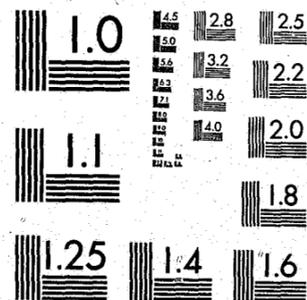


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7-6-82



REPORT ON THE  
TECHNICAL ASSISTANCE VISIT TO THE  
DISTRICT ATTORNEY

MADISON COUNTY, ALABAMA  
SEPTEMBER 28-29, 1981

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REPORT ON THE  
TECHNICAL ASSISTANCE VISIT TO THE  
DISTRICT ATTORNEY

MADISON COUNTY, ALABAMA  
SEPTEMBER 28-29, 1981

CRIMINAL PROSECUTION TECHNICAL ASSISTANCE PROJECT

LEONARD R. MELLON, PROJECT DIRECTOR

WALTER F. SMITH, PROJECT MANAGER

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.

Bureau of Social Science Research, Inc.  
1990 M Street, N.W.  
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## INTRODUCTION

On September 28-29, 1981, a Technical Assistance team from the Criminal Prosecution Technical Assistance Project visited the offices of Robert E. Cramer, Jr., District Attorney for Madison County, Alabama. The Technical Assistance team examined the District Attorney's management and operations functions in accordance with the terms of a contract with the Law Enforcement Assistance Administration. Members of the team included:\*

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

David H. Bludworth, Consultant  
State Attorney  
Fifteenth Judicial District  
West Palm Beach, Florida

The purpose of the visit was to analyze problems related to the intake and screening of felony cases, the use of the grand jury, the use of statistics and the general administration of the office. An overall assessment of the office was not attempted, nor was it desired. The purpose of a technical assistance visit is to evaluate and analyze specific problem areas. It is designed to address a wide range of problems stemming from paperwork and organizational procedures, financial management and budgeting systems, space and equipment requirements and specialized operational programs, procedures and projects unique to the delivery of prosecutorial services.

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\*Vitae attached as Appendix A.

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 statistical system may also be examined if they are problem areas. Interviews may also be conducted with other component areas of the criminal justice system such as the police, courts and the public defender's office. The basic approach used by the Technical Assistance team is to examine the office with reference to its 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 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 which are practical and feasible are made.

The visit to the District Attorney for Madison County, Alabama, focused on the problems related to the intake and screening of felony cases, the use of statistics, the use of the grand jury, and the

administration of the office.

The Technical Assistance team would like to thank Mr. Cramer 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.

#### 11. SUMMARY OF RECOMMENDATIONS

1. Convince the law enforcement agencies of the need for a central booking facility and seek to have all felony arrests booked into the Madison County Jail.
2. If this cannot be established, require the police agencies to furnish listings of all individuals booked into both the Huntsville City Jail and the Madison County Jail within 24 hours of booking.
3. Formulate a policy for the types of cases that can by-pass the warrant magistrate and be filed directly with the grand jury. Communicate this policy to the law enforcement agencies.
4. Require the warrant magistrate to furnish your office with copies of all documents, including the decision not to file, so that these can be reviewed by your office to determine whether further action is needed.
5. Reinstigate the system of screening cases. Rotate the screening assignment among the senior assistants in the office.
6. Set a limit of having the arresting police agency bring the case for review within 72 hours of arrest.
7. Consider the use of sworn-to affidavits as the arrest probable cause holding document.
8. Schedule the grand jury for more sessions than presently set.
9. Set a goal to have all cases indicted or presented to the grand jury for indictment within 30 days of arrest.
10. Set up files on cases as they come into the office so that all the information necessary for the grand jury presentation is contained within the file.
11. Present the grand jury with only a listing of the cases to be presented, including the name of the defendant and at most, the charges they will be considering.
12. Present cases chronologically to the grand jury with witnesses in order and review the possibility of police responding by phone particularly when they are on duty.
13. Replace the current case tracking system with one based on index cards.

