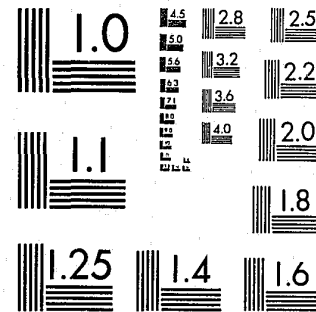


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REPORT ON THE
TECHNICAL ASSISTANCE VISIT TO THE
COUNTY ATTORNEY

GILA COUNTY, ARIZONA
FEBRUARY 24-25, 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 February 24 and 25, 1981, a Technical Assistance team from the Criminal Prosecution Technical Assistance Project visited the offices of Robert Duber II, County Attorney for Gila County, Arizona. The Technical Assistance team examined the County 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, Project Director
Criminal Prosecution Technical Assistance Project
Washington, D. C.

William R. Hyde, Consultant
Chief Deputy, Recovery Division
Salt Lake County Attorney's Office
Salt Lake City, Utah

The purpose of the visit was to analyze problems related to the part time status of the attorneys in the office. In addition, the management analysis focused on the intake function and case processing. The use of diversion was examined, as was the child support enforcement component of the office. 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 requirements and specialized operational programs, projects and procedures unique to the delivery of prosecutorial services.

* Vitae are 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 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 County Attorney for Gila County focused on problems related to the part time status of the office, intake and case processing, diversion and child support enforcement.

The Technical Assistance team would like to thank Mr. Duber 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 plan to encourage full time professionalism within the office, with the objective that at the end of three years, all attorneys will serve on a full time basis, with the private practice of law prohibited.
2. Present a detailed list of the problems created by part time prosecution to the County Board of Supervisors, and make clear to them that a 10 percent increase in the budget will be necessary in order to implement the plan to put the office on full time status.
3. All future attorneys should be hired with the condition that they will not engage in the private practice of law.
4. Consider combining two part time positions into one full time position.
5. Formalize the intake process, with one assistant assigned to the intake function each day. That assistant should be responsible for those cases accepted for prosecution by him throughout the process to disposition.
6. Maintain an intake log in the office to record the names of police officers, the name of the case brought and the name of the assistant seen.
7. Forms should be designed and used to report to the County Attorney from the branch office in Payson, as well as from the Child Support Enforcement office.
8. The adoption forms currently in use should be updated to reflect recent amendments to the statute.
9. The case file jacket should be redesigned to reflect more needed information on the outside cover.
10. Begin to keep statistical records, using the forms included in this report.

11. Do not include in the count of dismissals those cases which have been reduced from the original charge.
12. Update the policy screening statement from 1978 and implement it as the screening policy in the office.
13. Do not prepare complaints in non-arrest cases which are to go directly to the Grand Jury.
14. Arrange a meeting with the Probation Department to discuss the lack of communication and input from the County Attorney in revocation and juvenile cases.
15. Reconsider the condition imposed on each plea bargain of supervision by the Probation Department and use it only in these cases where it is warranted.
16. Establish a plea cut off date, after which the defendant will have to plead to the original charge or stand trial.
17. Examine certain cases, such as possession of small amounts of marijuana, to determine if they should be more properly brought in the Justice of the Peace Court.
18. Meet with the Probation Department to discuss the return of the diversion decision to the County Attorney's office, where it should be an intake decision.
19. The County Attorney should meet weekly with the Child Support Enforcement attorney to discuss problems he is encountering with the Arizona Department of Economic Security.
20. The County Attorney and the County Manager should meet to examine the cooperative agreement between the county and the DES for possible modifications as to the division of responsibilities.

21. Obtain a terminal for the Child Support Enforcement office which can access the computer used by the County Clerk, so that the status of accounts can be determined without repeated telephone calls to the County Clerk's office.

III. SYSTEM OVERVIEW

The County Attorney for Gila County, Robert Duber II, has held that office since January 1981. He oversees a staff of five attorneys and one investigator. All of the attorneys are employed part time by the county and each has an active private practice. The County Attorney also serves the county part time and engages in the private practice of law.

In addition to criminal responsibilities, the County Attorney also handles civil matters, representing the various county boards and departments. The County Attorney is also statutorily mandated to handle child support and adoption cases.

Gila County, with a population of approximately 36,000, is served by seven police agencies. The County Sheriff's Office brings the largest number of cases to the County Attorney, approximately 30 percent of the workload. There is one branch office, which is located in the town of Payson. There is very little communication between the main office and this office at the present time. During the past year, 391 felonies were brought to the County Attorney for prosecution, the most prevalent being possession of marijuana, theft and aggravated assault.

Pursuant to Title II, Chapter 2, Article II, Arizona Revised Statutes (1978), the office of the County Attorney refers some defendants to an adult diversion program. This program is open to defendants who have not previously been convicted of a felony, and are not accused of committing a felony involving the use or exhibition of a deadly weapon or dangerous instrument. This program is administered by the County Probation Department.

Indigent defense services are provided on a contract basis. Because the population of Gila County has not reached 100,000, a public defender may not be appointed under Title II, Chapter 3, Article II, Arizona Revised Statutes, (1964). The contract defense services for the past year cost the county approximately \$52,000.

In cases in which the defendant is in custody, the case is filed when the arresting police officer brings the case to the prosecutor's office. For those cases in which the defendant is not in custody, the police officer leaves all arrest reports with the secretary and within seven days an assistant County Attorney examines the case and makes a decision as to whether or not to prosecute. If the decision is made to prosecute, the secretary is instructed to prepare a complaint and the police officer is taken before a Justice of the Peace where a summons is issued. The case then goes to the Grand Jury. After indictment, the case is assigned to an assistant County Attorney for handling.

Recently the voters of Arizona passed a Proposition 13-type referendum. This referendum, Proposition 101, provides that no services shall be provided unless there is adequate revenue available for them. If the County Supervisors overspend, they are personally liable under this new law.

IV. ANALYSIS

The analysis of the Gila County Attorney's office focused on the problems related to resources allocation in the office as it affects the part time status of the attorneys, as well as management areas of case processing and diversion. The examination specifically focused on:

- (A) Full time status for the office; (B) Intake and case processing;
- (C) Diversion; and (D) Child support enforcement.

A. Full Time Status for the Office

The major problem facing the County Attorney at the present time is the part time status of not only the assistant county attorneys, but the office of the County Attorney itself. Both the County Attorney and his assistants maintain active private practices, a situation which the new County Attorney inherited from the previous administration. At the present time, this system of part time service to the county also includes the handling of private matters in the County Attorney's office. Private clients are seen in the office, and county paid secretarial staff are used routinely for private matters during office hours. Many practitioners within the criminal justice system in Gila County indicated that this creates problems for the rest of the system. It was felt that the private practices of the attorneys competed for time with the county business, with the attorneys in many cases disregarding their county obligations when faced with a choice between those functions and private clients. Case preparation has suffered and case screening has been delayed.

In addition to the historical basis for this situation, it has been perpetuated due to a lack of funding at a level necessary to retain attorneys on a full time basis. Most of the attorneys indicated to the Technical Assistance team that it would be necessary to receive between \$45,000 and \$50,000 annually to offset the loss of income from private practice. The attorneys presently employed in the office seem to be very competent and knowledgeable concerning their areas of assignment, and it would be an advantage to Gila County to continue their employment if possible.

There is also a question as to whether, under Arizona law, the Gila County Attorney himself can change to full time until the beginning of the next term of the County Attorney. The issue is whether the election to create a full time status must be made before the term commences.

Many of the other problems facing the County Attorney's office are more difficult to resolve because of this part time prosecutor system. The formalization of the screening or case intake system and dedication of additional resources to increase the number of cases tried in the Superior Court are two examples of procedures that are affected by the part time status of the office. It appears that the criminal justice system within Gila County, including the courts, the public defender and the police have adjusted to the schedules which the County Attorney's office has created to accommodate the private practices of the attorneys. The growth and expansion of the County Attorney's office, along with its development as a professional system may not permit such a luxury in the future.

Standards prescribed and established by various prosecutors in this country suggest that the office of the prosecutor should be a full time position and should not involve profit from private legal practice. As early as 1967, the President's Commission On Law Enforcement and Administration of Justice in its Task Force Report: The Courts, recognized that:

The problems of low pay and part-time employment must be approached together. High quality attorneys who should be encouraged to seek the position will do so only if it offers reasonable economic rewards. Full-time devotion to duty cannot be demanded unless the pay is raised and salary scales are based on the assumption that the prosecutor will not have a second income from outside law practice. (President's Commission, 1967: 74)

Also, the American Bar Association, in its Standards Relating to the Prosecution Function and the Defense Function stated in Standard 2.3 (b)

that "the offices of chief prosecutor and his staff should be full-time occupations." In the commentary, the ABA points out:

Apart from the problem of conflict of interests, which raises ethical problems, there is a great risk that the part-time prosecutor will not give sufficient energy and attention to his official duties. Since his salary is a fixed amount, and his total earnings depend on what he can derive from his private practice, there is a continuing temptation to give priority to private clients. (American Bar Association, 1971: 60)

The National Advisory Commission on Criminal Justice Standards and Goals, in the Courts volume, stated in Standard 12.1 that:

The complexities and demands of the prosecution function require that the prosecutor be a full-time, skilled professional...at an annual salary no less than that of the presiding judge of the trial court of general jurisdiction. (National Advisory Commission, 1973: 229)

In addition, Standard 12.2, relating to assistant prosecutors, stated that:

The position of assistant prosecutor should be a full-time occupation, and assistant prosecutors should be prohibited from engaging in outside law practice. The starting salaries for assistant prosecutors should be no less than those paid by private law firms in the jurisdiction...(National Advisory Commission, 1973: 232)

The commentary to this standard indicated that the budget of the jurisdiction should provide for adequate annual increases sufficient to make the position of assistant prosecutor attractive as a full-time career opportunity.

Finally, the National District Attorneys Association, in its National Prosecution Standards, stated in Standard 1.3 (A) that:

The office of the prosecutor shall be a full-time profession. The prosecutor shall neither maintain nor profit from a private legal practice. (NDAA, 1977: 9)

From these standards, from the temptation to give priority to private clients, from the inevitable direct and indirect conflicts that exist between public office and private practice, and from the increased complexity of criminal law, it is clear that the system of part time prosecution should be altered and a plan developed to encourage full time professionalism within the Gila County Attorney's office.

It is the recommendation of the Technical Assistance team that a program be designed with the objective that at the end of the third year of the program, all attorneys in the office of the County Attorney will serve on a full time basis. This recommendation does not include the child support enforcement attorney, who functions under contractual relationship and will be dealt with in a later section of this report. However, starting with the office of County Attorney and including all of the assistant county attorneys, the change to full time status should be completed within a three-year period.

In order to implement this recommendation, it will be necessary for the County Attorney and his assistants to receive sufficient compensation

to retain their services on a full time basis. Although the Technical Assistance team is aware of the 7 percent ceiling on budget increases, it is abundantly clear that the County Attorney's office will require a 10 percent increase per year over the next three years.

It is also recommended that all attorneys hired in the future be hired only under the condition that they not engage in any private, compensated practice of law, and that the part time positions be phased out over the next three years. Active recruitment programs should be commenced within the major law schools in Arizona and with the Arizona Prosecuting Attorney's Association. Consideration should also be given to combining two of the part time positions to create one full time position.

The Board of County Supervisors should be presented with a detailed list of all of the problems created in the office of the County Attorney which arise from the part time condition of the office. These should include all of the problems detailed above, plus the fact that the part time status of the chief prosecutor prevents him from fully participating in prosecutor organizations, prevents him from fully keeping up with research in the area of prosecution, prevents him from fully preparing for trials, and prevents him from implementing specialized programs or improvements in the office.

B. Intake and Case Processing

The intake function in the County Attorney's office begins with the arresting police officer who brings the case to the office. If the defendant is in custody, the officer will be interviewed by one of the

assistant county attorneys and the case will be filed at that time. Under the current procedure, if the defendant is not in custody, the arrest reports are left with the receptionist, to be examined by one of the assistants within seven days. If the assistant decides to prosecute the case, he instructs the secretary to prepare a complaint. The officer is then called in and is taken before a Justice of the Peace, where a summons is issued. The case is then presented to the Grand Jury.

Each Monday morning, the County Attorney and his two principle assistants meet and discuss the Grand Jury indictments. Each case is assigned and a plea offer is determined. The file is then transferred to the assistant who will try the case.

At the present time, there are very few records kept of the proceedings in the office. There is no log maintained of police officers and others who come into the office. The Technical Assistance team recommends that such a log be maintained. Information in the log should include the name of the police officer who enters the office, the nature of his business, the case name listed by charge and defendant, the assistant prosecutor to whom the case was assigned for review and the action taken in the case. In this way, a needed office record will be maintained and the practice of prosecutor "shopping" will be eliminated.

There is also no record being kept at the present time of instances when a case is declined for prosecution. It is recommended that an intake worksheet be employed, which would assist the police officer and the attorneys in reviewing cases as they are brought to the prosecutor. An example of such a worksheet is included as Appendix B. This format includes sections which advise the police officer of the intake decision

and any future investigation that may be necessary. Copies are available for the prosecutor's internal files and the police files. This document could also be expanded to include the disposition of the charges to be reported back to the police department.

There is also no form at the present time for conveying information from the branch office at Payson to the County Attorney at the main office. He receives no systematic reports as to the business that is conducted in that office, nor does he receive any reports from the assistant who handles child support enforcement matters. Forms should be developed which could be used to make reports to the County Attorney from these assistants.

In the area of adoption, (which matter under Arizona law requires the appearance of the County Attorney) the forms currently in use are obsolete. The statute was amended in recent years, however the forms in use do not reflect this amendment. There are no forms available to record plea agreements, a situation which should be corrected by developing a simple form for that purpose.

The case file jacket in use in the office does not contain needed information, which should be located on the jacket itself. Several examples of case jackets have been included as Appendix C. It is recommended that one of them be adopted for use in Gila County and pre-printed file jackets be created to reflect this needed information. It is also recommended that cases be numbered for filing, so as to more easily determine if files are missing. A case number consisting of the year, a four digit number and a suffix for each co-defendant should be adopted. This would appear for example, as 81-1001 for a case without a co-defendant and 81-1001B for a case with one or more co-defendants.

