not we will extradite.

RE: WARRANTS - FUGITIVE (cont.)

In the event an assistant prosecuting attorney recommends a warrant for someone for whom the assistant determines an exception to this policy should be made, the assistant should consult the Deputy Chief, Civil Division, regarding the availability of funds for extradition. If approval for an exception is granted, the assistant should so inform the detective seeking the warrant so that he can make the appropriate entries in the computer system.

RE: WARRANTS

Whenever a warrant is to be denied because of reasons extraneous to the elements of the crime (because the complainant does not wish to prosecute but where elements of the crime do appear to be present, e.g., bad check cases), the criminal record of the defendant should be considered prior to denying the warrant request. If the criminal record of the defendant would not be a determining factor regardless of what it was, then, of course, this rule need not be followed.

RE: WARRANTS - FINGERPRINTS

Write-ups often abbreviate and condense chain-of-evidence problems regarding fingerprint testimony. Where such testimony is necessary at the examination stage, we must list all the technicians and witnesses who comprise the chain; the officer who dusted the object in question, the officer who photographed the prints from that object, the officer who fingerprinted the defendant, and the officer who compared the two sets of prints.

POLICY MANUAL: November 5, 1976

86-1

RE: WEAPONS - CARRYING CONCEALED AND IN A MOTOR VEHICLE - MCLA 750.226 and MCLA 750.227

POLICY - It is the policy of this office with respect to offenses involving the carrying and transportation of pistols and firearms that a felony must be recommended at the warrant stage. Only where the proofs are questionable, or the facts as related do not permit a felony charge, should a misdemeanor warrant be recommended. A pistol is defined as "any firearm thirty (30) inches or less in length," MCLA 750.222.

EXCEPTIONS -

1. Equitable considerations are not an exception to this policy. Exceptional circumstances should be brought to the attention of the warrant crew chief.

2. Firearms over 30 inches in length have been held not to be dangerous weapons, per se, within the meaning of MCLA 750.227, People v Smith, 393 Mich 432. Hence, felony charges for firearms over 30 inches are appropriate only under MCLA 750.226, where the proofs must show that the weapon was carried with an unlawful intent.

POLICY MANUAL: November 5, 1976

87-1

RE: WEAPONS - CARRYING CONCEALED AND
IN A MOTOR VEHICLE - MCLA 750.226 and 750.227 (cont.)

OFFENSES WHICH MAY BE CHARGED - Where a felony prosecution under MCLA 750.226 or MCLA 750.227 is precluded by facts or questionable proofs.

Example: Defendant is arrested in a motor vehicle. A 32-inch rifle is in the car (no proof of unlawful intent). (1 and 2 below).

Example: Defendant is observed carrying a gun, but there is no evidence that it was either concealed on his person and/or transported in a motor vehicle (3 below).

1. Failure to Present for Safety Inspection, MCLA 750.228
2. Transporting Loaded Pistol or Firearm in an Automobile, MCLA 312.10(d) and MCLA 312.10(d)(1) - 90 day Misdemeanor.
3. Violation of Detroit City Ordinance prohibiting any person from transporting a firearm in or on a vehicle, unless unloaded and in the luggage compartment and from carrying a firearm on a public street (does not require concealment) - (Code of City of Detroit, Chapter 66, Article 4) - 90 day Misdemeanor.

RE: POLICE OFFICER INVOLVED - WARRANT RECOMMENDATIONS

All assistant prosecuting attorneys are instructed that all writeups, both Main Office and Out-County, which involve a police officer, either as a victim or as an accused, OTHER THAN HOMICIDES BY A POLICE OFFICER, are to be referred to the chief of that particular warrant department or, in his absence, to the acting chief of that department. On weekends the writeups shall be referred to the warrant crew chief for decision. If the crew chief is not present he shall be consulted by telephone.

All writeups which involve homicides committed by a police officer, are to be referred to the Chief of Operations who will then refer them to the Department Chief, Screening & Trial Preparation. The Deputy Chief will then specially assign the case to an Assistant Prosecuting Attorney so that an independent investigation can be performed by this office. Witnesses are to be interviewed by the person assigned to the case. Such person shall complete a written memorandum containing the facts of the case, the details of his own personal investigation, and a recommendation for disposition of the case. This memorandum will be forwarded to the Deputy Chief who will review the report and recommendation and will attach to it his own written review.

