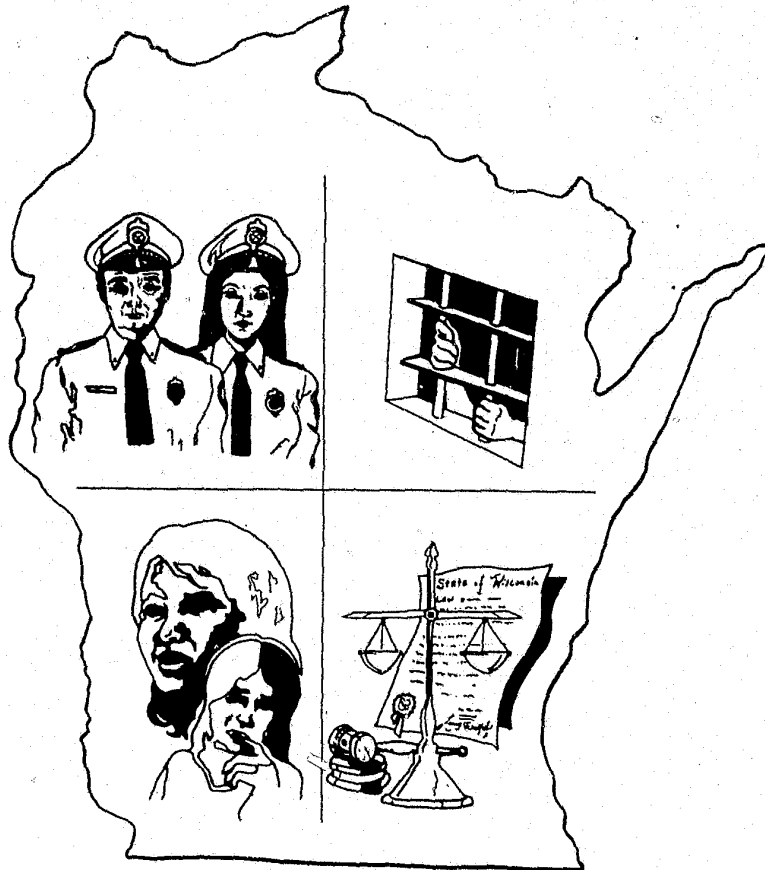




State of Wisconsin \ OFFICE OF THE GOVERNOR

WISCONSIN COUNCIL ON CRIMINAL JUSTICE

Milwaukee County District Attorney
Assistance to the Urban Prosecutor
Vertical Prosecution System
WCCJ Subgrant #77-13H-MM-01-7



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PROGRAM EVALUATION REPORT

Milwaukee County District Attorney

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ACQUISITIONS

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Program Evaluation Section
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Funding Status

The Milwaukee County Vertical Prosecution System project was funded by the Wisconsin Council on Criminal Justice (WCCJ) in December 1977 through a grant to the Milwaukee County District Attorney's Office. Federal funds totaling \$89,954 were awarded from Program 13H of the 1977 Comprehensive Criminal Justice Improvement Plan to finance the project. The grant period is January 1, 1978 through December 31, 1978. The subgrantee is now requesting \$81,000 from Program 3B of the 1978 Plan to continue funding the project for a second year.

Project Description and Operation

Through this grant, the Milwaukee County District Attorney's Office is attempting to convert its "horizontal" prosecution system for felony cases into a "vertical" system. Under a horizontal system, a different prosecutor may be assigned to a case at each stage of the criminal proceedings. Under such a system, prosecutors are assigned to work in a given court for a period of time. Whenever a case moves from one court to another or whenever prosecutors are rotated between courts, a new prosecutor assumes the case. Under a vertical system, a single prosecutor issues a case and prosecutes it in every court to which it is assigned.

The implementation strategy of this grant called for the gradual conversion of the horizontal felony prosecution system to a vertical system through a six stage process. That process included the successive installation of four vertical felony teams and the adjunctive dismantling of the horizontal system. At this time, all four felony teams have been installed, the last one on October 2, 1978. The four teams handle case intake on a rotating basis, each receiving all new felony cases for one week every four weeks. Through this procedure all new felony cases are now handled vertically. Some Assistant District Attorneys are still involved in prosecuting the horizontal cases which were filed before October 2. As these cases are closed, the Assistant District Attorneys processing them will gradually be assigned to the existing felony teams until each of the four teams has five members.