14. Require the police agencies to properly complete the charge sheets and police reports.
15. Using the new case tracking system, create statistics on intake and dispositions for the office.
16. Develop a table of organization for the office showing lines of authority.
17. Consider assigning secretarial staff directly to the assistant district attorneys in the office.
18. Seek funding and positions for at least two additional secretaries and then make it clear to whom the secretarial staff is responsible.
19. Review the office manual and have it updated to reflect the current District Attorney's policies.
20. Assign a clerical person to handle all witness needs.
21. Institute monthly meetings for the staff where cases are reviewed and office policy discussed.
22. Schedule monthly meetings with the chiefs of the law enforcement agencies and judges from both courts so that common problems can be discussed and resolved.
23. Visit other District Attorney's offices in Alabama and become more involved with the Alabama District Attorneys Association.

### III. SYSTEM OVERVIEW

The population of Madison County, Alabama is approximately 193,600. The District Attorney, Robert E. Cramer Jr., has only served in the office since the beginning of the year, having had some experience as an assistant several years ago. Twenty-three individuals are employed in the Madison County District Attorney's office including ten attorneys. One attorney is assigned full-time to the Child Support Program under contract and is not used to supplement the other office functions. All of the attorneys serve at the pleasure of the District Attorney and stay with the office an average of 26 months. The District Attorney's office also employs two investigators; eleven individuals make up the clerical and support staff. The budget for the District Attorney's office comes from the state in the form of salary money and from the county for most other expenses including some salary money.

The Madison County District Attorney's office has jurisdiction over all criminal cases, juvenile cases, traffic offenses and civil cases. Appeals are not handled by the office, however. The office has also instituted programs in drug and alcohol abuse, arson, and spouse abuse. The felony court operates smoothly, without a backlog.

Six law enforcement agencies operate in Madison County. The Huntsville Police Department brings in the most cases, approximately 80 percent of the District Attorney's caseload. The Sheriff's Department is the next largest arresting agency in the county. The three most prevalent felonies prosecuted in Madison County are theft, burglary and possession of drugs.

The police file the charges in Madison County and it is up to 72 hours before the District Attorney's office finds out about an arrest. The accusatory route most often utilized is the arrest to preliminary hearing to bindover to the grand jury. It generally takes from three to six months between arrest and grand jury indictments.

Cases are assigned to both judges and assistants before the arraignment. The office does not utilize pretrial conferences and has no plea cut-off date. Approximately half of the cases are disposed of at the arraignment, and another 40 percent are disposed of on the first day of trial. From an evidentiary perspective, the office has decided to take the marginal cases to trial and plead the stronger cases.

Six judges are assigned criminal matters and sit approximately one week out of every three. The courts control both the initial and subsequent trial settings and use an individual system for docketing. There is no speedy trial rule in Madison County. Indigent defense services are provided by assigned and court-appointed counsel.

#### IV. ANALYSIS

The analysis of the Madison County District Attorney's office focused on the intake and screening of felony cases, the accusatory process, case tracking and the use of statistics, and the general administration of the office.

##### A. Intake and Screening Process

The District Attorney's office in Madison County is similar to most District Attorney's offices in Alabama in that the office is not responsible for filing charges in the court. The law enforcement agencies file the majority of cases in Madison County which places the District Attorney's office in a reactive position. The primary obstacle to the District Attorney in his quest to become the accountable official for all cases that are brought to his office, is that there exists a tremendous filtering process in the system. This occurs because the police and the warrant magistrate operate with no general guidelines or policies.

When an individual is arrested on a felony charge by the Huntsville Police Department, they are first required to book that individual into their own city jail. The Huntsville Police Department then seeks a warrant if the arrest magistrate is available or, if he is not, prepares a "dummy" warrant. "Dummy" warrants are used by this agency because of the informal policy of the Madison County Sheriff not to accept any individual into the Madison County Jail without a warrant. If a "dummy" warrant has been issued, a real warrant is issued subsequently and the "dummy" warrant destroyed. This procedure is not uniform, however,

in that, with certain felony arrests, the Huntsville Police Department will go directly to the District Attorney's office to seek a direct indictment presentation to a grand jury. In other instances, they seek a warrant from a judge, which is also possible under the Alabama Code.

The problem and need to have a central booking facility for all individuals arrested on felony charges in Madison County is something that needs to be addressed by the District Attorney. This appears to be a politically oriented situation between the Huntsville Police Department and the Madison County Sheriff's office. The Technical Assistance team suggests that the District Attorney seek to mediate this dispute and to have all felony arrests in Madison County booked directly into the County Jail. If this can be established, the District Attorney would be further assisted if he received, on a daily basis, a listing of all those individuals who had been arrested in Madison County. This procedure would give the District Attorney the accountability information that he needs for all arrests. It would also serve as a basis for the District Attorney's office to review all felony arrests and determine what action should be taken on an individual basis. If the central booking procedure cannot be established, the Technical Assistance team recommends that the District Attorney require a report from every police agency on felony arrests which would include a copy of the names of all those individuals booked in both the Huntsville City Jail and the Madison County Jail within 24 hours of their being booked.