After the needed forms have been developed and implemented, it will be easier for the County Attorney to begin to keep statistics in the office, something which is not being done at the present time. A valid statistical base needs to be established upon which to make management decisions. Statistical data has the significant additional benefit of providing data to county governing units and other interested parties indicating the workload of the County Attorney's office. This is an invaluable resource in any discussion concerning additions to the budget within the prosecutor's office. These statistics will also assist the County Attorney in managing the case flow in his office and enable him to institute internal evaluation procedures.

It is the recommendation of the Technical Assistance team that the County 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 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 it is occurring. The first column for any given day indicates the total number of cases scheduled, and the second column shows the total number of defendants scheduled. The third column, "Defendants Rescheduled" is a measure of the number of continuances being granted during a particular day. The next boxes enumerate the reasons 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 County Attorney will be able to keep useful statistics for the office with a minimum burden to the clerical personnel who will be performing these tasks. More detailed information on the collection and use of statistics can be found in Appendix E of this report.

The Technical Assistance team also noted that the County Attorney includes in the count of dismissals those cases which have been reduced from the original charge. It was indicated that for the past year, out of a total of 262 cases, 96 were dismissed, or nearly 40 percent. This figure is misleading because prosecutors typically do not report these types of charge reductions as dismissals. The actual dismissal rate for the office may not be as high as indicated by these figures. Since

these are not in fact dismissals, it is recommended by the Technical Assistance team that the County Attorney stop counting reduced charges as dismissals, thus making the count more accurately reflect the disposition rates in the office.

At the present time, there is no formal structure to the intake process in the office. Cases are screened as they enter the office by the assistant county attorney who is available. No formal records are kept of the decisions made. It has been previously recommended that forms be developed for recording these decisions. It is also recommended that several steps be undertaken to formalize the intake function in the office. A screening policy statement was promulgated in May, 1978. It is also recommended that this statement be reviewed and updated to reflect the current policy of the County Attorney. It should be discussed with all attorney personnel and implemented as office policy. The screening of criminal cases should receive a higher priority by the County Attorney and a commitment of more resources than are presently being dedicated in the office.

The intake worksheet included as Appendix B should be used to assist the police officer and the attorney staff in reviewing criminal charges. One assistant county attorney should be assigned each day to the screening function. At the present caseload level, this task should not consume more than two hours per day. This attorney should then be responsible for the cases he has accepted for prosecution through all phases of the criminal process, including the grand jury presentation and trial.

The present system in which the County Attorney and his assistants review the Grand Jury indictments each Monday should be continued. However, a case should be assigned to the assistant who made the intake decision for that case, rather than being assigned on a random basis.

Caseloads should be evenly distributed by rotating the assistants in the intake function. A single secretary should be assigned the screening support function, which would include the preparation of complaints, using form pleadings.

It was also noted by the Technical Assistance team that the office is preparing complaints in non-arrest cases that go directly to the Grand Jury. This is an unnecessary additional step and results in needless document preparation. It is recommended that the County Attorney consider eliminating the complaint process step when cases are being brought directly to the Grand Jury without prior arrest.

A review of the filing system indicated that it is adequate for the needs of the County Attorney at this time. The card indexing system also appears to meet the needs of the office satisfactorily. The Technical Assistance team would suggest, however, that the information presently being recorded on the 3x5 index cards be expanded to include reasons for discretionary activity by the prosecutor, dismissal reasons, case reduction reasons and continuance reasons. This data then can be used to generate the statistics which the team recommended be kept in an earlier section of this report.

At the present time, the County Attorney does not review petitions to revoke probation. They are prepared and filed by the Probation Department with no input or supervision by the County Attorney. This is also true of juvenile cases. Most of the decisions as to how a juvenile case shall proceed are made by the Probation Department with little consultation or direction from the County Attorney's office. Police agencies do not bring juvenile cases to the County Attorney, instead

they are taken to the Probation Department, where the case is handled.

In the Probation Department, the probation officer who handles juvenile matters acts as the advocate. There is no assistant prosecutor in the County Attorney's office currently assigned to juvenile matters. The County Attorney does not receive information from the Probation Department concerning the number of juvenile cases pending or the dispositions in those cases. This system was established by the County Attorney's predecessor and was inherited by him when he assumed office.

It is strongly recommended by the Technical Assistance team that the County Attorney immediately arrange a meeting with the Probation Department and the Juvenile Justice authorities, in order to discuss the common problems which exist. These problems should be readily solvable with the cooperation of all parties. The County Attorney needs to be appraised of all parole revocation cases and juvenile cases which are considered by the Probation Department. He needs to receive records concerning the intake of cases by the department and to review those juvenile cases designated for prosecution. An assistant county attorney should be made available to represent the County Attorney's office in juvenile cases which are formally prosecuted in the courts. It was indicated to the team that the Probation Department will welcome input from the County Attorney in these matters.

handles approximately 75 to 80 percent of the criminal cases in Gila

Currently, the Public Defender handles approximately 75 to 80 percent of the criminal cases in Gila County. Two weeks after the arraignment in felony cases, plea negotiations are commenced between the Public Defender and the County Attorney's office. In most of the cases, a condition of the plea bargain is that the defendant will be supervised by the Probation Department. This

condition appears to the Technical Assistance team to be needlessly expensive and not warranted in the majority of cases. It is recommended that each case should be considered on its merits, and that the imposition of probation as a condition to a plea bargain (especially in minor criminal matters where the defendant has no prior record) is unnecessarily burdensome and needlessly expensive.

An additional recommendation concerns the plea offer itself. Currently the appropriate form available in the office for recording plea offers, is not in use. It is recommended that this form be used in the future, and that a plea cut off date be established, after which pleas will only be accepted to the original charge. This plea cut off date should provide the defense with sufficient time to review the facts of the case, and should be well in advance of the trial setting. Notice should be given to the courts and the defense bar well in advance to assure smooth implementation of this time certain plea offer system.

The Technical Assistance team also noted that many cases which are now being processed as felonies could more properly be handled in the Justice of the Peace Court. This practice is mostly historical, occasioned by past practice, rather than by statutory mandate. It is recommended that in certain cases, such as the possession of small amounts of marijuana, the County Attorney examine each case as it enters the system, and process those which warrant such treatment, in the Justice of the Peace Court.

C. Diversion

Pursuant to Title II, Chapter 2, Article II, the County Attorney refers certain adult defendants to a diversion program. In these cases, the County Attorney makes an initial determination at the screening stage that a defendant is eligible for diversion. The case is then sent to the Probation Department where it is assigned to a specialized officer who investigates and makes a final decision as to whether to enter the defendant in the program. Under the previous County Attorney, the involvement of the County Attorney's office ended at this point. There was no ongoing supervision of these cases or any further input by the County Attorney.

Under the present diversion program, participants are required to complete forty hours of community service, in such programs as the Senior Citizens Center, The Humane Society, various hospitals, Boy Scouts and Girl Scouts and the Special Olympics. The arresting police officer and the victim must consent and restitution must be made where appropriate.

While the Technical Assistance team feels that the programs in use are good ones, it does not feel that they should be under the authority of the Probation Department. Diversion is a prosecution function, and as such, should not have been delegated to the Probation Department by the past prosecutor. The team strongly urges that the County Attorney meet with the officers in the Probation Department to discuss ways in which the diversion function can be returned to the County Attorney's office, where the decision to divert would become part of the intake function. An example of a format used successfully in other jurisdictions is included as Appendix F.

D. Child Support Enforcement

Child support enforcement in the county is on a contractual basis by a private attorney operating in his private law firm. The Technical Assistance team found this attorney to be very dedicated to the responsibilities of child support enforcement. The program appears to be working well for the most part. However, there are several areas in which improvement could be made.

The Department of Economic Security in Phoenix does not keep the Child Support Enforcement attorney informed as to incentive payments. This appears to be a recurring problem in Arizona; the same complaint having been heard on previous technical assistance visits to Maricopa and Pinal Counties. In addition to the lack of notification as to incentive payments, the 75 percent Federal financial participation funds from the Department of Economic Security in Phoenix are often three to four months late. On those occasions in the past the Child Support attorney indicated that he had to personally borrow money to meet office expenses and pay salaries.

The County Attorney has been unaware of these recurring problems between the Department of Economic Security and the Child Support Enforcement attorney. It is recommended by the Technical Assistance team that he meet on a weekly or biweekly basis with the assistant in charge of child support enforcement in order to familiarize himself with the problems of that office. The County Attorney should also use the authority and prestige of his office to expedite such matters as the payment of the 75 percent Federal financial participation funds. It is also recommended that the County Attorney and the County Manager examine the cooperative

agreement between the county and the Arizona Department of Economic Security to determine whether any changes should be made at this time as to duties, responsibilities and the division of authority in child support matters.

Another problem observed by the Technical Assistance team concerns communication between the Child Support Enforcement office and the County Clerk's office. It is difficult for the Child Support office to determine the status of various child support payment accounts. It is essential to effective collection of child support that delinquencies be responded to as soon as possible. At the present time, the secretary in the child support office must call the County Clerk's office frequently to determine payment status on accounts. She indicated that personnel in the County Clerk's office resent being interrupted to answer these frequent inquiries, and as a result, offer little cooperation in gathering the information needed by the child support enforcement office.

It is therefore recommended that a computer terminal be obtained and installed in the Child Support Enforcement office so that the County Clerk's computer can be accessed from there. This would eliminate the need for frequent telephone inquiries and provide the Child Support office with the updated information which it needs.

A continuing problem in child support enforcement, not only in Gila County, but throughout the country, deals with the Uniform Reciprocal Enforcement of Support Act.. This act concerns parents in other states, for example, who are responsible for the support of resident children in Arizona. One of the purposes of the Federal Child Support Enforcement law (IV-D) was to eliminate enforcement problems in this area. However,

little has been accomplished since the passage of Title IV-D in 1975.

It is therefore recommended that the County Attorney encourage the Director of the Arizona Prosecuting Attorneys' Advisory Council to communicate with the membership throughout the state to assess the extent and magnitude of this problem and then meet with the Department of Economic Security to seek a resolution to such problems as the failure to report incentive payments and pay them in a timely fashion and the inexcusable delinquency which occurs in the payment of the 75 percent Federal financial participation funds.

V. CONCLUSIONS

This analysis and these recommendations are presented with the realization that the County Attorney has been in office for only a few months, and that many of the problems encountered were created over a period of the past several years.

The most severe problem facing the new County Attorney is the part time status of both the office of County Attorney and the assistant county attorneys. This part time system has created a situation in which the rest of the criminal justice system has been forced to accommodate the schedule of the County Attorney's office. There are also many potential conflict of interest problems, as well as problems concerning lack of preparation of cases and delays in case screening.

In addition to the historical basis for this situation, it has been perpetuated due to a lack of funding at a level necessary to retain attorneys on a full time basis.

It is clear that the system of part time prosecution must be altered and a plan be developed to encourage full time professionalism within the County Attorney's office. It is the recommendation of the Technical Assistance team that a program be designed with the objective that at the end of the third year of the program, all attorneys in the office will serve on a full time basis.

In order to implement this recommendation, it will be necessary for the County Attorney and his assistants to receive sufficient compensation to retain their services on a full time basis. Although the Technical Assistance team is aware of the 7 percent ceiling on budget

increases, it is very clear that the County Attorney's office will require a 10 percent increase per year for the next three years.

It is also recommended that all attorneys hired in the future be hired only on the condition that they engage in no outside practice of law. Active recruitment programs should be commenced within the major law schools in Arizona. Consideration should also be given to combining two of the part time positions to create one full time position.

The County Board of Supervisors should be presented with a detailed list of all of the problems created in the office of the County Attorney and the rest of the criminal justice system in Gila County which arise from the part time condition of the office.

At the present time, the intake process is not formalized in the office, with the result that very little is communicated to the various police agencies concerning standards for acceptance of a case for prosecution and the reasons for which cases are declined. It is recommended that the intake function be formalized, and that one assistant be assigned the intake function each day. This assistant should then be responsible for the cases he accepts for prosecution on that day through each stage of the process, to final disposition. Records should be kept of the intake decisions on the forms provided in this report. A log book should be maintained containing information on police officers' visits to the office to bring cases for prosecution. This log book should contain the name of the officer, the name of the case, and the assistant prosecutor who reviewed the case.

Forms should also be designed and used to convey information between the main office and the branch office in Payson. The County Attorney

should receive periodic reports from this office, as well as the Child Support Enforcement office.

The case file jacket does not contain needed information, which should be located on the jacket itself. It is recommended that one of the model case jackets included with this report be adopted for use in the Gila County Attorney's office. A case numbering system should also be created which will reflect the year, the type of case and whether there are any co-defendants.

After the needed forms have been developed and implemented, it will be easier for the County Attorney to begin to keep statistics in the office, something which is not being done at the present time. It is the recommendation of the Technical Assistance team that the County Attorney begin keeping statistical records using the forms provided in this report. These records will be invaluable in discussions with the County Board of Supervisors concerning the budget for the office.

The Technical Assistance team noted that the County Attorney includes in the count of dismissals those cases which have been reduced from the original charge. Prosecutors typically do not report these types of charge reductions as dismissals. The actual dismissal rate for the office may not be as high as indicated by these figures. Since these are not in fact dismissals, it is recommended that the County Attorney stop counting them as such, thus making the count more accurately reflect the disposition rates in the office.

A screening policy statement was developed in 1978, but has not been in use in the office in recent years. It is the recommendation

of the team that this policy statement be reviewed and updated by the County Attorney. It should then be discussed with all attorney personnel and implemented as office policy concerning screening decisions. In addition, a single secretary should be assigned to the screening function to prepare complaints.

It was also noted by the Technical Assistance team that the office is preparing complaints in non-arrest cases which go directly to the Grand Jury. This is an unnecessary step and results in needless document preparation. It is therefore recommended that when cases are brought directly to the Grand Jury without prior arrest the complaint process step should be eliminated.

