

rdp 12/11

@ 12-11

AN EVALUATION
OF THE
HILLSBOROUGH COUNTY
"COUNTY ATTORNEY OFFICE - SPECIAL PROSECUTOR"

GRANT NUMBER

78-I-A1977 E01

PROJECT PERIOD

January 6, 1978 - January 31, 1979

ROBERT PHOENIX
EVALUATION SPECIALIST

NEW HAMPSHIRE GOVERNOR'S COMMISSION ON CRIME AND DELINQUENCY

December 11, 1978

NCJRS

RECEIVED

ACTING

53397

BACKGROUND

On October 3, 1977, this Commission received an application from the Hillsborough County Attorney's Office for funding assistance to provide that office with a special prosecutor. It was felt that this additional attorney was required to provide assistance to small town police departments in the preparation and conduct of cases within the District Court System.

On January 6, 1978, the full Commission approved the application and awarded a total of \$15,947 to establish grant number 78-I-A1977 E01 for a period of January 6, 1978 - January 31, 1979. The project cost was apportioned on a 90% federal, 5% state and 5% local basis and its budget reflects the following:

| | |
|------------------------|--------------|
| Personnel services | \$14,330 |
| Travel and subsistence | <u>1,617</u> |
| Total | \$15,947 |

A grant adjustment was made on April 28, 1978 which revised the funding source. This adjustment withdrew \$5,777 from Program Area 78I301 and obligated a like amount under Program Area 76E102.

PROJECT DESCRIPTION

Of the twenty-nine towns in Hillsborough County, nineteen have limited or no full-time police departments. At the time of this project implementation, thirteen of these towns had only part-time police officers and four had one full-time officer. The other two towns had two and three full-time personnel respectively. It had been recognized for some time by the office of the County Attorney that these smaller towns, with their limited police capability, and lack of prosecutorial expertise, were encountering difficulty

in the development and prosecution of criminal cases within the District Court System. This lack of legal expertise was realized to have a detrimental affect on the criminal justice system in that too often, suspected felons would escape indictment as a result of inexpertly handled probable cause or grand jury proceedings. In addition, the same deficiencies resulted in failure to get convictions in the course of certain District Court trial proceedings.

In order to correct this deficiency in the system, Hillsborough County Attorney Raymond Cloutier turned to this agency for assistance to provide an additional lawyer for his staff. It was envisioned that this individual would be able to provide the required prosecutorial services to the smaller towns which would allow for more efficient delivery of criminal justice.

Although County Attorney Cloutier had a staff comprised of five Assistant Attorneys, it was not considered possible to assign this type of work to this group, as this additional workload would not allow the County Attorney's office to effectively discharge the duties already assigned.

The objectives of the proposed project were set forth in the application as follows: "To provide smaller towns in Hillsborough County with complete prosecutorial services and develop more efficient criminal prosecution." This would provide:

1. Prosecution for probable cause hearings
2. Preparation of felony complaints
3. Seminars on proper arrest methods, preservation of evidence and other procedures to insure successful prosecution
4. Consultation on a daily basis and twenty-four hour coverage on rape, robberies and murder cases
5. Prosecution for all juvenile certification cases in accordance with recent New Hampshire Supreme

Court ruling that requires a full adversary proceeding.

PROJECT OPERATION

The individual hired under the grant was Mr. William Thornton, Esq. Mr. Thornton received a B.A. degree in Communication from Ripon College, Wisconsin, and attended Washburn University in Topeka, Kansas, where he received his law degree in December, 1976. Mr. Thornton was admitted to the Kansas Bar in January, 1977 and prior to this employment in Hillsborough County, was employed in the office of the Public Defender, Third Judicial District, Topeka, Kansas.

The special prosecutor became a member of the County Attorney staff on January 9, 1977. At the time he was not yet a member of the New Hampshire Bar. He subsequently was admitted to the New Hampshire Bar on November 6, 1978.

Prior to this project, Attorney Cloutier's staff had consisted of five lawyers. These individuals were involved primarily in the prosecution of criminal cases as well as in defending County Administrators in civil suits.

As an example of the workload carried by the County Attorney's office; for the year ending July 31, 1978, 1,776 criminal cases were entered in the county. A total of 2,002 criminal cases were disposed of (which includes those pending from the previous period). Cases pending at the end of the period totalled 1,931. Four of the staff of five Assistant County Attorneys are primarily involved in the prosecution of these criminal cases. The other assistant is chiefly involved with representing appointed and elected county officials in civil suits brought against them. In addition, that attorney has the responsibility for processing cases involving the Uniform Reciprocal Enforcement of Support Act (URESAs). These cases deal with enforcing court ordered support payments when the principles each live in different states.

For the year ending July 31, 1978, three hundred forty-two such cases were processed through the County Attorney's Office.

