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Eight one day conferences on law enforcement problems were set up during 1967-68 on a regional basis in the Kentucky cities of Lexington Maysville, Covington, Catlettsburg, Pikeville, London, Richmond, and Harlan. Police officials, judges, prosecuting attorneys, university faculty, and civic leaders were invited to participate. Total attendance was 462. In addition to participating in the prepared discussions on the announced topics, the officers had the unique advantage of the combined talent, experience, and knowledge of veteran judges and attorneys and of officers from other localities in reaching solutions to special problems. Each program dealt with cooperation of officers and prosecuting attorneys in case preparation, court procedures, officer demeanor in court, the effect of recent court decisions on police procedures; and police-community relations. The most important by-product of the conferences was the realization by law enforcement officers that they could communicate with prosecutors and judges and that such communication could be mutually beneficial. Although attendance was disappointing in some cities, many penalists felt that the favorable impressions gained by attendees would help increase attendance at future conferences of this kind. (ly)

EASTERN KENTUCKY UNIVERSITY
Richmond, Kentucky 40475

COLLEGE OF APPLIED ARTS AND TECHNOLOGY
School of Law Enforcement

June 20, 1968

CONSULTANT SERVICE AND WORKSHOP FOR LAW ENFORCEMENT OFFICIALS, ATTORNEYS AND JUDGES IN CENTRAL AND EASTERN KENTUCKY

CONDUCTED 1967-68

AT

LEXINGTON, MAYSVILLE, COVINGTON,
CATLETTSBURG, PIKEVILLE, LONDON,
RICHMOND, HARLAN

UNDER TITLE I, HIGHER EDUCATION ACT OF 1965

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THE PROBLEM

Authorities are in general accord as to the increasing need for greater efficiency in law enforcement on all levels. The burgeoning crime rate, the decreasing arrest rate, and the increasing number of successful appeals from convictions not only paint an alarming picture, but make it imperative that every possible means be used to obtain maximum results from the manpower available to cope with the problem.

Kentucky, with a population of over three million, two-thirds of whom live in metropolitan centers, is beset by the same problems as its surrounding states, but with somewhat lower crime rates as to both violent and property crimes.* This is small consolation, however, to the victims of the thousands of crimes that do occur, or to the governmental officials on city, county and State levels who are responsible for the apprehension and prosecution of the offenders. The need for additional personnel in law enforcement agencies, prosecutor's offices and on our judicial benches is offset by the higher administrative costs, making it not only desirable but essential that greater efficiency be achieved by those presently charged with law enforcement responsibilities.

In analyzing the situation locally, some obvious starting points presented themselves at once. Many police officers have received little or no formal training in the areas of investigation, report writing, and court presentation. Officers and prosecutors frequently appear in court without prior consultation on the case going to trial.

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*_Uniform Crime Reports_, 1966

Prosecutors would rarely have an adequate report of investigation from the officer clearly delineating the facts of the violation, the arrest, the constitutional warnings to the defendant, the preliminary hearing, the names, addresses and statements of witnesses, itemization of physical evidence, where it was found, by whom, and its significance, together with the results of labatory examinations, identification records received as a result of submitting fingerprints of the defendant, and other pertinent details. Many cases are lost because of inadequate investigation, incomplete reporting, a failure to afford the defendant the necessary protection under the State or Federal constitutions, or a failure to be aware of the police procedures dictated by recent Supreme Court decisions.

Another area shrouded by mystery, in the mind of the average police officer, is the court procedure by which the defendant is brought to trial, why certain formalities must be observed, and why certain statements and evidence are excluded. Also mystifying, and frequently frustrating, if not exasperating, are the "deals" entered into between prosecutor and defense attorney, usually without explanation to the arresting or investigating officer, by which offenses are downgraded or through which pleas are entered to offenses scarcely related to those originally charged. Left unexplained, these enigmas became sources of imitation, misunderstanding, and even cynical indifference. "What's the use of sticking my neck out to arrest someone who'll be turned loose on a technicality or a 'deal'?"

Closely related to court procedure is the courtroom demeanor of the officer and his ability to testify effectively, assuming that he has conducted a thorough investigation and protected the rights of the defendant, and therefore gets the case to trial. Candid criticism of an officer's appearance and conduct on the witness stand (at other than a formal trial) can be of lasting benefit to him.

Cutting across the entire field of police work, of course, is the rather nebulous but ever-broadening and vitally important community relations problem. It varies in certain aspects in each community but generally the same basic human reactions and prejudices underlie troubles wherever they surface. Candid discussions serve to clear the thinking, if not the atmosphere.