At the present time, the County Attorney does not review petitions to revoke probation, nor does he review juvenile cases. These cases are handled by the Probation Department. Both of these matters could easily be considered at the intake stage in the County Attorney's office, and be handled by the screening section and the assigned screening attorney. It is strongly recommended that the County Attorney immediately arrange a meeting with the Probation Department to discuss the problem of lack of communication between these two offices.

In most of the plea bargains at the present time, a condition of the bargain is that the defendant be supervised by the Probation Department. This condition appears to the Technical Assistance team to be needlessly expensive and not warranted in the majority of cases. It is recommended that each case be considered on its merits, and that to impose probation as a condition of a plea bargain, especially in those instances in which

the crime is minor and the offender has no prior record, is unnecessarily burdensome and needlessly expensive.

It is also recommended that in the area of plea bargains, a plea cut off date be established. After this date, the defendant must stand trial or plea to the original charge, as the plea bargain has expired. There is a form in the office for the making of formal plea offers, which is not currently in use. It is recommended that this form be used to convey plea offers to the defendant. Notice should be given to the defense bar and to the bench concerning the implementation of the new plea cut off policy in the office, in order to facilitate a smooth transition in policy.

It was brought to the attention of the Technical Assistance team that many cases which are now being processed as felonies could be more properly handled in the Justice of the Peace Court. It is recommended that in certain cases, such as possession of small amounts of marijuana, the County Attorney's office should examine each case as it enters the system, and process those which warrant such treatment in the Justice of the Peace Court.

Under previous County Attorneys, the Probation Department made the final determination as to which defendants should be admitted into the diversion program, after an initial screening by the County Attorney's office. There was no further input or supervision by the County Attorney once the case had been sent to the Probation Department.

Diversion is more properly a prosecution function, and the decision as to which defendants to divert should be made by the prosecutor, according to his policy. This function should never have been delegated

to the Probation Department. It is strongly recommended that the County Attorney meet with the officers in the Probation Department to discuss ways in which the diversion function can be returned to the County Attorney's office, where the decision to divert would become part of the intake function.

Child support enforcement is handled on a contractual basis by a private attorney, working from his office. Most of the problems in this area stem from a lack of communication between this office and the Arizona Department of Economic Security. For example, the DES does not report incentive payments and does not make the 75 percent Federal financial participation fund payments in a timely manner. It is recommended that the County Attorney, who was not aware of these problems in the past, meet with the attorney handling child support enforcement matters on a weekly basis to discuss these problems, and to try to expedite payment of funds. It is also recommended that the County Attorney and the County Manager examine the cooperative agreement between the county and the Department of Economic Security to determine whether any changes should be made at this time as to duties and responsibilities.

It is very important that the child support office receive information concerning the status of accounts from the County Clerk's office in order to quickly follow through on delinquencies. Unfortunately, the only way in which to receive this information is repeated telephone calls to the Clerk's office, a situation which has resulted in a lack of cooperation on the part of personnel in that office, who do not like to be interrupted constantly to provide this information.

It is recommended that a terminal be obtained for the use of the child support office which can access the County Clerk's computer and provide instant updates on the status of accounts, without having to disturb the personnel of the Clerk's office.

The implementation of these suggestions and recommendations should result in a more effective and efficient County Attorney's office, with a resultant long term savings to the taxpayers of Gila County.

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:

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.

"The Prosecutor Constrained by His Environment--A New Look at Discretionary Justice in the United States," Project 450, July 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.

(April 25, 1980)

R E S U M E

WILLIAM R. HYDE
1743 East Thirteenth South
Salt Lake City, Utah

EDUCATIONAL BACKGROUND

1962	Graduate of Olympus High School, Salt Lake County
1966	Graduate, B.S. Degree, University of Utah, Political Science, Certificate in International Relations
1969	J.D. Degree, University of Utah College of Law

EXPERIENCE AND EMPLOYMENT

1969-70	Utah Supreme Court, Law Clerk to Chief Justice J. Allen Crockett
1971-75	Deputy County Attorney, Salt Lake County Attorney's Office
1975-1979	Chief Deputy, Criminal Division, Salt Lake County Attorney's Office
1979 to present	Chief Deputy, Recovery Division, Salt Lake County Attorney's Office
	Director, Statewide Association of Prosecutors
	Lecturer, Instructor, and Consultant for the following organizations:
	Statewide Association of Prosecutors of Utah
	National District Attorneys Association
	Utah Association of Counties
	National Association of County Officials
	Legislative Intern, Washington, D.C.
	Utah State Court Administrators Office
	Licensed Lobbyist -- Utah State Legislature
	Institute for Law and Social Research, Washington, D.C.
	Department of Law and Public Safety, New Jersey

ASSOCIATIONS

Member of the following associations:

- Utah State Bar Association
- American Bar Association
- Statewide Association of Prosecutors
- National District Attorney Association
- National Association of Prosecutor Coordinators
- Prosecution Management Committee, National District Attorney Association
- Utah Supreme Court Committee -- Revision of Utah Criminal Procedural Code

PERSONAL

Born: April 24, 1944
Married to Karen Page Hyde
Two Children: Justin and Jennifer

APPENDIX B

CA-1(8-78)

COUNTY ATTORNEY'S OFFICE
Salt Lake County
Screening Worksheet

AGENCY INCIDENT #
1.

A screening worksheet should be completed, one
for each defendant in each criminal event

2. C.A. CASE #
3. Date
4. Time In
5. Time Out

CASE IDENTIFICATION (TO BE COMPLETED BY OFFICER REQUESTING COMPLAINT, PRIOR TO SCREENING)

6. Defendants Name (Last Name First)		7. S.O.#	8. D.O.B.	9. Sex	10. Race
				M F	
11. Co-Defendants (Last Name First)		12. SO#	13. CO-Defendant		14. S.O.#
15. Arrest Charge / Complaint Requested		16. Statute #	17. M/F	18. Location of Offense	19. Date
Count 1					
2				21. Arrest Location	22. Date
3					23. Time
24. Officer Responsible for Case / Complainant		25. I.D.#	26. Agency	27. Code	28. Division
					29. Work Phone
					30. Home Ph

SCREENING DISPOSITION (to be completed by Attorney)

31. <input type="checkbox"/> CASE FILED	COUNT/CHARGE (FILED)	STATUTE #	M/F	POLICE CHARGE REJECTED (enter reason code(s))
DEFENDANT	1			() ()
CO-DEFENDANT(S)	2			() ()
	3			() ()

32. ☐ CASE REQUIRES FURTHER INVESTIGATION (refer below for required investigation)

33. ☐ CASE DECLINED 34. ☐ DECLINATION REASON CODE(S): () ()
(refer to action reason codes) () ()

35. JAIL RELEASE FORM (CA-2) NEEDED ☐ NOT NEEDED ☐

36. EXPLANATION OF DECLINATION:

40. REQUIRED INVESTIGATION (SECTION TO BE COMPLETED BY ATTORNEY AND OFFICER)

PRIOR TO FILING	PRIOR TO P.H.	PRIOR TO TRIAL	ITEM RECORDS/DOCUMENTS	PRIOR TO FILING	PRIOR TO P.H.	PRIOR TO TRIAL	WITNESS EVIDENCE
()	()	()	1. Rap sheet	1. ()	()	()	1. Witness statement
()	()	()	2. UBI/FBI Rap sheet	2. ()	()	()	2. Typed confession or tape
()	()	()	3. Driving record	3. ()	()	()	3. Polygraph
()	()	()	4. Certified court records				Operator
()	()	()	5. Prison records (explain)	4. ()	()	()	4. Alibi / defense witness statement
6. ()	()	()	6. Vehicle registration	5. ()	()	()	5. New address
7. ()	()	()	7. Business license / D.B.A. articles	6. ()	()	()	6. Additional witnesses
8. ()	()	()	8. Articles of incorporation	7. ()	()	()	7. Witness criminal record
9. ()	()	()	9. Contracts / rental agreements	8. ()	()	()	8. Expert witness needed (explain)
10. ()	()	()	10. Conviction record	9. ()	()	()	9. Lineup needed
11. ()	()	()	11. Other	10. ()	()	()	10. Other
			REPORTS				
1. ()	()	()	1. Initial incident				
2. ()	()	()	2. Supplementals				
3. ()	()	()	3. Evidence				
4. ()	()	()	4. Medical / autopsy				
5. ()	()	()	5. Laboratory / toxicology				
6. ()	()	()	6. Ballistics / firearm				
7. ()	()	()	7. Fingerprint card				
8. ()	()	()	8. Fingerprint latent (explain)				
9. ()	()	()	9. Other				
			PHYSICAL EVIDENCE				
1. ()	()	()	1. Photos (lineup, witness, defendant, scene, etc. explain)				
2. ()	()	()	2. Diagram (explain)				
3. ()	()	()	3. FBI / forensic examination (explain)				
4. ()	()	()	4. Value statement				
5. ()	()	()	5. Other				

ADDITIONAL INFORMATION OR FOLLOW UP INVESTIGATION NEEDED

OFFICERS SIGNATURE
CODE #
DATE

DEPUTY C.A.'S SIGNATURE
CODE #

111

MODEL CASE FILE JACKET

OPTIONAL FOR SHELF PLINGS

WITH SUBORDINATES

NEEDED	IN FILE	EVIDENTIARY MATTER
[]	[]	Autopsy
[]	[]	Ballistics
[]	[]	Chain of Evidence List
[]	[]	Chemical Report
[]	[]	Confession
[]	[]	Contraband
[]	[]	Damages Listed
[]	[]	Evidence
[]	[]	Indictment
[]	[]	Investigative Reports
[]	[]	Motions
[]	[]	Newspaper Articles
[]	[]	Office Memorandum
[]	[]	Photographs
[]	[]	Police Reports
[]	[]	Rep Sheet
[]	[]	Research Material
[]	[]	Restitution Made
[]	[]	Trial Memorandum
[]	[]	Weapons
[]	[]	Witness List
[]	[]	Witness Statements

NEEDED	IN FILE	EVIDENTIARY MATTER
11	11	Autopsy
11	11	Ballistics
11	11	Chain of Evidence List
11	11	Chemical Report
11	11	Confession
11	11	Contraband
11	11	Damages Listed
11	11	Evidence
11	11	Indictment
11	11	Investigative Reports
11	11	Motions
11	11	Newspaper Articles
11	11	Office Memorandum
11	11	Photographs
11	11	Police Reports
11	11	Rap Sheet
11	11	Research Material
11	11	Restitution Made
11	11	Trial Memorandum
11	11	Weapons
11	11	Witness List
11	11	Witness Statements

CONFIDENTIAL NOTES

INSIDE BACK COVER

BACK COVER

[illegible]

CHARGES			Felonies				Misdemeanors			
	1	2	3	4	5	6	7	8	9	10
Count 1										
2										
3										

DEFENDANTS		
A.		
B.		
C.		

DEFENSE COUNSEL (NAME, ADDRESS, PHONE)			File	Court	Pub
			to	App	for
			be	pe	del
			ad	ad	ad
A.					
B.					
C.					

OTHER PENDING/COMPLETED CASES		
Charge	Prosecutor	C. A. Case No.

POLICE OFFICER (NAME, DEPT / UNIT, BADGE NO.) REPORTING (RI) COMPLAINTING (CI)		OFFENSE REPORT NO.

DISPOSITION OF DETAINERS		
Date Information Filed	Demand Date	Expiration Date

SCREENING		COURT EVENTS	
COUNTY ATTORNEY		DATE	
1. Screening: _____			
2. Reviewing: _____			
3. Assigned: _____			

SENTENCE																																									
DEFENDANT A:																																									
Date imposed: _____ Judge: _____ A.C.A. _____																																									
<table border="1"><thead><tr><th colspan="4">CONFINEMENT</th><th colspan="4">PROBATION</th></tr><tr><th>Charge/Type</th><th>U.S.P. (M)</th><th>Ind. (M)</th><th>Other</th><th>Term (M)</th><th>Period</th><th>Term/Conditions</th><th>Other (M)</th></tr></thead><tbody><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></tbody></table>		CONFINEMENT				PROBATION				Charge/Type	U.S.P. (M)	Ind. (M)	Other	Term (M)	Period	Term/Conditions	Other (M)																								
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DEFENDANT B:																																									
Date imposed: _____ Judge: _____ A.C.A. _____																																									
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DEFENDANT C:																																									
Date imposed: _____ Judge: _____ A.C.A. _____																																									
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Charge/Type	U.S.P. (M)	Ind. (M)	Other	Term (M)	Period	Term/Conditions	Other (M)																																		

FINAL DISPOSITION	
DEFENDANT A:	
REVIEWED BY: _____	
DEFENDANT B:	
REVIEWED BY: _____	
DEFENDANT C:	
REVIEWED BY: _____	

1. Court Event (e.g. Arr. PH, Trial, etc.)		2. Judge	
Date / Time			
3. Defense Counsel		4. ACA (Co. Atty. handling Ct. event)	
A. <input type="checkbox"/> Yes <input type="checkbox"/> No		B. <input type="checkbox"/> Yes <input type="checkbox"/> No C. <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Action Taken / Result / Narrative of Reason (e.g. defendant bailed out, court dismissed, witness failed to appear, PH cont.)			
8. Action or Continuance Reason Code: Enter Reason Code No. _____			
9. Party Moving for Cont.: State <input type="checkbox"/> Defense/State Ready <input type="checkbox"/> Mutual <input type="checkbox"/> Court <input type="checkbox"/> Defense/State Not Ready <input type="checkbox"/>			
10. Defendant Release Status: Jail <input type="checkbox"/> Pretrial <input type="checkbox"/> O.R. <input type="checkbox"/> Cash/Property <input type="checkbox"/> Bond <input type="checkbox"/> Amt. <input type="checkbox"/>			
11. Next Action Date / Time		12. Instructions/Remarks	