The initial weeks of Mr. Thornton's employment were primarily devoted to informing the police departments which comprise the project's service area, of the objectives of the project and of the services which he would be able to provide in the development and prosecution of criminal cases. In this effort, Mr. Thornton contacted all of the chiefs of police in the small towns of Hillsborough County. The part-time departments served under this project are:

PART-TIME DEPARTMENTS:

| <u>TOWN</u> | <u>FULL-TIME PERSONNEL</u> | <u>PART-TIME PERSONNEL</u> | <u>DISTRICT COURT</u> |
|--------------|----------------------------|----------------------------|-----------------------|
| Antrim | 0 | 5 | Hillsborough District |
| Bennington | 0 | 5 | Hillsborough District |
| Brookline | 0 | 3 | Milford District |
| Deering | 0 | 10 | Hillsborough District |
| Francestown | 0 | 3 | Goffstown District |
| Greenfield | 0 | 13 | Peterborough District |
| Hancock | 0 | 4 | Peterborough District |
| Lyndeborough | 0 | 5 | Milford District |
| Mont Vernon | 0 | 6 | Milford District |
| New Boston | 0 | 8 | Goffstown District |
| Temple | 0 | 6 | Peterborough District |
| Weare | 0 | 5 | Goffstown District |
| Windsor | 0 | 3 | Hillsborough District |

"ONE-MAN" DEPARTMENT:

| <u>TOWN</u> | <u>FULL-TIME PERSONNEL</u> | <u>PART-TIME PERSONNEL</u> | <u>DISTRICT COURT</u> |
|-------------|----------------------------|----------------------------|-----------------------|
| Greenville | 1 | 11 | Peterborough District |
| Litchfield | 1 | 14 | Nashua District |
| Mason | 1 | 3 | Milford District |
| New Ipswich | 1 | 8 | Peterborough District |

"TWO-MAN" DEPARTMENT:

| | | | |
|--------|---|----|------------------|
| Wilton | 2 | 10 | Milford District |
|--------|---|----|------------------|

"THREE-MAN" DEPARTMENT:

| | | | |
|--------|---|----|-----------------|
| Hollis | 3 | 13 | Nashua District |
|--------|---|----|-----------------|

During the project period the special prosecutor has been involved in either assisting in preparation or in the actual prosecution of fifty-eight cases. Not all of these cases involved in-depth participation; some of the assistance involved only the providing of professional advice.

The evaluator attempted to contact all of the small town departments in order to get their opinions of the project. Five chiefs were able to be contacted; their comments were:

1. Chief Coughlin, Hancock Police Department

Uses the services primarily on motor vehicle cases. Mr. Thornton has assisted by both giving advice and in actual prosecution.

2. Chief Tyler, Temple Police Department

The special prosecutor has been useful on many occasions in providing advice. He aided the department on one occasion in the preparation of a criminal case.

3. Chief Lafreniere, Greenville Police Department
Has frequently used the service provided under this grant.
4. Chief Basquet, Hollis Police Department
Didn't know that the services were available. The department has its own prosecutor.
5. Chief McCarthy, Peterborough Police Department
Frequently uses Mr. Thornton's services for advice and preparation and prosecution of criminal cases.

Mr. Thornton related that he is present in Peterborough District Court each Monday. His presence there is either to actually prosecute cases or to supply advice or render any other assistance that may be requested. In addition, the Special Prosecutor is usually in attendance during Milford and Hillsborough Court sessions and is involved primarily in prosecutions in those courts.

Of the fifty-eight cases mentioned above, Mr. Thornton was involved in the presentation of approximately twenty probable cause hearings. At this writing, nine cases of this type are still pending. The Special Prosecutor has thus far been involved in four cases in which it was requested that juveniles be certified as adults because of the nature of the crime committed. None of these cases resulted in actual certification because the certification criteria were not met.

Mr. Thornton has scheduled three training seminars for the benefit of small town police officers. The first of these was held in February, 1978 in the County Court House and was attended by seventeen people representing nine towns. The topics discussed were Felony Actions and Juvenile Certification. The second seminar was held in October, 1978 in Greenfield, on the topic of Warrantless Search and Seizure. Twenty-

four officers from nine towns were in attendance. A third seminar is scheduled for the second week in January, 1979.

The special prosecutor relates that in his opinion one of the chief benefits of the project is the fact that he is available to offer prosecutorial assistance over the telephone during evenings. Mr. Thornton states that he receives an average of one such phone call a night.

Although it was determined that programmatically the project is meeting its objectives, some administrative deficiencies were noted. The special prosecutor has not been maintaining time and attendance records as required by federal guidelines. Additionally, Mr. Thornton has not maintained records of his activities to the extent required for efficient evaluation of the project by county officials and by agencies such as this Commission. For example, Mr. Thornton could only give the evaluator an approximation of the numbers of Probable Cause Hearings in which he has been involved. Also, it required two weeks time in order to determine the total numbers of criminal cases in which he participated. Further, the Progress Reports submitted by Mr. Thornton are of relatively little value to this agency in assessing the value of the project. These reports have merely been sketchy daily accounts of the special prosecutor's activity which primarily relate the number of phone calls received each day. There have been no summaries of sufficient qualitative or quantitative depth to be of value. These problems are not totally the fault of the project personnel because apparently sufficient guidance in this area was not supplied by this agency during the planning and implementation phase of the project.