Alabama has grandfathered warrant magistrates in their system. Huntsville has one of these, a non-attorney, who has held that position for approximately ten years. In reviewing this function, the Technical Assistance team noted that there were no accountable records nor any uniformity regarding the handling of cases that come before the warrant magistrate. If the police officers are not satisfied with the magistrate's decision, they do not hesitate to by-pass him and go directly to the District Attorney or a judge for a warrant. The Technical Assistance team suggests that the continuation of the warrant magistrate system is not only antiquated, but permits the non-accountable judicial system that exists in Madison County at this time.

The Technical Assistance team recommends that the District Attorney take the initiative and review the warrant magistrate system now being used, to formulate a policy for the types of cases that he wants to by-pass the warrant magistrates on and file directly with the grand jury. This policy should then be communicated to the law enforcement agencies. In addition, the District Attorney should require that the warrant magistrate furnish a copy of all documents, including his decision not to file a warrant, so that these can be reviewed by the District Attorney's office to determine whether or not further action should be taken to present the case to the grand jury.

The Madison County District Attorney's office utilized a screening unit which operated until 1980 when the federal funding expired. The experienced assistant district attorney assigned this function performed an excellent job according to many people interviewed by the Technical

Assistance team. He was particularly tactful in dealing with the warrant magistrate and police officers did not hesitate, after a felony arrest, to seek the advice of this unit as to whether they had a good case and as to what should be done with that case.

This system should be reinstated in Madison County. The personnel and facilities are available to the District Attorney to make this a priority. The Technical Assistance team recommends that the District Attorney assign a senior assistant in his office on a rotating basis to screen all felony arrests, setting a limit of having the arresting police agency bring the case for review within 72 hours of the arrest. In addition, the District Attorney should encourage all police officers to seek the advice of the screening assistant for felony cases before applying for an arrest warrant where possible.

If the District Attorney would require the police officers in all felony arrests to first come to a senior assistant in his office, there would be a substantial change in the later procedures required to wash out cases, such as through the warrant magistrate, the preliminary hearing and the grand jury in this county.

In this regard, the Technical Assistance team recommends that the District Attorney consider changing the present procedure of seeking warrants and use sworn-to affidavits as the arrest probable cause holding document. A copy of this affidavit has been sent to the District Attorney and is also enclosed as Appendix B. If the facts were sworn to by the officer in all felony arrests, it could also serve as a holding document for probable cause to be later reviewed by the District Court judge in determining if the individual was held on the proper charge.

It would also afford the justice system with a legally sufficient document that would meet the standard of Gerstein vs. Pugh, 420 U.S. 103 (1975) since it would have been reviewed by an impartial magistrate for the purposes of determining probable cause to hold the individual arrested. The present system of warrant seeking in Alabama goes beyond that required and mandated in Gerstein vs. Pugh, and appears to be not only unnecessary but cumbersome as used in Madison County. It will require court acceptance and perhaps rule changes to implement, but the effort should be made.

If the bypassing of the warrant magistrate system is not permitted by the judicial system, the sworn-to affidavit could be used as the affidavit under oath to present to the warrant magistrate for his approval, which appears to be a rubber stamp process. The uniformity of the paperwork would then permit an early screening by the District Attorney's office to decide whether to present the case directly to the grand jury or, in the alternative, to seek a preliminary hearing should the facts dictate that the case needs to be publicly aired in an adversary manner.

#### B. The Accusatory Phase

The preliminary hearing step in a system in which the procedure is used to bindover cases to the grand jury is a waste of time. There appears to be no valid reason to have a preliminary hearing not wanted by the District Attorney if the grand jury is used in a more effective manner.

The Technical Assistance team recommends that the grand jury be scheduled for more sessions than presently set. Many cases are not indicted for more than 60 days after arrest. This delay is unnecessary and, even though the statistics indicate that the time from arrest to disposition is less than one year, the most favorable system is one where cases are disposed as soon after arrest as possible. The Technical Assistance team recommends that the District Attorney set a goal for his office to have all cases indicted or presented to the grand jury for indictment within 30 days of arrest if not sooner.