1. Court Event		2. Judge	
Date / Time			
3. Defense Counsel		4. ACA	
A. <input type="checkbox"/> Yes <input type="checkbox"/> No		B. <input type="checkbox"/> Yes <input type="checkbox"/> No C. <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Action Taken / Result / Narrative of Reason			
8. Action or Continuance Reason Code: Enter Reason Code No. _____			
9. Party Moving for Cont.: State <input type="checkbox"/> Defense/State Ready <input type="checkbox"/> Mutual <input type="checkbox"/> Court <input type="checkbox"/> Defense/State Not Ready <input type="checkbox"/>			
10. Defendant Release Status: Jail <input type="checkbox"/> Pretrial <input type="checkbox"/> O.R. <input type="checkbox"/> Cash/Property <input type="checkbox"/> Bond <input type="checkbox"/> Amt. <input type="checkbox"/>			
11. Next Action Date / Time		12. Instructions/Remarks	

- I EVIDENCE**
A. Scientific Analysis
001 Analysis Report Unavailable (incomplete, lost, unavailable)
B. Physical Evidence
011 Physical Evidence of Crime Unavailable or Missing (lost, stolen, destroyed, etc.)
C. Other Evidence
020 Other Evidence Problems (used only if specific reason not given above)

- II WITNESS PROBLEMS**
A. Appearance/Attitude
011 CW No Show or Appears Unfit for Trial (drunk, etc., was served or notified)
012 CW Unavailable (out of town)
013 Unable to Locate CW (Not served or notified)
014 Essential Witness No Show or Appears Unfit for Trial (drunk, etc., was served or notified)
015 Essential Witness Unavailable or Reluctant
016 Unable to Locate Essential Witness (other than CW or police officer, not notified)
017 Police Officer No Show or Unavailable (served or notified)
018 Police Officer Unavailable (not served or notified)
019 Witnesses Not Subpoenaed or Notified of Court Hearing (clerical or calendar error)
020 Witness Late to Court Hearing

- III DIVERSION**
Diversionary Programs
070 Formal Diversion Program Accepted by Defendant
071 First Offender Treatment
Other Diversion
074 Private Remedy Taken (restitution made, defendant warned off, i.e., child abuse-parent and child to be separated)
075 Civil or Administrative Action Taken (formal proceeding)

- I EVIDENCE**
A. Scientific Evidence
01 Analysis Report Unavailable (incomplete, lost, unavailable)
02 Analytical Results Insufficient to Prove Offense (e.g., toxic report negative)
B. Physical Evidence
03 Physical Evidence of Crime Unavailable or Missing (not recovered, lost)
04 Physical Evidence Insufficient to Prove Offense Charged (e.g., not deadly weapon, or theft value less than requirement)
C. Testimonial Evidence
05 No Corroboration of Offense (refers only to testimony - no other evidence corroborative, e.g., rape)
06 Testimony and Circumstances Insufficient to Establish a Necessary Element of the Offense
07 Insufficient Nexus Between Defendant and Crime (e.g., IMI) - found under defendant's car
08 No or Insufficient ID pre-complaint Identification Procedure
C. Other Evidence (for evidence problems only)
09 Other Evidence Problems (used only if specific reason not given above)

- II WITNESS PROBLEMS**
A. Appearance/Attitude
10 CW/Victim Refuses to Prosecute or Reluctant
11 CW/Victim No Show or Appears Unfit for Trial (drunk, etc.) served with subpoena
NOTE: For Unlawful Search and Seizures See Violations of Due Process
12 CW/Victim Unavailable (sick, out of town)
13 Unable to Locate (not served subpoena)
14 Essential Witness No Show or Appears Unfit for Trial (drunk, etc.)
15 Essential Witness Unavailable or Reluctant
16 Unable to Locate Essential Witness (other than CW or police officer) - Not served with subpoena
17 Police Officer No Show or Unavailable (served with subpoena)
18 Police Officer Not Located or Served with subpoena
19 Other Witness No Show or Unavailable (e.g., expert, other lay, etc.)
20 Witness Privilege (spousal, 5th, etc.)
21 Police Request Witness Not to Testify (e.g., undercover)
B. Testimony
25 Witness Story - Confused/Garbled - Unrealistic, Implausible, Disbelieved

- I NOT GUILTY**
801 Not Guilty Jury Verdict
802 Not Guilty Non Jury
803 Not Guilty by Reason of Insanity - Jury
804 Not Guilty by Reason of Insanity - Non-Jury
805 Not Guilty by Reason of Insanity - Non-Jury
II GUILTY
801 Guilty - Jury Verdict
802 Guilty - Non Jury

CONTINUANCE ACTION REASON CODE

- IV PROCEDURAL CONTINUANCE**
100 Continued to Next Hearing (city court)
101 Continued to Initial Pre-trial Hearing Date
102 Continued to Felony Arraignment - Preliminary Hearing Waived (District Court)
103 Continued to Felony Arraignment (District Court Preliminary Hearing)
104 Continued for Motions (city court) 10 day plea, bench hearing, etc.
105 Continued to Trial Date
106 Continued to Motions Hearing
107 Continued to Initial Pre-trial Hearing
108 Continued for 30 day Sentencing Evaluation
109 Other Procedural (used only if specific reason not given above)
V COUNSEL PROBLEM
111 Counsel Unavailable (sick, vacation, etc.)
112 Counsel in Trial or Other Judicial Proceeding
113 Counsel Not Prepared
114 Counsel Being Replaced
115 Counsel Not Assigned (legal defender not subpoenaed)
116 Counsel Claims No Notice of Court Date
119 Other Counsel Problems (used only if specific reason not given above)

- VI DEFENDANT PROBLEMS**
120 Defendant Unavailable (sick, etc.)
121 Defendant Not Brought Up (in jail or prison)
122 Defendant in Custody Other Jurisdiction (for federal prison)
123 Codefendant Problems
124 Defendant Found Competent
125 Defendant Found Incompetent
126 Defendant Appears but is Unfit for Trial (drunk, etc.)
127 Defendant No Show (bench warrant issued)
128 Defendant No Show (notification ordered)
129 Defendant Late
130 Defendant Evidence Problems

DISMISSAL REASON CODES COURT OR PROSECUTOR

- 26 Witness Story - Contradicted by Other Facts or Testimony
27 Witness Personal Credibility Questionable (damaging past conduct or history, insufficient powers of observation, e.g., weak eyes, mentally incompetent, etc., known bias or poor demeanor [trial worthiness or character])
29 Unable to Qualify Witness, e.g., witness not competent
30 No Corroboration of Accomplice Testimony
31 Victim/Witness engaged in illegal or immoral activity
32 Victim/Witness motive improper
III LACKS PROSECUTIVE MERIT
33 Violates Letter Not Spirit of Law
34 Office Policy (formal only)
35 Offense of Trivial or Insignificant Nature (e.g., insignificant amount or minor injury involved)
36 Good Defense (alibi, entrapment, self defense, etc.)
37 Case Moot (defendant dies, statute of limitations runs out, etc.)
38 Defendant's Personal Characteristics (past history, record, age, individual circumstances, remorseful, etc.)
39 Nature of Offense - Family or Personal Matter (interrelationship of victim and defendant relatives, lovers, friends, etc.)
40 Request of CW - Police Officer
41 Defendant Providing Information to Police, etc.
42 Defendant Entered Military Service
IV VIOLATIONS OF DUE PROCESS
43 No Probable Cause for Arrest/Stop
44 Unlawful Search and Seizure - No Probable Cause for Search/Seizure (e.g., pretext search)
45 Unlawful Search and Seizure - Warrant Execution Problem/Improper Consent Obtained
46 Unlawful Search and Seizure - Impermissible Scope (e.g., Terry Frisk incident to arrest)
47 Inadmissible Confession or Statement by Defendant (Miranda, etc.)
48 Procedural delays (e.g., Rosa v. U.S. delay in arraignment, P.H., presentment, trial, etc.)
49 Other Due Process Problems (used only if specific reason not given above)

- V JURISDICTIONAL**
A. Procedural
80 Lack of Jurisdiction (offense occurred in other county)
81 Lack of Venue
B. Referrals

FINAL DISPOSITION REASON CODE

- 804 Found Guilty of a Lesser Included Offense - Jury
805 Found Guilty of a Lesser Included Offense - Non-Jury
806 Plea is Charged (no plea bargain involved)
807 Plea to Lesser Included Offense
812 Plea to This Charge in Exchange for Dismissal in Other Case(s)
813 Plea to Guilt in This Case in Exchange for Dismissal in this case

- VII ADMINISTRATIVE REASONS**
135 Court Under to Health Care (no judges available, etc.)
136 Judge Problem (ill, unavailable, etc.)
137 Jury Problem (ill, unavailable, unable to convene)
138 Continued Because Defendant Failed to Enter Plea Agreed Upon
139 Plea Offer Withdrawn (not accepted by court or withdrawn)
140 Sentencing Continued
141 Clerical or Administrative Error (order to bench trial mistyped as or failing, mistaking intention, etc.)
142 Remanded for Preliminary Hearing
143 Redrafted in Grand Jury After Dismissal
VIII PENDING ACTIONS
144 Court to Take Under Adjustment or Continuance
145 Continued to Allow Disposition to be Worked Out (e.g., plea bargain negotiations, restitution, etc.)
147 Continued Pending Civil or Administrative Proceeding
148 Continued Pending Other Litigation (D/S/C, other criminal proceeding)
150 Guilty Plea Vacated by Court
151 Continued Pending Interlocutory Appeal
IX JUDICIAL PROCESS OF ADMINISTRATION
155 Case Severed
156 Continued for Bill of Particulars
157 Continued for Joinder
158 New or Amended Complaint/Information Filed
159 Continued for Lineup
160 Continued for Polygraph
161 By Stipulation With Counsel
162 Ex parte by Court
X MISTRIAL (Continued)
168 Hung Jury (continued)
169 Mistrial (continued)
XI CONTINUANCE REASON UNKNOWN
199 Unknown

- 62 Referral to other foreign state jurisdiction (e.g., state with greater prosecutorial interest)
63 Referral to U.S. Attorney
64 Referral to Other County Prosecutorial Agency (e.g., City Prosecutor, J.P. system)
65 Referral to Juvenile Court (defendant a juvenile)
66 Refer to State Agency (e.g., Attorney General - Dept. of Business Regulation)
67 Civil in Nature - refer to private counsel
68 Not a Crime - statute repealed or not existent
69 Defendant Returned to Prison or Referred to Revocation Proceedings
VI DIVERSION
70 A. Diversionary Programs
Formal Diversion Program Accepted by Defendant
72 First Offender Treatment
74 B. Other Diversion
Private Remedy Taken (restitution made, defendant warned off, i.e., child abuse - parent and child to be separated)
Civil or Administrative Action Taken (formal proceeding, e.g., civil mental commitment)
Defendant mentally incompetent (at time of offense)
77 Referred to Probation Revocation Proceeding
Defendant in Rehabilitation Program (V.A., Odyssey, etc.)

- VII BOOKKEEPING CODES - Court**
86 No probable cause to hold for trial
87 Motion to Quash/Dismiss granted
VIII PLEA BARGAINS AND BREAKDOWNS
88 Felony Dismissed for Plea to Other Felony
89 Felony Dismissed for Plea to Misdemeanor
90 Felony Dismissed for Misdemeanor to be Tried
91 Felony Dismissed for Misdemeanor to be Tried
92 Plea to Other Case in Exchange for Dismissal of this Charge
93 Plea to Other Court in Exchange for Dismissal of this Court
94 Facilitate Conviction of Other Offender (e.g., plea/immunity in return for testimony)
95 Dismiss to Refile a New Case (different offense)
96 Other Plea Bargain
97 Defendant Plea to Other Charge Pending in Other Jurisdiction

- IX OTHER DISMISSAL REASON**
98 Other Reason (explain dismissal on file)
I DISMISSAL REASON UNKNOWN
99 Unknown

- 816 Plea Bargain Other (e.g., pled guilty in exchange for dismissal in codefendant's case)
III MISTRIALS
968 Hung Jury - Not Worth Rebringing
969 Mistrial - Not Worth Rebringing
970 Mistrial by the Court Improper Termination Accountable to the State - Dismissed
971 Hung Jury Verdict by Court
IV OTHER FINAL DISPOSITION
990 Other reason (explain on file)

(ATTACH OFFICIAL DOCUMENTS)

CONFIDENTIAL NOTES

DEFENDANT'S NAME:

LAST

FIRST

MIDDLE

COUNTY ATTORNEY NO.

CITY COURT NO.

D.O.B.

MO.

DAY

YEAR

S.O. NO.

DISTRICT COURT NO.