All these recommendations will then be reviewed by the Chief of Operations and submitted to the Chief Assistant Prosecuting Attorney for review and submission to Prosecutor William L. Cahalan.

POLICY MANUAL: July 10, 1978

RE: WARRANTS - ELECTION VIOLATIONS

I. ELECTION

Any matters involving a violation of the election laws, or in any way related thereto, whether the request for warrant is made in the Out-County Department or in the Detroit Office, are to be referred to the Deputy Chief, Criminal Division, Screening and Trial Preparation.

RE: WARRANTS - APARTMENT DEFINED - DWELLING HOUSE -

Office policy defines "dwelling house" as referred to in MCLA 750.110 (breaking and entering) to include an apartment or multi-unit dwelling.

All assistant prosecutors should use this definition in recommending warrants. Situations which suggest an exception to the definition should be brought to the attention of the immediate supervisor in the warrant section.

RE: WARRANTS - SAFES

Many firms employing driver salesmen operating trucks and other motor vehicles within the Detroit Metropolitan Area equip their vehicles with small, burglar-proof safes.

MCLA 750.531. BANK SAFE AND VAULT ROBBERY - Any person who, with intent to commit the crime of larceny, or any felony, shall confine, maim, injure or wound, or attempt, or threaten to confine, kill, maim, injure or wound, or shall put in fear any person for the purpose of stealing from any building, bank, safe or other depository of money, bond or other valuables shall by intimidation, fear or threats compel, or attempt to compel any person to disclose or surrender the means of opening any building, bank, safe, vault or other depository of money, bonds, or other valuables, or shall attempt to break, burn, blow up or otherwise injure or destroy any safe, vault or other depository of money, bonds or other valuables in any building or place, shall, whether he succeeds or fails in the perpetration of such larceny or felony, be guilty of a felony, punishable by imprisonment in the state prison - life or any term of years.

It is the policy of this office that warrants will be recommended under this section WHEN THE ELEMENTS OF THE CRIME ARE PRESENT.

RE: WARRANTS - SAFES (cont.)

All assistant prosecutors are advised also to include a count in such warrant recommendations under MCLA 750.356a;

breaking or entering motor vehicle with intent to commit larceny over the value of \$5.00.

or

breaking or entering motor vehicle with intent to commit larceny of any value if in so doing such person breaks, tears, cuts or otherwise damages any part of such motor vehicle.

RE: WARRANTS - AUTO THEFTS

Where an automobile is stolen in one jurisdiction (even though it be in different jurisdictions within the county, i.e., out-county within the County of Wayne) and the automobile is located in another jurisdiction with the defendant in possession:

1. Where there is proof that the defendant was the original thief other than the mere fact of possession the warrant will be recommended in and charge the situs of the theft.
2. Where the defendant's possession is the only proof of his theft, the warrant should issue within and charge the jurisdiction of the situs of the recovery and the arrest.
3. Where the automobile is stolen within Wayne County and recovered in another county, as described in 1 above, but the county of recovery will not issue a warrant, we will consider the issuance of a warrant in Wayne County assuming the charge can be otherwise sustained.

POLICY MANUAL: November 5, 1976

RE: WARRANTS - ASSAULT ON POLICE OFFICERS OR RESISTING ARREST

In the event a Report of Investigation is presented to an assistant prosecuting attorney relative to the charge of Assault upon a Police Officer and/or Resisting an Arrest, it shall be referred to chief of the warrant department or in his absence the acting chief. On weekends these writeups will be presented to the crew chief for decision. The assistant prosecuting attorney, prior to making a final decision on the warrant, must determine:

1. Whether the defendant has been injured and the prognosis of such injury.
2. If all witnesses to the incident have been interviewed and statements are available (this is particularly important in the case of civilian witnesses).
3. The extent of injury to the officers and any medical records substantiating them.

If a weapon has been used in the assault upon the police officer, the policy of our office is to charge a Felonious Assault where facts will substantiate the charge.