The grand jury secretary prepares the grand jury list, secures the presence of the witnesses, and arranges what is referred to as the grand jury "buggy" for use in each grand jury presentation. The District Attorney presents the cases to the grand jury with the help of one of his assistants. The entire paperwork procedure being used appears to be redundant and unnecessary. The grand jury notebook sheet that is required to be prepared takes a great deal of time and effort. It is doubtful that it serves an effective purpose for the grand jury. If a beginning file was made on each case as it came into the District Attorney's office, all the information necessary for a proper grand jury presentation would be available in the file. The Technical Assistance team recommends that the grand jury only receive a list of cases to be presented including the name of the defendant and, at most, the charge or charges they will be considering. Since the bills of indictment are already pretyped, the presentation for indictment in most cases is fairly brief. Since the grand jury generally returns only

those indictments that are recommended by the District Attorney, this process is used by the office to "wash out" the bad cases. While this may be considered a form of screening, the Technical Assistance team recommends that the District Attorney's office evaluate cases by a proper screening method as soon after arrest as possible so that grand jury time is not wasted with obvious legally deficient cases.

In the actual presentation of the cases before the grand jury, the police officers have been subpoenaed on a certain date and testify on all those cases that they might be involved in. This must make it quite difficult for the grand jurors to keep track of cases since they may hear a police witness on Monday and not get to the lay witness involved in the case until later in the week. The Technical Assistance team recommends that cases be presented chronologically with witnesses in order. This does not appear to be an inordinate problem considering the number of cases that are actually presented. In addition, the office should review the possibility of the police responding by phone calls without the necessity of subpoenas, particularly when they are on duty.

#### C. Setting Up of Files and Case Tracking

The system used for case tracking at this time is both inefficient and time consuming. The Technical Assistance team recommends that the District Attorney develop central index files to be used to receive all cases and to track cases through the system. In doing this there should be an elimination of all the duplicative information being recorded on the various forms used in the office.

Presently in the office files are set up as follows:

The person in the office known as the designated clerk who, among other things is charged with supervision of secretaries in the secretarial pool and of the receptionist, also has the responsibility to assign cases to the assistant prosecutors in the office. She builds a file starting with a charge sheet and an arrest report. (Due to poor police reporting she very often must do extra, needless work. For example, one of the team members while interviewing her picked up an arrest report and charge sheet that had come in that morning from the Madison County Sheriffs Office and was required to read the arrest report in toto in order to determine that there were 4 co-defendants in the case.) The clerk then prepares a worksheet on which she enters the defendant's name, the name of the victim, the charge, the date, and the agency case number. After the defendant's name she pencils the name of the assistant district attorney to whom the case has been assigned. She then retypes the same information on another sheet marked "Defendant" which she places in a binder. She thereafter maintains two systems--one for cases pending grand jury and one for cases pending trial.

After the above repetitive work has been completed the file is given to a mag card machine operator who uses the back side of the charge sheet to obtain the names and addresses of the victim and other witnesses and thereafter prepares a notification letter to them. When interviewed, she indicated that in approximately 50 percent of the cases she had to look beyond the charge sheet in order to obtain correct addresses for witnesses. It is the recommendation of the Technical Assistance team that the District Attorney insist that the various

police departments reporting crime in his jurisdiction submit charge sheets and arrest reports that are adequately and properly filled out.

After witness notification letters have been prepared the file is given to the clerk in charge of the PROMIS system in the office who enters charge and pedigree data into the computer. At this point the file is returned to the designated clerk. She prepares an "out" card which the assistant assigned the case must sign before taking the case file. There is no formal follow up monitoring mechanism in place at this juncture in the process. If a prosecutor is negligent in preparing the intake sheet and returning the case to the designated clerk or if the file is misplaced by an assistant, the case will not be presented to the grand jury until someone calls the matter to the attention of the office. The Technical Assistance team recommends that the out card be kept in a tickler file, and calendared so that it is monitored at short intervals. Once the assistant district attorney with the file has dictated the intake sheet, including his recommendations if any, the file is brought back to the designated clerk. She then assigns the file to a clerk to transcribe the dictation in the file, and it is returned to the designated clerk for a quick check as to accuracy.