CITY URT NO. _____
DISTRICT COURT NO. _____

COURT EVENTS

1. Court Event		2. Judge	
3. Date / / Time		4. ACA	
5. A. Defense Counsel		C.	
6. Defendant present: A. <input type="checkbox"/> Yes <input type="checkbox"/> No		B. <input type="checkbox"/> Yes <input type="checkbox"/> No C. <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Action Taken / Result / Narrative of Reason Dismissal: Court <input type="checkbox"/> Prosecution <input type="checkbox"/>			
8. Action or Continuance Reason Code: Enter Reason Code No.			
9. Party Moving for Cont.: State <input type="checkbox"/> Defense/State Ready <input type="checkbox"/> Mutual <input type="checkbox"/> Court <input type="checkbox"/> Defense/State Not Ready <input type="checkbox"/>			
10. Defendant Release Status: Jail <input type="checkbox"/> Pretrial <input type="checkbox"/> O.R. <input type="checkbox"/> (end of court event) Cash/Property <input type="checkbox"/> Bond <input type="checkbox"/> Amt. <input type="checkbox"/>			
11. / / Next Action Date Time		12. Instructions/Remarks	

1. Court Event		2. Judge	
3. Date / / Time		4. ACA	
5. A. Defense Counsel		C.	
6. Defendant present: A. <input type="checkbox"/> Yes <input type="checkbox"/> No		B. <input type="checkbox"/> Yes <input type="checkbox"/> No C. <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Action Taken / Result / Narrative of Reason Dismissal: Court <input type="checkbox"/> Prosecution <input type="checkbox"/>			
8. Action or Continuance Reason Code: Enter Reason Code No.			
9. Party Moving for Cont.: State <input type="checkbox"/> Defense/State Ready <input type="checkbox"/> Mutual <input type="checkbox"/> Court <input type="checkbox"/> Defense/State Not Ready <input type="checkbox"/>			
10. Defendant Release Status: Jail <input type="checkbox"/> Pretrial <input type="checkbox"/> O.R. <input type="checkbox"/> (end of court event) Cash/Property <input type="checkbox"/> Bond <input type="checkbox"/> Amt. <input type="checkbox"/>			
11. / / Next Action Date Time		12. Instructions/Remarks	

1. Court Event		2. Judge	
3. Date / / Time		4. ACA	
5. A. Defense Counsel		C.	
6. Defendant present: A. <input type="checkbox"/> Yes <input type="checkbox"/> No		B. <input type="checkbox"/> Yes <input type="checkbox"/> No C. <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Action Taken / Result / Narrative of Reason Dismissal: Court <input type="checkbox"/> Prosecution <input type="checkbox"/>			
8. Action or Continuance Reason Code: Enter Reason Code No.			
9. Party Moving for Cont.: State <input type="checkbox"/> Defense/State Ready <input type="checkbox"/> Mutual <input type="checkbox"/> Court <input type="checkbox"/> Defense/State Not Ready <input type="checkbox"/>			
10. Defendant Release Status: Jail <input type="checkbox"/> Pretrial <input type="checkbox"/> O.R. <input type="checkbox"/> (end of court event) Cash/Property <input type="checkbox"/> Bond <input type="checkbox"/> Amt. <input type="checkbox"/>			
11. / / Next Action Date Time		12. Instructions/Remarks	

1. Court Event		2. Judge	
3. Date / / Time		4. ACA	
5. A. Defense Counsel		C.	
6. Defendant present: A. <input type="checkbox"/> Yes <input type="checkbox"/> No		B. <input type="checkbox"/> Yes <input type="checkbox"/> No C. <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Action Taken / Result / Narrative of Reason Dismissal: Court <input type="checkbox"/> Prosecution <input type="checkbox"/>			
8. Action or Continuance Reason Code: Enter Reason Code No.			
9. Party Moving for Cont.: State <input type="checkbox"/> Defense/State Ready <input type="checkbox"/> Mutual <input type="checkbox"/> Court <input type="checkbox"/> Defense/State Not Ready <input type="checkbox"/>			
10. Defendant Release Status: Jail <input type="checkbox"/> Pretrial <input type="checkbox"/> O.R. <input type="checkbox"/> (end of court event) Cash/Property <input type="checkbox"/> Bond <input type="checkbox"/> Amt. <input type="checkbox"/>			
11. / / Next Action Date Time		12. Instructions/Remarks	

1. Court Event		2. Judge	
3. Date / / Time		4. ACA	
5. A. Defense Counsel		C.	
6. Defendant present: A. <input type="checkbox"/> Yes <input type="checkbox"/> No		B. <input type="checkbox"/> Yes <input type="checkbox"/> No C. <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Action Taken / Result / Narrative of Reason Dismissal: Court <input type="checkbox"/> Prosecution <input type="checkbox"/>			
8. Action or Continuance Reason Code: Enter Reason Code No.			
9. Party Moving for Cont.: State <input type="checkbox"/> Defense/State Ready <input type="checkbox"/> Mutual <input type="checkbox"/> Court <input type="checkbox"/> Defense/State Not Ready <input type="checkbox"/>			
10. Defendant Release Status: Jail <input type="checkbox"/> Pretrial <input type="checkbox"/> O.R. <input type="checkbox"/> (end of court event) Cash/Property <input type="checkbox"/> Bond <input type="checkbox"/> Amt. <input type="checkbox"/>			
11. / / Next Action Date Time		12. Instructions/Remarks	

1. Court Event		2. Judge	
3. Date / / Time		4. ACA	
5. A. Defense Counsel		C.	
6. Defendant present: A. <input type="checkbox"/> Yes <input type="checkbox"/> No		B. <input type="checkbox"/> Yes <input type="checkbox"/> No C. <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Action Taken / Result / Narrative of Reason Dismissal: Court <input type="checkbox"/> Prosecution <input type="checkbox"/>			
8. Action or Continuance Reason Code: Enter Reason Code No.			
9. Party Moving for Cont.: State <input type="checkbox"/> Defense/State Ready <input type="checkbox"/> Mutual <input type="checkbox"/> Court <input type="checkbox"/> Defense/State Not Ready <input type="checkbox"/>			
10. Defendant Release Status: Jail <input type="checkbox"/> Pretrial <input type="checkbox"/> O.R. <input type="checkbox"/> (end of court event) Cash/Property <input type="checkbox"/> Bond <input type="checkbox"/> Amt. <input type="checkbox"/>			
11. / / Next Action Date Time		12. Instructions/Remarks	

1. Court Event		2. Judge	
3. Date / / Time		4. ACA	
5. A. Defense Counsel		C.	
6. Defendant present: A. <input type="checkbox"/> Yes <input type="checkbox"/> No		B. <input type="checkbox"/> Yes <input type="checkbox"/> No C. <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Action Taken / Result / Narrative of Reason Dismissal: Court <input type="checkbox"/> Prosecution <input type="checkbox"/>			
8. Action or Continuance Reason Code: Enter Reason Code No.			
9. Party Moving for Cont.: State <input type="checkbox"/> Defense/State Ready <input type="checkbox"/> Mutual <input type="checkbox"/> Court <input type="checkbox"/> Defense/State Not Ready <input type="checkbox"/>			
10. Defendant Release Status: Jail <input type="checkbox"/> Pretrial <input type="checkbox"/> O.R. <input type="checkbox"/> (end of court event) Cash/Property <input type="checkbox"/> Bond <input type="checkbox"/> Amt. <input type="checkbox"/>			
11. / / Next Action Date Time		12. Instructions/Remarks	

APPENDIX D

INTAKE REPORT

WEEK OF _____ TO _____, 1980

[illegible]

WEEK OF: _____ TO _____, 1980

[illegible]

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32

[illegible]

APPENDIX E

Statistics For Prosecutors

By: Edward Ratledge, Director of Urban Policy Research
College of Urban Affairs and Public Policy, University of Delaware

Over the years a number of prosecutors have asked, "Why do we even bother to collect statistics? What good will they do me?" These questions are certainly valid and I think the answer lies principally in one of two areas. First, from the more philosophical standpoint, there is increasing pressure for all public servants to do a better job. The Criminal Justice System in particular has come under fire for doing a less effective job than the public expects. We have only to look to the comments made by Chief Justice Warren Burger with respect to the competence of prosecuting and trial attorneys as well as the questions raised generally about speedy trial and even the overall equity of the entire Criminal Justice System. Perhaps even more important, however, is the obvious need to use every conceivable tool in order to protect the public interest.

While some state and local governments have found themselves in surplus budgetary positions, the wave of demands for tax cuts sweeping throughout the country certainly is going to make it more difficult to obtain additional funds in the future. Further, the proposed reorganization of the federal law enforcement assistance apparatus could have a demonstrable impact on prosecutors. In many cases, workload is going to increase without further resources being made available. To cope with such budget constraints, the prosecutor is going to have to use every available means to improve the efficiency of his office. Clearly, statistics have a role to play in helping the prosecutor respond to these demands for increased efficiency and accountability.

This monograph is organized into three major sections. The section which follows will cover the basic uses of statistics within the prosecutor's office, the problems and pitfalls in establishing a statistical system, and procedures for getting started with a basic statistical set. I realize that much of the material covered in this section may be old hat to many prosecutors who have been dealing with statistics for a number of years. However, for those who haven't, it is necessary to provide a solid foundation. Following that is a section on more advanced kinds of statistics which require more effort to collect and interpret. The last section covers aspects of analyzing and presenting statistical information. It is not at all uncommon to find prosecutors who collect a large number of statistics, but have a great deal of difficulty in putting them into a form which can be quickly and easily interpreted. Some simple approaches to solving this problem are presented in this section.

GETTING STARTED

Basic Uses. The prosecutor should think of statistics as having four basic uses: 1) management and operations, 2) internal evaluation, 3) planning and 4) public information.

1. Management and Operations. Management and operational statistics are, as their name indicates, those kinds of data which measure the important aspects of the day-to-day operations of an office. One example would be intake statistics — the number of cases brought in by the police and the number filed by the prosecutor's office. A more complex statistic might involve measurement of delay from the time an arrest is made until the time the case is actually presented at the prosecutor's office.

The intake level is the first point in the process at which the prosecutor has some ability to begin managing case flow. By setting the level of screening which will take place and the quality of that screening, he in fact controls the entire processing system for the courts and his own office. Intake statistics are perhaps the most revealing set that might be collected.

Still within this management and operations section, we have what I call processing statistics. These include such data as the number of cases held for grand jury, number of defendants indicted, number of pre-trial conferences held, number of witnesses used, the amount of elapsed time between filing of charges and grand jury action, and the amount of elapsed time between indictment and final disposition.

Process statistics may vary considerably between jurisdictions because of differences in court systems. The important factor, however, is to recognize that there are a whole series of measurements which can be made to describe the actual operation of an office.

Another category of operational statistics deals with outcomes. Just as we are concerned with the numbers of cases coming in, we are also concerned with the quantity and quality of the ways those cases

exit from the system. As we know, many cases exit at intake — i.e., they are screened out. Further, some cases will be no-billed at grand jury, whereas others will be pled at various stages during the process to either the original or a reduced charge. We will be interested in determining the number and outcome of cases that reach the trial state — e.g., acquittal, guilty finding, dismissal during the trial for a variety of reasons, etc. Each of these outcome statistics in a sense measures the degree to which the prosecutor was able to do his job. That does not mean that all cases should end in a conviction. However, statistics of this kind will give the prosecutor a good feel as to whether or not he is letting too many junk cases into the system. If his screen-out rate is relatively low and his nol-pros rate relatively high, he may wish to take action aimed at strengthening initial review procedures.

Operational statistics might be thought of as the gauges typically found on an automobile dash board monitoring fuel remaining, charging, speed, revolutions per minute, and so forth. This information allows management to control the direction and flow of cases within the office.

2. Internal Evaluation. The second category of statistics are those which concern evaluation. By evaluation, we mean comparing a statistic to a standard. For example, when driving, one measures speed using a speedometer and compares it to a standard which is typically the posted legal speed limit. Implicitly, the driver is evaluating the acceptability of his speed with respect to the law.

The speed limit is a fixed standard. However, it is also very possible that we may employ a relative standard. For example, one attorney's conviction or nol-pros rate might be compared to the average rate for attorneys in the office and adjudged either high or low. The prosecutor might also use as the point of comparison the record achieved by the best attorney in the office and measure all other attorneys against that standard. The central point is that evaluation requires comparison.

The most common evaluation statistics are those which measure the workload of each attorney and the quality of the outcomes he is achieving. Another typical kind of evaluation involves comparison of like statistics from different time periods. For example, comparing dispositions occurring this month with those achieved last month or a year ago at this time may provide an indication of whether or not operations of the office are improving.

3. Planning. Our third category deals with planning statistics. Primarily, these deal with trends — the performance of certain data over time. The trend in workload over time is particularly important. If these numbers have been increasing over the last several years, such a trend may require requisition of additional resources in the budget for the next year, and good trend statistics can be very useful in supporting that presentation. If, for example, one can show that the workload of the attorneys has been rising and that, as a result, either cases have become delayed further or the quality of outcomes (more pleas and fewer trials) has effectively declined, the local council may be put in a position of deciding whether to increase the prosecutor's budget or in effect forcing the office to screen out more cases so that the workload remains manageable.

4. Public Information. The fourth category we have called public information. In the absence of good statistics, prosecutors have traditionally been at the mercy of data generated by the court and/or the police. However, it is rare that the police or the courts look at cases in the same way that a prosecutor does, and in fact these agencies may measure success quite differently. In such situations, the prosecutor can be placed at a distinct disadvantage. The police, for example, might show an annual clearance rate of 4,000 burglary cases, when the prosecutor records only 2,000 burglary convictions. This may lead the media to conclude that the prosecutor is letting burglars loose on the street, whereas in most cases the variance arises from different counting procedures or inaccurate police charges. Police also commonly count arrests or complaints, while the courts may either count charges (dockets) or defendants, either of which is likely to be different. We will deal with these problems in measurement a little later on, however. The important point is that good internal statistics generally place the prosecutor in a better position to deal with possibly inaccurate or potentially misleading figures prepared by other agencies.

Preparation of annual reports is another very beneficial way to use statistics. Not only are they likely to be picked up by the newspapers but they also provide a professional publication for use by county officials.

Basically, the statistics which would fall into the public information area are primarily going to be intake and outcome figures. Evaluation and many processing statistics associated with operations will be employed in internal reports.

Problems and Pitfalls. The first and most crucial decision to be made by the prosecutor or the office

administrator is determining what to count. An enormous amount of time and effort goes into the collection of information each year in this country. Too often, statistics are gathered primarily because they can be collected and not necessarily because they are needed.

Every statistic that is collected should have some definite use. If you don't know how to use a piece of information in most cases you should not collect it. While some figures may be nice to have, in most instances they will be poorly measured and a great source of irritation to people who have to collect data which they perceive is not going to be used. This is not only a waste of resources; it is also counterproductive in terms of trying to get employees to collect data carefully. Thus at the very beginning, the first thing the prosecutor should do is identify the uses to which statistics will be put as well as the most important categories of information he would like to see collected.

The second issue which surfaces is the question of when to begin counting. Typically prosecutors who do not have a system of any kind are faced with going back at the end of the month, occasionally at the end of the year, to sift through a series of files and attempt to determine what happened during the period. In most cases this will be so difficult that the job will be poorly done. The rule is then, if you're going to count it, count it as early as possible. Operationally, this means that statistics should be maintained on a daily basis, then aggregated to weekly, monthly, quarterly, and annual totals as needed. Once personnel become accustomed to performing this task on a daily basis, it is more likely that measurements will be properly made and that work will be accurate and meaningful when aggregated. Further, it will come to be viewed as a relatively minor task rather than a major and burdensome undertaking.

The third issue which arises is how to count. As pointed out in our earlier discussion on public information statistics, there is not a great deal of agreement as to how things should be counted within the criminal justice system. The police count complaints and compute clearance rates. The courts count docket numbers, defendants, and charges. The prosecutor on the other hand is faced with handling a unit called a case, which may be a combination of defendants and charges. Thus he must make a decision as to how he wants to measure his workload. The easy choice is, of course, to develop statistics by case, defendant, and charge. If the resources are available, this may be the most appropriate solution. However, it is not typically the one which most prosecutors would choose.