The positions funded through this grant are two First Assistant District Attorneys and one Second Assistant District Attorney. One First Assistant District Attorney coordinates case intake for the felony teams, assuring that all cases are assigned and that the work load is balanced. The other First Assistant District Attorney is charged with case disposition control, assuring the uniformity of dispositions of similar cases and their conformity to office policy. The Second Assistant District Attorney acts as liason with the judges and helps avoid or resolve scheduling conflicts and other processing problems.

Project Expectations

A horizontal prosecution system is presumed to be the most personnel efficient approach to prosecution in large urban prosecutors' offices. While scheduling problems are minimized and the system can accommodate fluctuations in caseload volume, the quality of the prosecution may suffer because prosecutors are less familiar with the witnesses and case details than they would be under a vertical system. In addition, the horizontal system is more easily manipulated by defense attorneys who may be interested in delaying their case, so potential efficiency is often lost.

A vertical prosecution system, although possibly more costly and subject to scheduling problems, has the potential to eliminate many of the shortcomings of the horizontal system. The quality of prosecution may be improved through the prosecutor's increased familiarity with a case, through his/her increased responsibility and accountability for the outcome of a case, and through his/her increased professional satisfaction in completely processing a case. Although these attributes are basically intangible, they may translate into tangible and positive results if the assumptions made about the two prosecution systems are accurate.

Given such assumptions, some of the performance expectations of this project are:

1. fewer dismissals of vertical cases compared to horizontal cases, particularly dismissals stemming from a prosecution error;
2. fewer continuances in vertical cases compared to horizontal cases, particularly those requested or necessitated by the prosecutor;
3. shorter processing time for vertical cases compared to horizontal cases.

Evaluation Methodology

This evaluation of the Vertical Prosecution System is based on an analysis of cases processed by the system and on interviews with prosecutors and administrators involved in the system's implementation. An instrument for collecting appropriate case data was cooperatively developed by the Program Evaluation Section (PES) of WCCJ and the Milwaukee County District Attorney's Office early in the grant period. Data on cases issued and closed during the first seven months of the project have been provided by the subgrantee and analyzed by PES. For comparison to these case data, processing data on a sample of felony cases filed in Milwaukee County from 1974 through 1976 were analysed. These data were collected during a study of case processing delay in Wisconsin

conducted by the Resource Planning Corporation (RPC), Washington, D.C., for the Judicial Planning Committee. Since the data collected by RPC is limited and does not include information on the disposition of cases, aggregate data reported by the District Attorney's Office on 1977 felony cases has also been compared to the vertical felony data.

Evaluation Findings

Data on 115 cases involving 125 defendants were provided to PES for this evaluation. The data represent cases issued and closed from January 1, 1978 through July 31, 1978. Discussion of the data from this point on will focus on the defendant as the important unit of measurement, rather than the case.

Of the 125 defendants:

- the charges against two were read in to other cases¹;
- the charges against twelve (9.8% of 123) were dismissed;
- 111 (90.2% of 123) were convicted of at least one charge.

Of the 111 convicted defendants:

- 107 were convicted of a felony;
- 4 were convicted of a misdemeanor, reduced from a felony.
- All of the convictions resulted from a guilty plea; only one case went to trial with the defendant entering a plea on its first day.

- 16 (14.4%) were incarcerated for an average of 43.7 months;
- 93 (83.8%) were released on some form of probation:
 - 61 with probation alone for an average of 27.2 months,
 - 32 with probation in combination with some other type of sentence (including stayed prison sentence) for an average of 34.3 months;
- 2 (1.8%) were fined.

To determine whether the expectations of the project are being realized, the vertical case data must be compared to horizontal case data. The dismissal rate for felonies in 1977, according to data from the Milwaukee County District Attorney's Office, was 25.5%. For the vertical cases prosecuted in the first seven months of this project, the dismissal rate was 9.8%, or 11.2% if read in cases are counted as dismissed, which is the case for the 1977

¹ "Read in" refers to reading an admitted charge into a defendant's record but not formally convicting him/her of it. It is usually balanced by a plea or conviction on other charges.

percentage. These data show the dismissal rate for the vertical cases to be one-half that for the older horizontal cases. The proportion of dismissals due to prosecution error cannot be determined for either group of cases. No information on the reason for dismissal is available for 1977 dismissals. Information about the 1978 vertical cases indicates that five of the dismissed cases were dismissed because the case for prosecution was insufficient, although prosecution "error" could not necessarily be blamed.