At this point the case is given to the grand jury clerk who files it in her office by charge designation. If the defendant has been arrested, the clerk will set up the file for grand jury action. If the defendant has not been arrested, the case will pend in her files until an arrest has occurred.

The Technical Assistance team recommends a system based on file cards only, in which data are kept in two files. Only two file cards are necessary to track cases using this system. These cards may be of any design, but a suggested format is attached as Appendix C. This form is designed in three parts and should be used with a snap-out carbon paper in between each part. Information on the case number, defendant name and charges are typed onto the two cards. By using the snap-out carbon paper, it is not necessary to type duplicate information. For the maximum effectiveness, all of this information should be entered by the designated clerk and the assistant district attorney who completes the intake sheet. The reviewing assistant may also record remarks as to why the case should be no billed or downgraded.

The two cards should then be filed in their respective locations. The first copy should be filed alphabetically to become the active defendant index file. When cases are closed, the card may be moved to a closed portion of the file. This will become a quick reference as to whether a defendant has been through the criminal justice system before.

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

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

The remaining procedures in use for case tracking can be continued as they currently exist. The flow of paper is acceptable and, with the addition of the file card system recommended here, the case tracking function will become both more efficient and less time consuming to maintain.

#### D. Use of Statistics

Statistics should be kept to meet the identified needs of the District Attorney. Those needs may be for measuring efficiency, the accountability of the staff, budget justification or public information. The District Attorney needs to determine what his statistical needs are, and to use the data collected on a regular basis. Otherwise the time spent gathering the data is wasted.

It is the recommendation of the Technical Assistance team that the District Attorney begin keeping statistical records by making a determination to count cases and defendants as they enter the system. This can be accomplished manually by the use of a tally sheet such as Form 1 found in Appendix D. This form is a weekly intake report to

be filled out each day by the use of simple hash marks in the appropriate boxes. The amount of detail which is to be used may be determined by the needs of the prosecutor. On Form 1, both cases and defendants are counted, and the detail is sufficient to permit analysis of changes in charges filed, as well as cases accepted, referred or rejected. The clerk enters a hash mark in the appropriate box to indicate the result of the intake process.

At the end of the week, all of the columns are totalled and the monthly total from the previous week's report is entered in the next to the last row. The new monthly total to date is obtained by adding the weekly total to the monthly total from the last week.

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

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

To use the latter approach, a form such as Form 3 in Appendix D should be used. Each day, whether the calendar is prepared in the prosecutor's office or returned to the prosecutor at the conclusion of the day's work, a clerk should review the calendar to obtain the information and place it on this report. The date called for on the form is the date that the case was heard. The case number, defendant's name, docket number and charge should be listed individually and the disposition should be shown for each charge. The name of the assistant prosecutor who tried the case or handled the plea and of the trial judge, if applicable, should also be listed. The disposition categories should correspond to the weekly disposition report. The clerk should determine what occurred for each defendant at the trial or plea and mark only one column. At the end of the day, this information should be transferred to the weekly summary report.

Form 4 in Appendix D is an example of a calendar report. This report measures the amount of delay arising in the system and the reason why it is occurring. The first column indicates, for any given day, the total number of cases scheduled. Third column, "Defendants Rescheduled" is a measure of the number of continuances being granted during a particular day. The next boxes enumerate the reasons why the

defendant was rescheduled. This will show whether delays in the system are due to court backlog, prosecutor-requested continuances or defense-requested continuances.

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

#### E. General Administration Needs

There are some areas in the Madison County District Attorney's office where effective management and administrative changes would add to the efficiency of the prosecutorial system.

The Technical Assistance team recommends that the District Attorney develop an organizational chart for his office showing lines of authority. One area that needs to be emphasized is the relationship between the District Attorney and his first assistant. The first assistant should screen those members of the support staff who now report directly to the District Attorney. In addition, the District Attorney should consider assigning secretarial staff directly to the assistant district attorneys in the office. In this regard, the Technical Assistance team recommends that funding and positions are needed for at least two additional secretaries. The current system of using a secretarial pool is inefficient and is a detriment to quality work by the attorneys who need typing done for the cases they are handling.

Presently, the designated clerk is so busy processing cases and case files that she has little time for the supervision of secretaries in the pool. Should the District Attorney opt for retaining the present secretarial structure, he should provide back-up help for the designated clerk, to enable her to properly supervise. Alternatively the duty of supervision should be given to the District Attorney's administrative assistant, who formerly had the duty. In any event, the District Attorney should make it clear to support staff to whom they are directly responsible in performing their duties.