To illustrate what can happen, let us consider an example: Suppose that a case comes into the office which has two defendants and three charges per defendant. At the intake level, this could be counted as one case, two defendants or six charges. However, the first problem to be faced is determining whether to classify the matter as a burglary, assault, or whatever, since this is typically the way a uniform crime report is constructed.

Secondly, charges may be dropped entirely against one defendant during the review process. In such an event, while we still have one case in the system, there is now only one defendant. The number of charges against the remaining individual may also have changed from three to either four or two. For this case then, we have one intake statistic which would remain unchanged through the intake process — i.e., one case came in and one case continued for further processing. However, if we were measuring on the defendant base, we had two defendants come in but only one who was continued for further processing. In the case of charges, six were entered and, assuming that one was dropped against the remaining defendant, only two continued.

Outcome statistics will differ depending upon which measurement basis is employed. Typically, the most successful approach for prosecutors has been to follow defendants rather than cases or charges. If possible, though, it is recommended that the office keep track of both cases and defendants. If only one tracking system can be set up, the defendant base is the best to have. This is particularly true when measuring dispositions. It is not at all unlikely that one individual may be convicted as charged, whereas another in the same case pleads to a lesser charge and a third has charges dismissed entirely. Computation of the outcome statistics in this situation is very easy using the defendant base but very difficult from the standpoint of the case.

There are however, good reasons for continuing to count cases for some purposes. First of all, cases are the unit assigned to attorneys. Secondly, two defendants in two cases is certainly more likely to be more work than one case with two defendants.

The Basic Statistical Set. The following pages describe a set of forms which can be used to collect some fundamental prosecution statistics. Only two categories of data are considered at this level: 1) intake statistics and 2) outcome or disposition statistics.

The most common way of counting in the non-automated office is the tally sheet. Example form 1 is a weekly intake report which is used to count cases and defendants as they enter the system. The amount of

detail which is to be kept for intake purposes is up to the individual prosecutor. On the example form, both cases and defendants may be counted, and detail is sufficient to permit analysis of changes in charges filed as well as cases accepted, referred, or rejected. The intake clerk simply enters a hash mark in the appropriate box to indicate the result of the intake process. Suppose, for example, a case with two defendants comes in to the screening unit. A single hash mark is entered in column 1 for Monday and two marks in column 2. If the case and both defendants are accepted without modification of the charges, then one hash mark is entered in column 3 and two in column 4. Every hash mark in columns 1 and 2 must be repeated once and only once in columns 3 through 10.

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

The second class of statistics which is part of the minimum basic set is the outcome or disposition group. These are more difficult to collect but can be used for a variety of purposes. Example form 2 is a disposition report having basically the same format as the intake report. The headings should include the possible dispositions. These may vary between jurisdictions, but the most common ones are listed. In column 1 are recorded cases and defendants reaching final disposition for that particular day. The upper half of the first block will be used to indicate the number of cases reaching final disposition and the bottom for defendants. In all other blocks along the table, only defendants will be counted. There are simply too many variations in the disposition of individual cases involving multiple defendants to use any kind of reasonable case counting system. Therefore, the various categories, such as pled to original, pled to reduced, and so forth all refer to the number of defendants.

There are a variety of ways that this information might be collected. Two which have proven to be relatively successful are: 1) analyzing the court calendar for each particular day appropriately annotated with the courtroom results; and 2) a master list of all defendants reaching final disposition in a given month.

The latter approach uses a form such as that provided in example form 3. 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 designated clerk will simply review the calendar to extract information and place it on this report. The date called for on the form is, of course, the date that the case was heard. The case number will depend on the jurisdiction. Defendant's name, docket number, and charge are listed individually and disposition is shown for each charge for use later on. The names of the deputy who tried the case or handled the plea and of the trial judge, if applicable, are also listed. The disposition categories correspond to our weekly disposition report. The clerk determines exactly what occurred for that defendant at the trial or plea and marks one column and only one column. At the end of the day, this information can be transferred to the weekly summary report. The last form can be prepared as a summary when the individual who is examining the daily calendar goes through to make the monthly report of dispositions or fill out the disposition report.

Example Form 4, is a calendar report. This report measures the amount of delay arising in the system and the reason why it is occurring. The first column will indicate for any given day the total number of cases scheduled, and the second the total number of defendants scheduled. The next column, "Defendants Rescheduled," is a gross measure of the numbers of continuances being granted during a particular day. In many jurisdictions, this will be a very large percentage of the total number of defendants scheduled. Immediately following are a series of categories which essentially cover the reasons why the defendant was rescheduled. Each one of the defendants rescheduled should fit into one of these categories, although particular jurisdictions may want to add or substitute categories which apply to their specific situation. This kind of data is particularly useful should any question arise as to whether or not the prosecutor is moving the calendar rapidly enough.

It is important to remember that while we have described these reports as being maintained one week at a time, there are any number of ways forms 1 through 4 could be designed. It may be useful, for example, to shift the categories shown here across the top. Alternatively, the forms might be designed as presented here and attached at the end of the month to the summary sheet. The latter would list the months down the left-hand side, and the totals from the weekly report would be transferred to that report at the end of the month. It is the monthly statistics which would be used for much of the analysis discussed below.

I would like to also suggest at this time that the prosecutor consider keeping track of other things besides the criminal cases mentioned here. It is quite likely that many offices will have URESA or civil responsibilities, or they may wish to keep track of citizen complaints and other kinds of numbers which in fact would help reflect the true workload. These kinds of counts can be made in much the same way as the intake report.

FORM 2

DISPOSITION REPORT

WEEK OF: _____ TO _____, 1980

DAY	FINAL DISPOSITION CASES/DEF.	PLED ORIGINAL	PLED REDUCED	FOUND ORIGINAL	FOUND REDUCED	ACQUITTAL	DIRECTED VERDICT	DISMISSALS	CONDITIONAL FINDING
MONDAY									
TUESDAY									
WEDNESDAY									
THURSDAY									
FRIDAY									
SATURDAY									
SUNDAY									
WEEKLY TOTAL									
MONTHLY TOTAL									
LAST WEEK									
NEW MONTHLY TOTAL									

FORM 4
CALENDAR REPORT

WEEK OF: _____ TO _____, 1980

DAY OF WEEK	TOTAL CASES SCHDLED	TOTAL DFNDTS SCHDLED	DFDNTS RE- SCHDLED	BENCH WARRANT	DEFENSE REQUEST	STATES REQUEST	COURTS REQUEST	MUTUAL	UNKNOWN	DFDNT DISMISSED
MONDAY										
TUESDAY										
WEDNESDAY										
THURSDAY										
FRIDAY										
SATURDAY										
SUNDAY										
WEEKLY TOTAL										
MONTHLY TOTAL LAST WEEK										
NEW MONTHLY TOTAL										

DETAILED STATISTICS

In the previous section, we dealt with basic input and output statistics which describe office operations from the outside with no attempt to determine exactly what is going on within. However, if the prosecutor wants to be truly active in managing his office, he will need additional information. For the most part, this will come in terms of workload and processing statistics.

Looking at example form 5, Attorney Workload by Month, the prosecutor can obtain a very good idea of what his staff is actually doing. This report begins with the number of cases pending at the beginning of the month. Obviously, if this were implemented right now, a count would have to be made of each attorney's pending cases in order to have an estimate. As cases are assigned, either in the intake unit or through whatever assignment process is employed, a tick mark is made in the box entitled "New Cases Assigned." At the end of the month those may be totalled to find exactly how many additional cases attorney were assigned during the month. That may not be appropriate in some jurisdictions where processing is not what we would call "vertical" (attorneys assigned to cases, rather than stages in the process). Non-vertical offices will find it more difficult to measure workload.

The next column, "Cases Disposed of This Month," is drawn from the disposition report (Form 2) and from the monthly detailed report of dispositions (Form 3). As you will recall on Form 3, the deputy's name is recorded next to each defendant. From this report, we will be able to count the numbers of cases assigned to that attorney which were disposed of during the month. It is suggested that this record also be maintained on a daily basis and entered as hash marks in the appropriate columns.

Skipping for the moment further over, you will find that the disposition categories of pled to original, pled to reduced, and so forth are the same as those on the monthly report of dispositions. Thus, these items are simply recorded directly as they are recorded on the monthly report of dispositions. Once again, the dispositions are by defendant and not by case.

As the person responsible for the calendar report is going through the calendar, he or she will also have to ascertain the number of defendants scheduled for that particular attorney, rescheduled, and in particular the number rescheduled at the state's request. This will give the prosecutor at the end of the month a feeling for the number of cases that each assistant is handling as well as whether or not their backlogs are building (new cases assigned exceeding the number disposed of). It will also indicate whether there is a problem with a particular attorney with respect to dispositions achieved — too high a plea rate, too high a dismissal rate, or whatever — as well as give a feel for the number of cases that each attorney is rescheduling. This kind of report, while it is somewhat more difficult to compile, can be very valuable in terms of evaluating staff and eliminating any potential problems before they really become cause for some sort of job action.

It should be clear that these statistics may not only be used for corrective action, but also as a basis for rewarding individuals. For example, some offices post these kinds of statistics to provide incentive for attorneys to improve their relative positions.

It should also be clear that this kind of a system is going to be very difficult to deal with in offices which probably have more than 10, 15, or 20 attorneys. As this list gets longer and longer, it is more difficult to collect and interpret information on a manual basis.

A note is necessary at this point for those offices which do not have vertical processing. For example, the intake deputies, if there is a screening unit, will not have dispositions such as those found on form 5, nor will they generally face the problem of rescheduling. For that particular unit, you will want to keep a separate intake report for each deputy to develop some feel for any differences in defendants being accepted or rejected or referred to other agencies. Further, if screening is done on an individual attorney basis, form 5 will have several additional columns indicating the number of cases reviewed, accepted, rejected, and so forth.

Additional detail may be desired depending on the kind of resources that are going to be devoted to developing a statistical system. Dismissals as a category are very difficult to interpret. There are a variety of reasons for dismissals, some of which might be considered good and others which might be indicators of management problems. Thus, the prosecutor would want to know if a large number of dismissals come from failure to comply with speedy trial statutes, witnesses who did not appear, or a variety of those kinds of reasons which reflect directly on the office. Others which are outside the control of the prosecutor may be of less concern. As a result, it is useful in many cases to be able to break down the dismissal category into four or five types. Once again here, it should be emphasized that the illustrated forms are by no means etched in stone, and you should feel quite free to expand or contract them as you feel your particular situation and resources require.

FORM 5

ATTORNEY WORKLOAD; MONTH OF _____, 1980

ATT'Y NAME	CASES PENDING BEG. OF MONTH	NEW CASES ASSIGN- ED	CASES DISPOSED OF THIS MONTH	DEFEN- DANTS CALEN- DARED	DEFEN- DANTS DIS- POSED	PLED ORIG	PLED RED	FOUND ORIG	FOUND RED	ACQUIT- TAL	DIRECT- ED VERDICT	DIS- MISSAL	DEFEN- DANTS RESCHED- ULED

A further cautionary note is probably called for on the measurement of dispositions, whether for an attorney or for the overall office. In many cases there are going to be dismissals given for consideration in another case. In that event, a dismissal does not necessarily indicate a problem. The clerks who are dealing with these kinds of situations must be aware of the various kinds of dispositions and sensitive to such possibilities when they are reading the calendar report or the files.

Some of the more difficult kinds of statistics to collect are those dealing with case processing. These statistics describe the path of a case through the system. This path will vary between jurisdictions because of different procedures, but the concept remains the same. Collection of this kind of data is somewhat arduous and an example is provided in form 6. This form is used at intake to record the case number, date of arrest, and date the case was accepted, allowing you to obtain some benchmark information about the delay between arrest and acceptance. This is the initial point at which the prosecutor has the case within his system. Case numbers would be listed chronologically on the sheet as they come in. Then as the file folder or card system (if there is one) is posted for each of the activities, that case number would be looked up on the sheet and the new date would be entered.

It should be clear, however, that for an office that may be processing as many as 2,000 cases a year, many of which stay in the system from six to nine months, the task of looking up the case numbers unless they are exactly chronological can be quite time consuming. Further, accumulation of information about the total number of cases at any particular stage would require a review of all open cases on the sheet at that point in time. This, of course, becomes a very difficult process to handle manually.

Still, there are several useful things that can be done with this report. First of all, since cases are entered chronologically, one can periodically survey all cases which entered in a particular month and look at the number that have completed the various stages. For example, if we were to look at the record for cases accepted in the month of January, the figures can be broken down to the number of those that have completed the preliminary hearing stage, the indictment stage, arraignment, and the trial or plea process, which is effectively final disposition. In doing this, a monthly report can be generated which will show the month of intake and the number of cases which effectively had been completed or at what stage they are pending.

A second statistic which can be generated for an individual month is the elapsed number of days between any two processing events. You might determine, for example, an average time from acceptance to preliminary hearing or indictment. These averages can then be put into a summary table to determine as the year goes along whether or not the average time lapse at various stages is increasing, decreasing, or staying approximately the same. This gives you an understanding of the overall operation of the system and will help identify various problem areas long before they become otherwise readily apparent.

While these statistics are more difficult to collect, they are a very good indicator of the overall efficiency of the system. Ideally, if this data is collected properly, a report such as that suggested in example form 7 could be produced. This would require a fair amount of clerical work to go back through each one of the monthly listings of case numbers as was shown in example form 6.

If you are not concerned with the average elapsed time portion of the report, there is an easier way to track the completion of case. Using form 7, only the number of cases accepted is entered from the monthly intake report. Then as the calendars are reviewed, the clerk can tell by the case number when the case came into the system. The disposed case is then recorded directly to the appropriate column. At all times then, you will be able to tell the proportion of completed cases for any given month and you will have some idea as to how long it takes to complete 90% of the cases for a given month. It should be emphasized once again that we are not suggesting this is something that the office which is only interested in a minimum number of statistics would even attempt, since it will require the completion of at least one more form in order to even collect the data.