In the event the assault has arisen out of another offense, the assistant prosecuting attorney should make a determination as to whether such offense should be charged with the assault.

POLICY MANUAL: July 10, 1978

RE: WARRANTS - SHURIKEN (KARATE STARS)

A Shuriken (Karate Star) is a cutting or stabbing weapon and warrants may be issued charging carrying a concealed weapon under MCLA 750.227 consistent with People v Smith, 393 Mich 423 (1975).

Similarly, if the weapon is carried without being concealed, but under circumstances indicating unlawful intent, a warrant under MCLA 750.226 would be appropriate.

RE: WARRANTS - BREAKING AND ENTERING

The person who is last to leave the premises before the break-in is an essential witness not only for trial but also for examination; without him, there is no way to show that the doors and windows were not wide open when the burglar arrived at the scene. If the write-up does not indicate who locked up, question the complainant as to the identity of this necessary witness.

Wherever possible, try to confirm information in the write-up by questioning the available witnesses; there are often errors. When requesting witnesses, list first and last names on both the impression sheet and the police file wherever there can be any possibility of confusion.

Do not charge co-defendants unless they can be physically tied to the scene of the crime; recent possession of stolen property alone is insufficient.

RE: WARRANTS - BREAKING AND ENTERING (cont.)

Even an admission ("we're stealing!") is not enough unless the apartment or residence concerned is also mentioned.

RE: WARRANTS - ASSAULTS

Because of an increasing number of assault warrants resulting in dismissals because of the complainant's subsequent refusal to prosecute, all assistant prosecuting attorneys are asked to adhere to the following guidelines in assault cases where there is some prior relationship between the complainant and the defendant.

1. It is the duty of the assistant prosecuting attorney to determine if in fact there is a relationship between the defendant and complainant. By the term "relationship" is meant not only blood lines, marriage, but also neighborhood relationships.
2. The complainant must be interviewed in all such cases, and every effort should be made to interview the defendant as well, even if an adjournment of the warrant request is required.
3. Adjournments should be considered where there is reason to believe that within a period of time the complainant will change his or her attitude toward the prosecution.
4. Where the recommendation of the assault warrant is decided upon, consideration should be given to the recommendation of a misdemeanor warrant so that the matter will be judicially determined more quickly, while the parties are disposed to cooperate in the prosecution.

IV

APPENDIX D

DETROIT POLICE DEPARTMENT

INVESTIGATOR'S REPORT

DATE

IN CUSTODY		DEFENDANT'S NAME	ADDRESS WITH ZIP CODE	AGE	SEX	RACE	D.O.B.	IDENT. NO.
YES	NO							
<input type="checkbox"/>	<input type="checkbox"/>	1.						
<input type="checkbox"/>	<input type="checkbox"/>	2.						
<input type="checkbox"/>	<input type="checkbox"/>	3.						
<input type="checkbox"/>	<input type="checkbox"/>	4.						

OFFENSE (TO BE FILLED IN BY PROSECUTOR)

TIME	DATE OF OFFENSE	PLACE OF OFFENSE	DATE OF COMPLAINT	COURT FILE NUMBER	JACKET NUMBER

COMPLAINANT'S NAME	ADDRESS WITH ZIP CODE	SEX	AGE	D.O.B.	RACE	RELATION TO DEF.

OTHER PENDING CHARGES _____ COMPLAINTANT'S PHONE _____

PERSON TO SIGN _____ ASSISTANT PROSECUTING ATTORNEY _____

Description of Offense and Investigation; include Date, Time and Circumstance of Arrest and Medical Attention administered to Officers, Defendants and Complainants. Continue on Page 2 if necessary.

(SIGNATURE OF INVESTIGATING OFFICER)

REVIEWED AND APPROVED BY

(SIGNATURE OF COMMANDING OFFICER)

DISTRICT OR BUREAU

WAYNE COUNTY PROSECUTING ATTORNEY'S RECOMMENDATION

<input type="checkbox"/> MISDEMEANOR	<input type="checkbox"/> FELONY	IN CUSTODY?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	PRECINCT (DETROIT)	DATE		
I <input type="checkbox"/> DENY <input type="checkbox"/> RECOMMEND THE ISSUING OF A WARRANT AGAINST:		NAME	ADDRESS	AGE	SEX	RACE	D.O.B.	IDENT. NO.