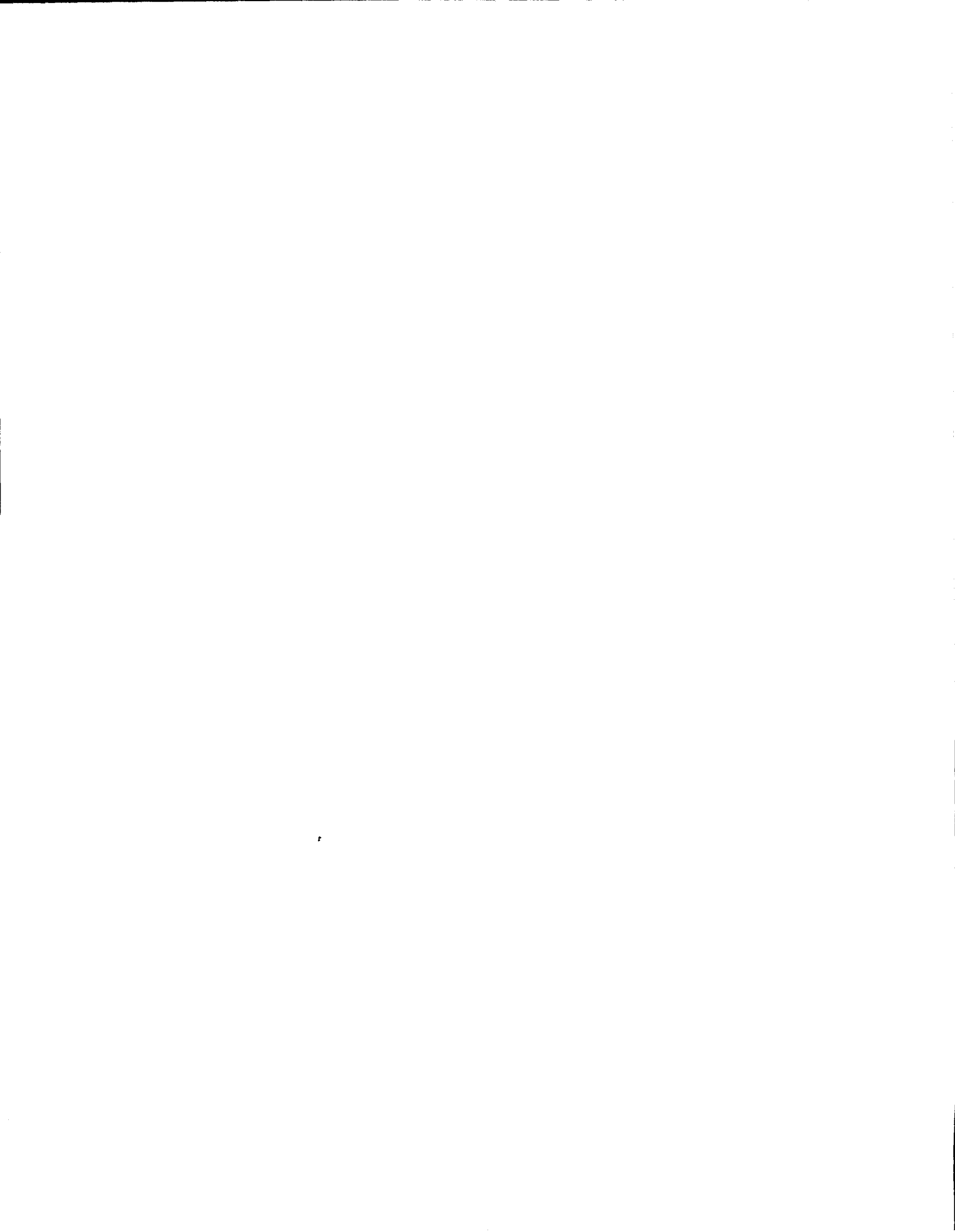
CONCLUSIONS AND RECOMMENDATIONS

Because of the workload imposed on the County Attorney and his staff in the areas of felony prosecution and defense of county officials in civil

suits, assistance to small town police departments, with their limited prosecutorial capability had not been able to be afforded prior to this project. The addition of a special Prosecutor to this staff has filled this valid need. Several small town chiefs of police have indicated to the evaluator that the services provided under this project have been very beneficial in furthering the effectiveness of the criminal justice system.

Although it is recommended that this Commission give favorable consideration to approving renewal funding for a second year of operation in accordance with established policy it is additionally recommended that a special condition be imposed. This would stipulate three requirements.

1. That time and attendance records be maintained in accordance with federal guideline requirements.
2. That an evaluation component designed by the Evaluation Section of this agency be implemented and adhered to.
3. That the project be monitored within ninety days of implementation in order to determine if requirements 1 and 2 are being addressed. The report of the monitoring effort should be the basis for the decision whether to continue the project.



END