Form 8 is the type of report which might be used to collect charge data. Down the left side, we will list the various kinds of charges which might be brought. Here, the prosecutor has to make several decisions: First, are we going to be concerned with every single charge docketed or are we more interested in the particular type of offense that has been committed? Certainly, out of almost any burglary case there may be anywhere from one to three or four other charges that are filed at the same time the burglary case is brought. The solution will depend largely upon how the data will be used. If, for example, we are concerned with counting by police agency and these agencies have reported a certain number of burglaries, we may want to count each charge as filed by the police. That information would be stored in column one. Column two would then give results after screening, in which some charges have been dropped and others changed. As the disposition reports are filled out on a monthly basis, a determination can be made as to what actually

FORM 6

CASE PROCESSING WORKSHEET, MONTH OF JANUARY, 1980

CASE #	DATE OF ARREST	DATE OF ACCEPTANCE	DATE OF PRE- LIMINARY HEARING	DATE OF INF. / INDICT.	DATE OF ARRAIGN	DATE OF TRIAL/ PLEA.	
780023	1/12/80	1/17/80 (5)	1/27/80 (10)	2/13/80 (17)	2/15/80 (2)		

CASE PROCESSING SUMMARY REPORT
JULY, 1980

[illegible]

happened to those charges. Once again, we will be in a position of having to review one or more forms in the process of collecting statistics, and this in fact can become somewhat burdensome depending on the manpower available to do this kind of work. We would therefore recommend that this particular report be maintained on a monthly basis simply by making hash marks in the appropriate box as cases are filed and at the same time the distribution of final dispositions is recorded. It should be clear, however, that for the month of July indicated on form 8, the numbers brought by police and filed by the prosecutor are obtained from the intake for that month, whereas disposition data may be recorded for cases from a different point in time. The cases are not the same.

This particular set of data would probably be maintained primarily for public information purposes, rather than internal management, unless we begin to see too many police charges filed at a lower level by the prosecutor's office. This situation may call either for encouraging the police to bring their filing more in line with the prosecutor's charging policies or a more aggressive approach by the screening deputy.

Several other reports can be generated from the same kind of data. If desired, a report like form 8 can be developed by showing not the disposition but perhaps the sentence imposed for various types of activity. There may be a situation where the District Attorney would like to track only burglary cases, looking at the sentences imposed and perhaps the judge involved over a two or three month period of time. This is a specialized kind of statistic that probably would not be generated on a regular basis. However, if there is a need, it is better once again to arrange for data to be collected on a daily or weekly basis rather than having to sift back through the files to uncover the desired information.

PRESENTING STATISTICS

As a general rule, it is probably not best to present the prosecutor or any manager with raw statistics. To facilitate management use of these numbers, it is best to reduce them to a shorter report. Generally this can best be done by either graphical methods or by writing a short verbal summary and attaching it to the front of the set of monthly reports. In this way, you can capsule the information that is in those reports and still allow the manager to refer to the data as desired.

There are essentially three basic kinds of graphs we can use: a bar graph, line graph, or what is typically known as a pie chart. Figure 1 shows a typical bar graph, a comparison between 1977 and 1978 with respect to dispositions. A similar approach could be taken for any other kind of comparison — e.g., this month versus last month or this month versus a year ago if data is available. It is generally best suited to two or three time periods.

The line graph, on the other hand, is particularly helpful when you are looking for trends in the data over more periods. The line graph in Figure 2 displays the percentage of cases screened out for each month, showing a general increase over time. This enables a prosecutor to check whether performance is in fact in line with a particular policy.

Figure 3 is a typical pie chart which takes 100% of the cases and then shows how dispositions were reached in this particular period. This kind of graph is particularly useful in communicating with the public. They are a little more difficult to construct in that you first must determine the percentage of all cases falling into a particular category and then be able to effectively divide up the pie appropriately. Typically, this can be done by first dividing the circle into fourths or twelfths. The lines can be interpolated from there. In other words, you might begin by indicating with a small hash mark on the outer part of the circle the 12 o'clock, 3 o'clock, 6 o'clock, and 9 o'clock positions and from there go on to put each one of the other positions on the clock. This of course would divide the circle into twelfths (about 8%) and then from there you could go either to twenty-fourths (4%) or some other subdivision.

The prosecutor must give some thought as to what kind of overall monthly report he wishes to have. This may include some detailed information, some graphical, and some aggregated data. In general, it is suggested that the prosecutor keep a three-ring notebook with a section for the current monthly report summary, the detailed monthly report, and a section for year-to-date information. The summary will contain a verbal and graphical statement highlighting key points for the month — e.g., cases presented are up substantially or the dismissal rate has dropped. The detailed report would contain the information described in the basic forms. The year-to-date section would consist of the forms summarized on yearly sheets with associated graphical material.

When deciding which graphs to use, consideration might be given to the following list:

1. A line graph showing the number of cases presented for each month for the current year and last year. These two lines could be plotted on a single graph using two colors.

FORM 8
INTAKE AND DISPOSITION OF CHARGES
JULY 1980

[illegible]

FIGURE 1
DISPOSITIONS - 1980 vs. 1979

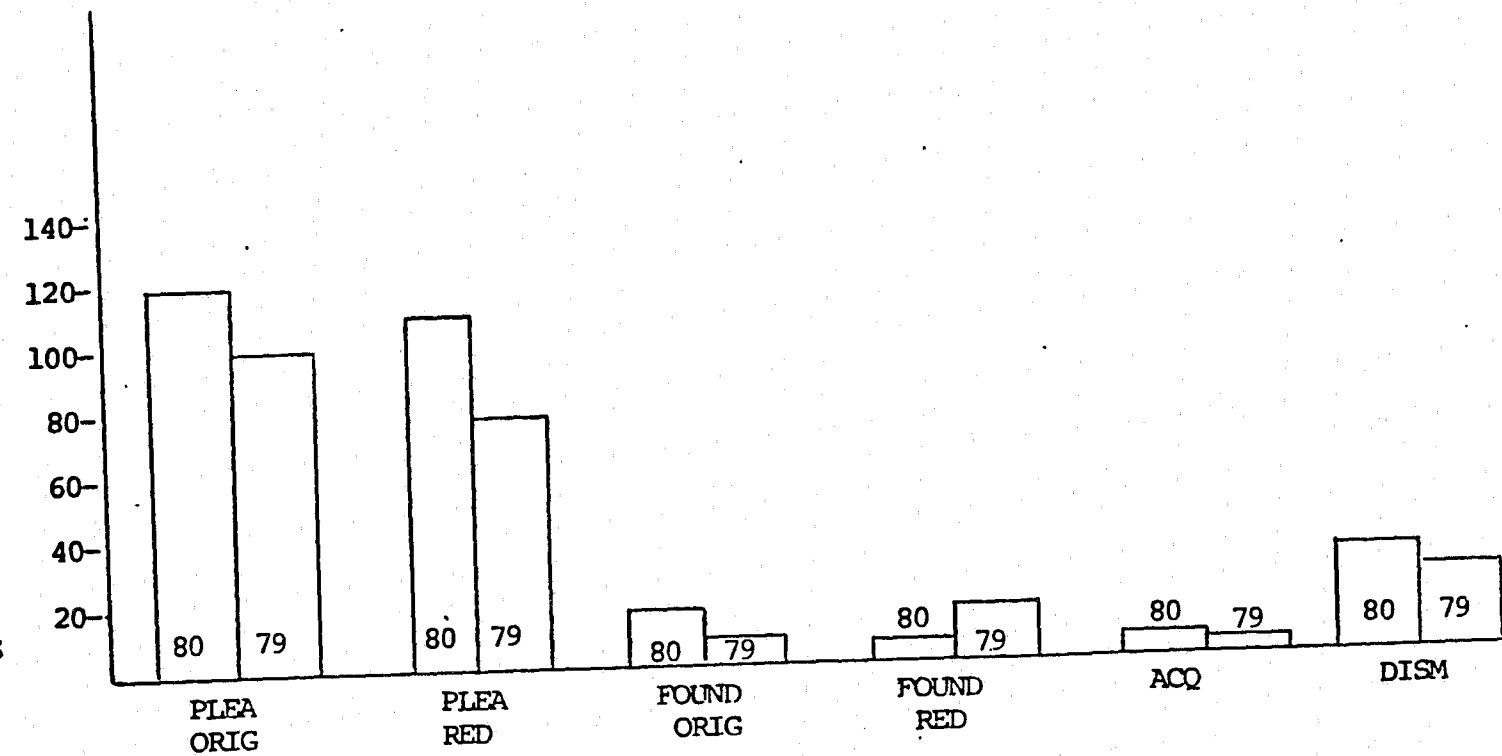


FIGURE 2
SCREENING 1980 BY MONTH
(% screened out)

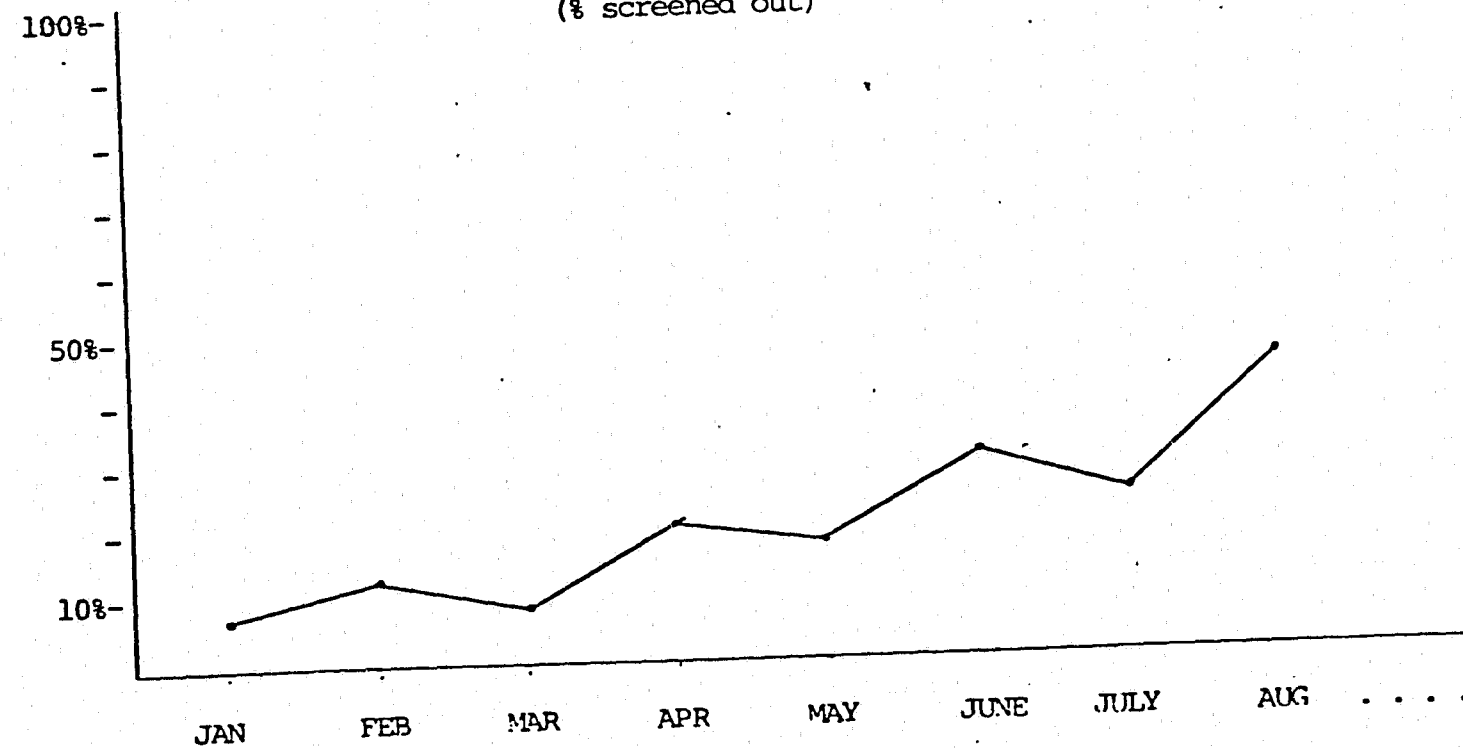
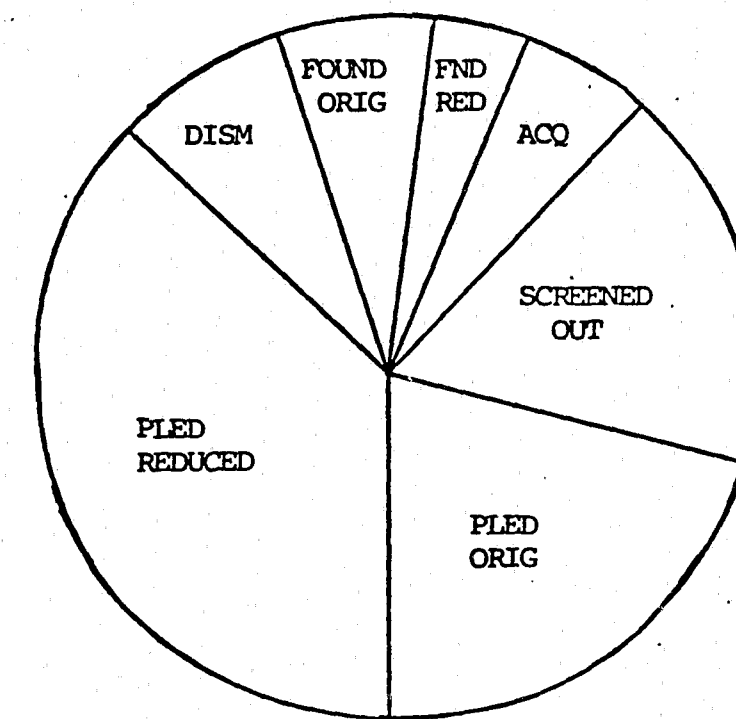


FIGURE 3
DISPOSITIONS



2. Pie chart for last year and this year to date showing the percentage receiving each disposition.

3. Bar graph for each month showing each type of disposition (including intake dispositions) for this year and last.

Each of the three basic charts above has some elements of operations, planning, evaluation, and public relations. The only limit to this kind of work is the utility of the graph itself.