OFFENSE (TO BE FILLED IN BY PROSECUTOR)

TAPE NUMBER

REFERENCE NO.

SECTION (TO BE FILLED IN BY PROSECUTOR)

PAGE NUMBER

COMPLAINANT'S NAME	ADDRESS	CITY	STATE

INSTRUCTIONS

SIGNED

D.P.D. 467

C of D-273-RE

ASSISTANT PROSECUTING ATTORNEY

DETROIT
DEPARTMENT
POLICE

INVESTIGATOR'S REPORT SUPPLEMENT

Page _____

(Use Typewriter)

Name of Defendant #1 only _____ Offense No. _____

Date of Complaint: _____

DETAILS OF INVESTIGATION (Continued)

81-14811 Police Offense Number		INVESTIGATOR'S REPORT				Prosecutor Case No. DATE: June 22, 1981	
<input type="checkbox"/> MORE DEFN.							
DOBT	DEFENDANT'S NAME (Last, First Middle)	FULL ADDRESS	AGE	SEX	RACE	D.O.B.	STATE & LOCAL I.D.
		Detroit MI	26	M	W	8-5-54	A-43026
Offense (To be filled in by Prosecutor)							
Place of Offense: Michigan & Porath, Dearborn MI				Date: 6-21-81 Time: 1520 PM		Date of Complaint 6-21-81	
Complainant's Name (Last, First Middle)			Full Address		Age	Sex	Race
			Dearborn MI		49	M	W
Person To Sign (Last, First Middle)				Reviewing Attorney and Bar No.			
GUN USED <input checked="" type="checkbox"/> KILLED/INJURED _____							
DETAILS OF INVESTIGATION							
<p>On June 21, 1981 at approximately 3:20 PM, Dearborn police officer, Alan Ruprecht was radioed to the area of Michigan Avenue and Porath, Dearborn, to check for two men fighting. Upon arrival, at the scene, officer Ruprecht observed complainant standing alone in the center of the street and appeared to be somewhat intoxicated and spoke little english. Witness, informed the officer that she observed a W/M fighting with add that the W/M kicked Morar in the buttock with his right foot and punched him in the back forcing him to the ground. She then observed the W/M take an object from rear right pants pocket which appeared to be a wallet and then the subject left the area walking W/B on Michigan Avenue. described the subject as a W/M, 5-7 to 5-8, early 20's, light brown curly hair, shorter than shoulder length, wearing a white long sleeve print shirt possibly a flower print with the sleeves rolled up, dark pants possibly dress type, and carrying a brown bag. Officer Ruprecht spoke to witness, who stated that he observed stagger across the street and that a W/M pushed him to the ground and took something from his pants pocket. The subject left the area walking W/B on Michigan Avenue. Officer Ruprecht then made a local broadcast of the incident. Complainant was later taken home where officer Ruprecht obtained a statement from him while his brother, acted as an interpreter. stated that he was walking home on Michigan Avenue from a store with a six-pack of Pabst beer in a brown paper bag and was approached by a W/M who stated "I'll kill you". The W/M then pushed to the ground and punched him three times and then took his wallet containing three dollars, keys, and metal cigarette lighter, and package of Newport cigarettes.</p> <p>At 3:25 P.M. officer Fred Stanton observed defendant hitchhiking W/B on Ford Road in front of Bill Wink Chevrolet dealership who matched the description of the suspect involved in the incident. Officer Stanton stopped and asked him for identification and in doing so observed that he had two wallets, one with his own identification, and the</p>							
D/Sgt John Sligay 109		82DE		Reviewed & Approved By: <i>Lt. Thomas W. Decker</i> 82DE		Commanding Officer	
Officer in Charge		Emp. No.		Dept./Precinct/Bureau		Dept./Precinct/Bureau	
WAYNE COUNTY PROSECUTING ATTORNEY'S RECOMMENDATION							
IN CUSTODY		Dept. Precinct		Date		<input type="checkbox"/> Further Investigation Ordered	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		82 DE		6-22-81		<input type="checkbox"/> Further Investigation Completed	
<input type="checkbox"/> DENY <input checked="" type="checkbox"/> RECOMMEND THE ISSUING OF A WARRANT AGAINST:				MISDEMEANOR <input type="checkbox"/> FELONY <input type="checkbox"/>			
DEFENDANT NAME (Last, First Middle)	FULL ADDRESS	AGE	SEX	RACE	D.O.B.	ST. & LOCAL I.D.	
	Detroit MI	26	M	W	8-5-54	A-43026	
Offense 1 _____ Defn. No. 1 2 3							
Attempted <input type="checkbox"/> MCLA _____							
Offense 2 _____ Defn. No. 1 2 3							
Attempted <input type="checkbox"/> MCLA _____							
Offense 3 _____ Defn. No. 1 2 3							
Attempted <input type="checkbox"/> MCLA _____							
Denial Reason:							
Denial Code							
Defn. No. 1:		Defn. No. 2:		Defn. No. 3:			
Instructions:							
Date Completed				Signed: _____ Assistant Prosecuting Attorney & Bar No.			