The Technical Assistance team recommends that the District Attorney review the office manual of his predecessor and have it updated to reflect his own policies. The manual should reflect the policies of the District Attorney for staff conduct, hours of operation, leave of absence, and other matters that affect personnel within the office. It should also incorporate the organizational chart recommended above, general job descriptions and a salary schedule showing various levels and steps through which staff may expect to progress through the office.

It is the recommendation of the Technical Assistance team that all witness needs be consolidated and assigned to a clerical position in the office with the long term goal of acquiring a paralegal who would be in charge of assisting the procurement of witnesses for all needs including preliminary hearing, grand jury and trial. In addition, the office should make contact with the chief investigating officer when negotiating a plea on any case and should insure that all witnesses are notified of the disposition when the case is concluded.

It is also recommended that the District Attorney institute a monthly meeting for the staff where the cases are reviewed and office policy discussed. In addition, the District Attorney should initiate a regular meeting to be held each month between himself, the warrant magistrate and representatives from the Huntsville Police Department and the Madison County Sheriff's Office. If possible, the heads of those agencies should be in attendance as well as a judge from both the circuit and district courts.

The District Attorney should also increase his participation in the activities surrounding prosecution in Alabama. It is recommended that the District Attorney and some of his senior assistants visit other District Attorney's offices in Alabama, and become involved in the activities of the Alabama District Attorneys Association.

#### CONCLUSION

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

The District Attorney's office in Madison County is similar to most District Attorney's offices in Alabama in that the office is not responsible for filing the charges in the court. The law enforcement agencies in Madison County file the majority of cases, which places the District Attorney's office in a reactive position.

The problem and need to have a centralized booking facility for all persons arrested on felony charges in Madison County is something that needs to be addressed by the Madison County District Attorney. This appears to be a political situation between the Huntsville Police Department and the Madison County Sheriff's Office. The Technical Assistance team suggests that the District Attorney seek to mediate this situation and have all felony arrests in Madison County booked directly into the County Jail. If this can be established, the District Attorney would be further assisted if he received a daily listing of all those individuals arrested in Madison County. This would serve as a basis for the District Attorney's office to review all felony arrests and determine what action should be taken on an individual basis.

If the central booking procedure cannot be established, the Technical Assistance team recommends that the District Attorney require the police agencies to furnish a listing of all individuals booked into both the Huntsville City Jail and the Madison County Jail within 24 hours of the booking.

In reviewing the warrant magistrate system in Madison County, the Technical Assistance team noted that there were no accountable records kept nor any uniformity in the handling of cases that come before the warrant magistrate. The Technical Assistance team suggests that the continuation of the warrant magistrate system is not only antiquated, but permits the non-accountable judicial system that exists in Madison County at this time.

The Technical Assistance team recommends that the District Attorney take the initiative and formulate a policy for the types of cases that he wants to by-pass the warrant magistrate on and file directly with the grand jury. This policy should then be communicated to the law enforcement agencies. In addition, the District Attorney should require that the warrant magistrate furnish his office with copies of all documents including the decision not to file a warrant, so that these can be reviewed by the District Attorney's office to determine whether or not further action should be taken on the case.

The District Attorney's office has utilized the services of a screening assistant in the past but discontinued this function when the federal funding terminated. This function should be reinstated in Madison County. The personnel and facilities are available to the

District Attorney to make this a priority. The Technical Assistance team recommends that the District Attorney assign a senior assistant in his office on a rotating basis to screen all felony arrests, setting a limit of having the arresting police agency bring the case for review within 72 hours of arrest. In addition, the District Attorney should encourage all police officers to seek the advice of the screening assistant on felony cases before applying for an arrest warrant where possible.

The Technical Assistance team recommends that the present procedure of seeking warrants be changed and the District Attorney consider the use of sworn-to affidavits as the arrest probable cause holding document. This document could be later reviewed by the District Court Judge to determine if the individual was held on the proper charge. It would also afford the justice system with a legally sufficient document that would meet the standard of Gerstein vs. Pugh 420 U.S. 103 (1975), since it would have been reviewed by an impartial magistrate for the purposes of determining probable cause to hold the individual arrested. This will require court acceptance and rule changes to implement, but the effort should be made.