Finally, it should be emphasized that the individual collecting data and preparing statistical reports must have the proper mental discipline and motivation to do this kind of work. There should also be at least one person to take over the task if the regular employee is absent. Further, it is essential that the people doing this work feel that it is being used. Otherwise, the quality of the data and the reports will suffer.

BIBLIOGRAPHY

Relevant titles available on loan from the NDAA Resource Center include:

1. "Counting by Crime, Case, and Defendant," in *Prosecutors' Management Information System (PROMIS) Briefing Series*, Institute for Law and Social Research, Washington, D.C. (1975).
2. *Data Systems for the Prosecutor*, National District Attorneys Association, Chicago, Illinois (1974).
3. "Procedures for the District Attorneys" (disposition reports), in *Criminal Justice Users' Guide*, Louisiana Department of Justice (1976).
4. *PROMIS for the Non-automated or Semiautomated Office*, Institute for Law and Social Research, Washington, D.C. (1976).

In addition, many of the model prosecution office manuals prepared by the various state prosecutors associations contain suggested forms and procedures for data collection and analysis. For a complete list of these, please contact the Resource Center Director, National District Attorneys Association, 666 North Lake Shore Drive, Chicago, Illinois 60611.

APPENDIX F

SALT LAKE COUNTY ATTORNEY OFFICEDIVERSION POLICYI INTRODUCTION

The administration of the Salt Lake County Attorney's Office has recognized that in some instances not all offenders need the maximum implementation of the criminal justice process to fulfill the ends of justice. There are a certain number of cases where alternatives to conventional adjudication may more effectively serve the community, the system and the offender.

A diversion concept becomes increasingly more appropriate in that the alternative to §77-35-17 treatment is no longer available to the full extent as it was under the old code. It is thus no longer possible for a Judge to suspend imposition of sentence, and place a person on probation with the understanding that if those probationary requirements are fulfilled the action will be dismissed. Accordingly, it seems likely that the diversion concept would be a reasonable and worthwhile alternative to such traditional treatment.

It must be emphasized that the Salt Lake County Attorney's Office participation is experimental and subject to modification as the program develops. It is our belief that a diversion program can only be implemented where there can be reasonably definite and effective tracking mechanisms to assure that individual defendants are abiding by their diversion agreement. It will be our policy to utilize Pre-trial Services as the mechanism to assist in the screening of defendants eligible for diversion, and more importantly, to provide the necessary tracking. In cooperation with Pre-trial Services, the diversion process contemplates a number of checks and controls to assure that only those individuals who are truly

diversion eligible enter the program and that they successfully complete all responsibilities.

The perception of the public, law-enforcement and other community agencies is vital to the continued value and use of a diversion program so it is essential that each attorney follow carefully the proscribed procedures for diversion and not deviate therefrom.

It should always be remembered that diversion is a criminal justice program and should be thought of in that context. It should only be implemented where it is reasonably clear that this alternative is the most appropriate means to deal with the criminal defendant.

II CRITERIA

The following are minimum standard criteria for diversion consideration. A defendant must either meet the following criteria or not be excluded thereby to be eligible for diversion.

1. The defendant shall be an adult resident of Salt Lake County and be charged with a Felony or a Class A Misdemeanor offense.
2. The defendant shall not be charged with committing an offense involving the intentional causing of bodily injury to another, the use of a deadly weapon or such means of force likely to produce death or serious bodily injury, offenses involving threats of violence upon the person of another or any other offense involving the intentional infliction of terror or fear upon another.
3. Any defendant charged with a Capital offense or a Felony of the First Degree shall not be eligible for diversion.
4. Review of the criminal history of the defendant, including juvenile record, shall not reveal that the present charge is part of a continuing pattern of illegal antisocial behavior. In this regard the primary consideration is whether the current offense is part of a continuing pattern of such behavior or an isolated event. Individuals who have a continuing pattern of illegal behavior are not acceptable as opposed to individuals who are charged with situational or impulse oriented offenses.

5. In addition to the above general categories, the following specific offenses shall ordinarily not be divertable. In exceptional cases such offenses may be acceptable if it is clearly within the public interest but only after clearance by both the screening committee and the Chief Deputy.

- a. Defendants falling within the Major Offender category as defined by office policy.
- b. Defendants falling within the Major Fraud category as defined by office policy.
- c. Defendants charged with cases involving public corruption as defined by office policy including bribery and extortion.
- d. Felony vice related crimes involving pornography, prostitution, gambling etc.
- e. Escape from official custody.
- f. Perjury or subornation of perjury.
- g. Influencing a witness or obstruction of justice.
- h. Arson.
- i. Property crimes not specifically excluded above where the loss involved is greater than \$5,000.
- j. Conspiracy, solicitation, facilitation, or attempt to commit any of the above offenses or general category of offenses.

6. In addition to the above, to be finally eligible for diversion, the defendant must have either made a full confession to the police or be willing to make a written statement of responsibility. These facts may not be readily ascertainable at screening but are an absolute prerequisite for diversion.

Note: Defendants who refuse to cooperate as required above or who claim they are innocent are not eligible for diversion.

III SCREENING

Each case brought to the County Attorney's Office will be screened as is presently done for prosecutive merit. NO CASE WILL BE ELIGIBLE FOR DIVERSION IF IT IS NOT FULLY PROSECUTABLE.

If a case is deemed prosecutable it will then be screened according to the above eligibility criteria for diversion. If the case is not excluded by one of the above criteria, it will be eligible for diversion. If it is excluded, this fact and the reason for exclusion should be noted on the Diversion Worksheet. This sheet shall become a part of the file.

If a case meets diversion criteria, but the screening attorney has strong feelings that the defendant should not be diverted, he should note his objection on the Diversion Worksheet. This objection will be given considerable weight with respect to the final decision to divert.

If a deputy county attorney has any question regarding diversion eligibility the case should be referred to the Chief Deputy, or his designee for review.

The Chief Deputy or his designee will review all cases screened to examine the correctness of the charge, the manner of charging, and to review those cases which are eligible for diversion.

An additional file will then be opened for the case eligible for diversion and kept separately, and the original case file returned to the file room. Another copy of the case file will be made and supplied to Pre-trial Services to assist them in their evaluation process.

IV COUNTY ATTORNEY EVALUATION AND DIVERSION ACCEPTANCE

Once a case has been screened and meets the eligibility criteria the additional screening evaluation process will commence. This will involve further inquiry by our office as to the facts of the case. Police officers involved will be contacted as to their reactions to the case and to diversion of this particular defendant. Further records checks will be done, including F.B.I. information as well as contact with juvenile authorities to ascertain juvenile

CONTINUED

1 OF 2

record. The victim will also be contacted, and if the victim is a child, his or her parents or guardian. The reaction of the victim is extremely important in diversion determination. Restitution information may also be determined at this time. Contacts will be made with other individuals deemed essential for final eligibility determination.

At the same time that the County Attorney's Office evaluation is being conducted, Pre-trial Services will also conduct a simultaneous investigation consisting of a series of interviews with the defendant dealing with social history, amenability to treatment and treatment alternatives.

Contact will also be made with defense attorneys at this point so that a potential divertee is fully advised of his rights and what he is waiving as a result of agreeing to enter a diversion program. At this time also the defendant will be required to give a full statement of facts as to his participation in the charged offense. This statement has a threefold purpose, i.e. (1) Use in subsequent court proceedings, (2) To require defendant to fully acknowledge and accept responsibility for his conduct, and (3) As an evaluative device to measure candor, sincerity and honesty.

After Pre-trial Services has concluded its investigation, and developed a recommended treatment plan, the case will be staffed. Staffing will include Pre-trial administration, counselors and a member of the staff of the County Attorney's Office. If all eligibility factors are met it will be referred to the County Attorney's Office for final administrative staffing.

Pre-trial Services investigation and the County Attorney's Office investigation will then be thoroughly reviewed by the

County Attorney screening committee consisting of the Chief Deputy and/or his designee, one staff attorney to be designated and the Director of the Victim/Witness Counseling Unit. It is intended that this committee remain consistent in terms of its composition to assure uniformity in diversion eligibility.

After a review of Pre-trial Services and the County Attorney's investigation, the screening committee will either recommend the defendant for diversion, or it will reject the applicant and refer the matter back to the screening attorney for prosecution. If rejected, reasons for rejection will be noted. If diversion is recommended, a standard diversion agreement will be prepared.

If diversion is approved, the matter will be noticed up for hearing, at which time the County Attorney will appear and the diversion agreement will be presented to the Court for approval and execution by all parties.

IV REVIEW AND FOLLOW-UP - DISMISSAL OR REVOCATION

During the course of the diversion process which can be up to two years, Pre-trial Services will make written quarterly reports to the Court and the County Attorney's Office detailing the progress of the defendant in the diversion treatment plan and with respect to other obligations required by the diversion agreement. If the defendant successfully completes the requirements of the diversion agreement, the County Attorney shall move to dismiss the charge against the defendant.

If at any time, however, the defendant fails to live up to the requirements of the diversion agreement or violates any of the terms thereof or commits subsequent offenses, Pre-trial Services will prepare an Order to Show Cause and notice it up for hearing, -

at which time the County Attorney will appear and the defendant may be terminated from the diversion process and prosecution reinstituted.

TED CANNON
Salt Lake County Attorney
By:
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Salt Lake City, Utah 84111
Telephone: 535-5500

IN THE FIFTH CIRCUIT COURT, SALT LAKE DEPARTMENT
STATE OF UTAH

THE STATE OF UTAH)	
Plaintiff)	DIVERSION AGREEMENT
vs)	CASE NO.
)	
Defendant)	

It appearing that the above-named defendant has committed an offense against the State of Utah, specifically:

Upon said defendant accepting the responsibility for his/her behavior and by his/her signature to this agreement and it appearing after an investigation of the offense and the defendant's background that the interests of the State of Utah, the defendant's interests, and the interest of justice will best be served by the following procedure, THEREFORE;

Pursuant to the authority of Chapter 2 of Title 77, Utah Code Annotated, 1953, prosecution for this offense shall be deferred for a period not to exceed two years upon the following agreements and understandings:

1. The above-named defendant has been advised of and understands the nature of the criminal offense for which he/she is charged.

2. By signing this agreement the above-named defendant does hereby certify that he/she is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial and that by agreeing and consenting to enter into this diversion agreement, does knowingly and intelligently waive any defense to subsequent prosecution on the ground that such delay operated to deny his/her rights guaranteed by the Sixth Amendment to the Constitution to a speedy trial.

3. The above-named defendant shall have the right to withdraw from the diversion program at any time and have the subject prosecution reinstituted.

4. The above-named defendant agrees to accept financial responsibility for any purchase of services necessary to the administration of the diversion program or any other agency to which he/she may be referred.

5. The above-named defendant agrees to accept responsibility for any share of any restitution directly resulting from this offense as determined by the diversion program and/or the County Attorney.

6. The above-named defendant agrees to provide any personal and social background necessary to implement the diversion program including any written consents necessary for the release of confidential information.

7. The above-named defendant agrees not to violate any law (Federal or local) and agrees to immediately contact either the County Attorney or his/her diversion supervisor if he/she is arrested and/or questioned by a law-enforcement officer.

8. The above-named defendant shall continue to live in the County of Salt Lake and if it is necessary to move from said County, he/she shall inform the County Attorney and receive approval from the court before approval for such move shall be granted.

9. The above-named defendant shall agree to actively follow the necessary treatment plan as ordered by the court and shall report to his/her program supervisor as directed and keep same informed of his/her whereabouts.

10. In addition to the foregoing requirements the above-named defendant shall be required to perform the following:

11. Should the above-named defendant violate any condition or requirement of this diversion agreement, the court may revoke or modify any conditions of this agreement. If this agreement is revoked or terminated, the County Attorney shall initiate prosecution for the offense. Prior, however, to any such action the above-named defendant shall be furnished with notice specifying the conditions of the agreement which have been violated and ordering the above-named defendant to appear before the court.

12. If upon completion of the period of supervision, a favorable report is received from the program director to the effect that the above-named defendant has complied with all rules, regulations and conditions above mentioned, no further prosecution for the offense set out in this agreement shall be conducted and the information will be dismissed.

I, _____, hereby certify and state that the above has been read by me and explained to me and that I understand the conditions of my diversion program and agree that I will comply with them.

DATE _____

DEFENDANT _____

DATE _____

ATTORNEY FOR DEFENDANT _____

DATE _____

DEPUTY COUNTY ATTORNEY _____

ORDER

This Court having read the foregoing and it appearing that diversion of the above-named defendant would be in the interest of justice and the public interest,

IT IS HEREBY ORDERED that any and all further criminal proceedings be suspended for a period not to exceed _____ months from the date of this Order, and the defendant be Ordered to comply fully with the above Diversion Agreement.

Dated this _____ day of _____, 19____.

J U D G E _____

SALT LAKE COUNTY ATTORNEYDIVERSION WORKSHEET

DEFENDANT'S NAME _____ D.O.B. _____

SCREENING ATTORNEY _____

DIVERSION CONSIDERATION: (YES) _____ (NO) _____ (YES WITH RESERVATIONS) _____

IF YES, NOTE ANY RECOMMENDATIONS: _____

_____IF YES WITH RESERVATIONS, NOTE RESERVATIONS: _____

IF NO, PLEASE CHECK REASONS:

____ NON RESIDENT ____ BODILY INJURY TO VICTIM

____ DEADLY WEAPON OR OTHER MEANS OF FORCE LIKELY TO PRODUCE
DEATH OR SERIOUS BODILY INJURY____ THREAT OF PERSONAL VIOLENCE ____ CAPITAL OFFENSE OR 1st FELONY

____ PRIOR RECORD (ADULT/JUVENILE) ____ UNCOOPERATIVE WITH AUTHORITIES

____ SPECIFIC OFFENSE EXCLUSION (SPECIFY OFFENSE) _____

____ OTHER _____

DIVERSION COMMITTEE RECOMMENDATION:

____ DEFENDANT IS ACCEPTED FOR DIVERSION.

____ DEFENDANT IS NOT ACCEPTED FOR DIVERSION FOR THE FOLLOWING
REASONS: _____

END