REQUEST FOR WARRANT RECOMMENDATION

(Use Typewriter)

Name of Defendant #1 only _____ Offense No. 81-14811

DETAILS OF INVESTIGATION (continued)

other with identification belonging to _____ was arrested and advised of his Constitutional Rights by Officer Stanton. On the way to the station Heldt admitted taking the wallet and keys from _____ also had in his possession one Pabst beer can which was empty.

STATEMENT

On June 21, 1981 at 4:08 PM defendant _____ was advised of his Constitutional rights at the Dearborn D.B. by Sgt. Sligay. _____ made the following statement: _____ stated that he was in the bus stand area near Michigan and Wyoming, Dearborn, talking to a W/F around 30yrs old. While talking to the W/F an older W/M, approximately 40yrs old, foreign speaking, walked passed _____ and the W/F. The W/M appeared drunk and almost walked into the girl. A short time later the older W/M fell on the ground and _____ tried to help him up. The older man swung at _____ and then _____ pushed him to the ground. The older man appeared drunk so _____ decided to take his wallet because he needed some money. _____ further stated that he took the older man's wallet and keys from his pants pocket. _____ added that the keys fell out of the older man's pants pocket when he fell to the ground. _____ also picked up an empty beer can that the older man was carrying. _____ stated that he looked into the wallet and found that it did not have any money in it but decided to keep the wallet in order to sell it later on. _____ left the area and started hitchhiking on Ford Road near Wyoming where he was arrested by the Dearborn Police. _____ further stated that he did not hit the older man, but just pushed him to the ground.

EVIDENCE

- 1) One brown wallet containing misc. identification belonging to _____
- 2) A set of (3) keys in a black holder.
- 3) One Pabst beer can, 12 oz.
- 4) One silver colored cigarette lighter.

Above evidence taken from the possession of _____ by Officer Stanton.

APPENDIX E

ASSISTANT: _____ DEFENDANT: _____
P. NUMBER: _____

PROSECUTOR'S IMPRESSION SHEET

WARRANT IMPRESSIONS:

ANY PENDING CASES OR APPEAL BOND ON DEFENDANT? YES NO

WAS COMPLAINANT PERSONALLY INTERVIEWED BY WARRANT APA?

WITNESSES NECESSARY FOR EXAMINATION: TESTIMONY

1. _____
2. _____
3. _____
4. _____

WITNESS LIST CHECKED TO SEE IF PROPER WITNESSES LISTED? YES NO

EXAMINATION:
ASSISTANT: _____ DATE: _____ JUDGE: _____

IMPRESSIONS:

PROSPECTIVE DEFENSES: YES NO

DID TESTIMONY RECAL ADDITIONAL WITNESSES TO BE ENDORSED?
IF YES, WERE THEY ADDED TO THE INFORMATION PRIOR TO FILING?