If the by-passing of the warrant magistrate system is not permitted by the judicial system, the sworn-to affidavit could be used as the affidavit under oath to present to the warrant magistrate for his approval, which appears to be a rubber-stamp process. The uniformity of paperwork would then permit an earlier screening by the office to determine whether to present the case directly to the grand jury or, in the alternative, to seek a preliminary hearing should the facts dictate that the case needs to be aired publicly in an adversary manner.

The preliminary hearing step in a system in which the procedure is used to bindover cases to the grand jury is a waste of time. The Technical Assistance team recommends that the grand jury be scheduled for more sessions than presently set. Many cases are not indicted for more than 60 days after arrest. The Technical Assistance team recommends that the District Attorney set a goal for his office to have all cases indicted or presented to the grand jury for indictment within 30 days of arrest if not sooner.

At the present time, the grand jury secretary prepares the grand jury list, secures the presence of witnesses, and arranges the grand jury "buggy" for use by the District Attorney or one of his assistants in each grand jury presentation. The entire paperwork procedure being used appears to be redundant and unnecessary. If a beginning file was made on each case as it came into the District Attorney's office, all the information necessary for a proper grand jury presentation would be available in the file. The Technical Assistance team recommends that grand jury receive only a list of cases to be presented, including the name of the defendant, and at most the charge or charges they will be considering. Since the bills of indictment are already pretyped, the presentation for indictment in most cases is fairly brief. The Technical Assistance team also recommends that the District Attorney refrain from using the grand jury process to "wash out" bad cases and evaluate cases by a proper screening method as soon after arrest as possible, so that grand jury time is not wasted with obvious legally deficient cases.

In the actual presentation of cases before the grand jury, the Technical Assistance team recommends that cases be presented chronologically with witnesses in order. In addition, the office should review the possibility of police responding by phone call without the necessity of subpoenas, particularly when they are on duty.

The system used for case tracking at this time is both inefficient and time consuming. The Technical Assistance team recommends that the District Attorney develop central index files to be used to receive all cases and to track cases through the system. The charge sheets and arrest reports submitted by the various law enforcement agencies in Madison County are improperly filled out and inadequate for the needs of the District Attorney's office. The District Attorney should require the law enforcement agencies to properly complete these necessary documents. In addition, the "out" cards that are prepared when files are checked out are not properly monitored. The Technical Assistance team recommends that these cards be kept in a tickler file and calendared so that they are monitored at short intervals. In the area of case tracking, there are several recommendations. Case tracking could be greatly simplified if the current system was replaced with one utilizing an index card system. Under this system, only two cards are required to be maintained. Examples of these two cards are attached as Appendix C and their use explained in Section C of this report.

Statistics are very useful to a prosecutor for a number of reasons. They can assist in allocating resources, predicting the need for additional resources and managing the caseflow in the office. For these reasons,

District Attorney should begin to keep records of the workings of his office. With the implementation of the new index card system for case tracking, this task should be simplified. Several forms are attached as Appendix D and their use explained in Section D of this report. These forms should be used by the District Attorney to generate statistics on the workings of his office.

There are some areas in the Madison County District Attorney's office where effective management and administrative changes would add to the efficiency of the prosecutorial system. The Technical Assistance team recommends that the District Attorney develop a table or organization showing lines of authority in the office. One area that needs to be emphasized is the relationship between the District Attorney and his first assistant.

In addition, the District Attorney should consider assigning secretarial staff directly to the assistant district attorneys in the office. In this regard, the funding and positions are needed for at least two additional secretaries. The designated clerk is so busy processing cases that she has little time for the supervision of secretaries. If the present secretarial pool system is retained, she should be provided with back-up help or alternatively, the District Attorney's administrative assistant should supervise the clerical staff. Whichever system is used, it must be made clear to the clerical staff to whom they are directly responsible.

The Technical Assistance team recommends that the District Attorney review the office manual and have it updated to reflect his own policies.

It should contain, at a minimum, policies on personnel, an organizational chart, job descriptions and an office salary structure.

All witness needs should be consolidated and assigned to a clerical position with a long term goal of acquiring a paralegal who would direct the procurement of witnesses for all needs including preliminary hearing, grand jury and trial. In addition, the office should contact the chief investigating officer when negotiating a plea on any case and should insure that all witnesses are notified of the disposition when the case is concluded.