The 1974 through 1976 felony case data collected by RPC in Milwaukee indicate that continuances were recorded in 38 of the 63 cases in their sample (60.3%). For the vertical cases, continuances were present in 37 of the 125 defendants' cases (29.6%). Since none of the vertical cases went to trial, a more appropriate comparison group would be those earlier cases disposed before trial. That subsample of RPC collected cases contains 27 of 50 cases (54.0%) with continuances. Not only do the vertical case data contain many fewer cases with continuances, but the average number of continuances per case is dramatically lower for those cases. The vertical cases average 0.39 continuances per case compared to an average of 1.56 continuances per case for the older horizontal cases. Information about the vertical cases also shows that only three of the total number of continuances (49) for that group of cases could be attributable to the prosecution being unable to proceed with the case.

The median processing time from filing to disposition for the 63 cases sampled by RPC was 72 days.² For the vertical cases the median processing time was 31 days. Again, since the vertical cases were all completed before trial, those cases in the comparison group meeting that criterion should be taken as a subsample. Those 50 earlier cases disposed before trial had a median processing time of 55.5 days, still considerably longer than the median for the vertical cases.

The above comparisons have been made to examine the validity of the expectations cited earlier. Those expectations appear to have been accurate. Another interesting finding, not necessarily expected, is the effect of the vertical system on "plea bargaining." Data from the District Attorney's Office indicate that 34.2% of total felony cases in 1977 were convicted of a reduced charge. Data on the vertical cases show that 24.0% of those felony defendants were convicted of a reduced charge. Given the initial difference in conviction rates between the two groups, there is a considerably larger proportion of vertical defendants convicted of at

² The median is used here, rather than the mean, because it is not affected by the presence of any inordinately large values in the sample data.

least one original charge, 64.8% for the vertical cases and 39.1% for the horizontal cases.

Conclusions

The data presented here seem to indicate that prosecution under the vertical system is more efficient and effective than under the former horizontal system. Further evidence for the trends portrayed here may be the fact that most of these results were enthusiastically predicted by prosecutors very early in the grant period. Nonetheless, the data must be interpreted carefully at this time. Since the data presented on the vertical cases reflect only seven months of operation, it is likely these data contain a preponderance of "easy" cases which were closed quickly. This caveat is particularly relevant to the interpretation of the processing time data and the continuance data. Given the short time this grant has operated, there is clearly an upper limit on the processing time for cases included in this sample. In fact, the majority of cases were filed after March 1, 1978. Continuances must be suspect because of their obvious correlation with processing time.

One final qualification regarding the interpretation of these data is made. A few felony cases, many of the most serious, are prosecuted by specialized prosecution teams such as the Career Criminal Unit, rather than the general vertical felony teams. Although these cases are not represented in the vertical case data, they are present in the comparison data, since that data is either a sample or the total population of all felony cases filed. The presence of these cases in the comparison data make the vertical felony teams appear slightly more effective than they are in reality.

Other Issues

Although most evidence and testimony affirms the success of the project at this intermediate stage, there are some unresolved issues. Scheduling of cases in court has been a troublesome problem. Because a felony team conducts intake for a week at a time, it has been conceded that a different attorney than the one assigned to a case must handle it in intake court and in preliminary hearing court when a date is set for that hearing. These appearances are not usually substantive but are made when the assigned attorney is still working on intake. Another scheduling problem arises because cases are scheduled in court at only two times during the day, 8:30 a.m. and 2:00 p.m. This practice can result in several prosecutors waiting long periods for their case to be called in court. This not only wastes time but makes it more difficult for a prosecutor to schedule cases in more than one court. At present this

problem is unresolved but efforts are being made to work with the Milwaukee County judges to develop a better system.

There are two additional unresolved issues worth noting. As mentioned earlier, the Milwaukee County District Attorney's Office currently has specialized teams, such as The Career Criminal Unit, conducting vertical prosecution of selected cases. The Office has not yet decided whether to retain these teams or merge them into the general vertical system. A final question concerns the cost-efficiency of the vertical system. Only when the system is fully operational can an assessment of the relative costs of two systems be made.



END