SHOULD COMPLAINANT BE CONTACTED FOR PRE-TRIAL?
IF YES, TELEPHONE NUMBER _____

PRE-TRIAL:
ASSISTANT: _____ DATE: _____
IMPRESSIONS:

TRIAL PRACTICE
ASSISTANT: _____ JUDGE: _____
DATE HEARD: _____

MOTIONS - TYPE
DISPOSITION:

HAS WITNESS LIST BEEN CHECKED FOR ACCURACY? YES NO

APPENDIX F
EXAMPLE OF OFFICIAL FILE FOLDER
(Reduced for inclusion)

STATE of MICHIGAN
COUNTY of WAYNE

PROSECUTOR ATTORNEY

DEF. NAME:

WARRANT APA:

Def #1

CHARGES:

WARRANT DATE:

PERSONNEL

PROCEEDING DATES

ACTIONS

Examination APA	EXAMINATION SET FOR	<input type="radio"/> Adjourned
Examination Judge	EXAMINATION ADJOURNED TO	<input type="radio"/> Adjourned for Forensic
Pre-trial APA	EXAMINATION COMPLETED ON	<input type="radio"/> Capias
Pre-trial Judge	PRE-TRIAL CONFERENCE ON	<input type="radio"/> Waived, Bound Over
	PLEA TAKEN ON	<input type="radio"/> Held, Bound Over
		<input type="radio"/> Dismissed - No Testimony
		<input type="radio"/> Dismissed After Testimony
		<input type="radio"/> Guilty Plea
		<input type="radio"/> Diversion
		PLEA - NRP - AUTHORIZED
		GUILTY PLEA TO

Motion Judge	MOTION/HEARING ON	<input type="radio"/> Granted and All Charges Dismissed
Certifying APA	COURT CERTIFIED FOR TRIAL ON	
Trial APA	TRIAL SCHEDULED FOR	<input type="radio"/> Jury Trial Held
Trial Judge	TRIAL ADJOURNED TO	<input type="radio"/> Waiver Trial Held
	TRIAL ADJOURNED TO	<input type="radio"/> Dismissed During Trial
	TRIAL ADJOURNED TO	<input type="radio"/> Plea to Original Charge
	TRIAL ADJOURNED TO	<input type="radio"/> Guilty As Charged
	TRIAL ADJOURNED TO	<input type="radio"/> Guilty Of:
	VERDICT ON	<input type="radio"/> Not Guilty
	VERDICT ON	<input type="radio"/> Hung Jury/Mistrial
	SENTENCING SCHEDULED FOR	SENTENCE:

STATE of MICHIGAN
COUNTY of WAYNE

PROSECUTOR ATTORNEY

DEF. NAME:

WARRANT APA:

Def #

CHARGES:

WARRANT DATE:

PERSONNEL

PROCEEDING DATES

ACTIONS

Examination APA	EXAMINATION SET FOR	<input type="radio"/> Adjourned
Examination Judge	EXAMINATION ADJOURNED TO	<input type="radio"/> Adjourned for Forensic
Pre-trial APA	EXAMINATION COMPLETED ON	<input type="radio"/> Capias
Pre-trial Judge	PRE-TRIAL CONFERENCE ON	<input type="radio"/> Waived, Bound Over
	PLEA TAKEN ON	<input type="radio"/> Held, Bound Over
		<input type="radio"/> Dismissed - No Testimony
		<input type="radio"/> Dismissed After Testimony
		<input type="radio"/> Guilty Plea
		<input type="radio"/> Diversion
		PLEA - NRP - AUTHORIZED
		GUILTY PLEA TO

Motion Judge	MOTION/HEARING ON	<input type="radio"/> Granted and All Charges Dismissed
Certifying APA	COURT CERTIFIED FOR TRIAL ON	
Trial APA	TRIAL SCHEDULED FOR	<input type="radio"/> Jury Trial Held
Trial Judge	TRIAL ADJOURNED TO	<input type="radio"/> Waiver Trial Held
	TRIAL ADJOURNED TO	<input type="radio"/> Dismissed During Trial
	TRIAL ADJOURNED TO	<input type="radio"/> Plea to Original Charge
	TRIAL ADJOURNED TO	<input type="radio"/> Guilty As Charged
	TRIAL ADJOURNED TO	<input type="radio"/> Guilty Of:
	VERDICT ON	<input type="radio"/> Not Guilty
	VERDICT ON	<input type="radio"/> Hung Jury/Mistrial
	SENTENCING SCHEDULED FOR	SENTENCE:

END