It is also recommended that the District Attorney institute monthly meetings for his staff where cases are reviewed and office policy discussed. A monthly meeting should also be scheduled with the District Attorney, the warrant magistrate, the Huntsville Police Chief, the Sheriff and a judge from both the circuit and district courts so that common problems between these groups can be discussed. The District Attorney would also benefit by visiting other offices in Alabama and becoming involved with the Alabama District Attorneys Association.

The implementation of these suggestions and recommendations should result in a more efficient and effective office for the District Attorney as well as a savings in the long run to the citizens of Madison County.

APPENDIX A

RESUME

LEONARD R. MELLON

RESIDENCE: 3008 Federal Hill Drive  
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(703) 241-8982

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

PROFESSIONAL EXPERIENCE:

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

CURRENT EMPLOYMENT

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

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

PAST EXPERIENCE

1978-1980

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

1975-1978

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

1974-1975

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

1974

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

1971-1974

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

1969-1971

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

1965-1969

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

1958-1965

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

Selected Publications

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

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

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

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

"Measuring Evidentiary Strength of Criminal Cases", Criminal Justice Research: New Models and Findings, Sage Publications, Beverly Hills, London, 1980.

- Transmitting Prosecutorial Policy: A Case Study in Brooklyn, New York  
(with Joan E. Jacoby, et al.). Bureau of Social Science Research, 1979
- A Quantitative Analysis of the Factors Affecting Prosecutorial Decisionmaking  
(with Joan E. Jacoby, et al.). Bureau of Social Science Research, 1979
- Policy Analysis for Prosecution (with Joan E. Jacoby) Bureau of Social Science Research, April 1979.
- Policy Analysis for Prosecution: Executive Summary (with Joan E. Jacoby)  
Bureau of Social Science Research, April 1979.
- "Probable Cause Determination," (Commentary) National Prosecution Standards,  
National District Attorneys Association, Chicago, 1977.
- "The Child Support Enforcement Act." (with Sharon Biederman) Prosecutors'  
Deskbook, Washington, D.C.: National District Attorneys Association, 1976.
- Handbook on the Law of Search, Seizure and Arrest, Florida Attorney General's  
Office, 1960; revised, 1962
- "Can Effective Restrictive Legislation Be Written" The Journal of the American  
Pharmaceutical Association, Spring, 1963

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West Palm Beach, Florida 33401
- OFFICE TELEPHONE: (305) 837-2454
- AGE: 39 FAMILY: Wife - Judi, formerly of High Point, North Carolina  
Three children - Jessica, Melanie and Brent
- EDUCATION: B.A.E. Degree, University of Florida 1962 (History, Political Science);  
J.D. Degree in Law, University of Florida, 1964.
- CHURCH: Member, Haverhill Baptist Church
- WORK EXPERIENCE: Assistant State Attorney General for Florida.  
Assistant County Solicitor for Palm Beach County.  
Appointed State Attorney for Monroe County, Florida, by the Governor of Florida.  
Has been appointed a Special Prosecutor in several Florida circuits.  
Assistant State Attorney, Palm Beach County, Florida.  
Municipal Judge, Jupiter, Florida.  
Elected State Attorney, Fifteenth Judicial Circuit of Florida in 1972.
- TEACHING EXPERIENCE: Business Law and Constitutional Law, University of Maryland,  
Overseas Division.  
Criminal Law and Evidence, Palm Beach Jr. College and Florida Atlantic University.  
Palm Beach Atlantic College, Business Law, Constitutional Law & Political Science.
- ORGANIZATIONS: Member of American Bar Association, Florida Bar Association, Palm Beach  
County Bar Association, Young Lawyers Section of the American, Florida and  
Palm Beach County Bar Associations.  
National District Attorneys Association.  
Florida Prosecuting Attorneys Association, Rotary Club, VFW, American Legion,  
Jaycees, Lake Worth Valley Scottish Rite, York Rite Commandery, Amara Shrine  
Temple.
- PUBLICATIONS AND LECTURE EXPERIENCE:
- Amicus Curiae Brief for Florida Prosecuting Attorneys Association on the new  
death penalty in Florida.  
Author, Bill of Rights for Mobile Home Owners.  
NDAA - Delinquency Programs for the Prosecutor's Office.
- MILITARY: Sixteen years commission service, two years active duty, one year overseas  
in Korea.  
Presently lieutenant colonel in U. S. Army Reserve.

















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