A STEP TOWARD SOLUTION

.Eight one-day conferences, in the nature of workshops, using essentially the panel forum to provide broad and diverse viewpoints on each problem, were set up on a regional basis. Police officials, judges, prosecuting attorneys, university faculty and civic leaders were invited to participate.

It was realized, of course, that no intensive training could be afforded in any of the topics in one day. Judges, prosecutors and police were equally enthusiastic in their support of the idea, however, and contributed generously of their time in preparing for and participating in the conferences. All

recognized the need and were anxious to make the training as effective as possible.

THE PROGRAM

Each program followed essentially the following format:

The project director presided, introduced the panelists and speakers and outlined the problems to be discussed.

9:00 A.M. Panel: Case Preparation, A Study in Officer-Prosecuting Attorney Cooperation

Commonwealth'. attorneys, county and city attorneys discussed investigation necessary to produce witnesses and physical evidence needed to prove elements of a violation. The reporting of investigation activity in a form adequate for the prosecutor's needs, and the preservation of the integrity of the evidence were covered. A representative of the Kentucky

State Police Training Bureau discussed investigative techniques and the use of laboratory and technical aids.

11:00 A.M. Panel: Officer Demeanor in Court

A circuit court judge presided over this panel. Witnesses drawn from the police department of the host community or from the Kentucky State Police or sheriff's office would undergo questioning by a prosecuting attorney, in a hypothetical case, to demonstrate proper and improper conduct and testimony on the witness stand. A critique by judges, prosecuting attorneys, and the conferees in the audience followed. The presiding judge usually summarized the proceedings by impressing upon the police officers the necessity of selling themselves to the jury and the court by telling the truth in a straightforward, unbiased, disinterested, professional manner.

1:00 P.M. Effect of Recent Court Decisions on Police Procedures

Following a lunch break, an assistant attorney general from the State Attorney General's Office discussed in detail the most recent Supreme Court decisions and their effect upon police procedures. Search and seizure, confessions, lineup procedures (Wade Case), and any other legal matter of current or local interest were discussed. Lively interest was evoked and this portion of the program usually extended beyond the hour allotted to it.

2:00 P.M. Panel: Court Procedures

Judges and prosecuting attorneys explained court dignity, formality, customs and permitted virtually unlimited questioning from the floor.

3:00 P.M. Panel: Police-Community Relations

Leading police officials, sheriffs, citizens interested in community relations, and faculty members participated in this last panel of the day. A free discussion usually ensued between the panelists and the conferees on the floor.

Conferences began at 9:00 A.M. and concluded at 4:30 P.M., with one conference per month, October through May. The Circuit Court Room in a county seat was usually the site of the conference.

GEOGRAPHIC COVERAGE

Eight regional conferences, each covering six or seven counties in Central and Eastern Kentucky, were held in the following cities: Lexington, Covington, Maysville, Catlettsburg, Pikeville, London, Richmond, and Harlan. (Population 1 1/4 million)

ATTENDANCE

Although all expenses of attendance at the conferences were borne by the panelists and conferees themselves, the attendance exceeded expectation. Whereas it had been anticipated that an average of five per county, or 265 would attend from 53 counties, the actual figure was 452.

PROGRAM RESUMES

To best illustrate the number and types of problems troubling police, judges and prosecutors, as well as to indicate some of the suggested solutions, the following briefs are included:

Lexington Conference

The first of eight conferences under this program was held in Fayette County Court House in Lexington on November 16, 1967. Seventy-eight persons were in attendance for the entire day, with another ten attending for one or more of the panel discussions.

Excellent cooperation was afforded by the Lexington Police Department, which offered to pay overtime to those officers attending on their own time.

For some of the older officers, it provided a rare opportunity to discuss matters informally with prosecuting attorneys and judges. Questions which had been festering for an indefinite period were freely asked and candidly answered by prosecuting attorneys and judges.

In turn, the prosecuting attorneys took the occasion to outline some of their problems with police officers, from incomplete investigations to delayed, inaccurate or biased reporting.

Judges also availed themselves of the opportunity to explain to police and prosecutors some of their problems, and to suggest ways of improving performance of everyone taking part in trials, including judges.

It became apparent during the question and answer periods that some officers felt some prosecutors should be more readily available for consultation on legal questions arising during investigations, and prior to trials. On the other hand, some prosecutors felt some officers were difficult to locate

for consultation prior to trials, and even for their court appearances as witnesses. Greater effort to accommodate each other was promised.

Commanding officers were also in attendance and participated actively, sometimes feeling called upon to justify or explain certain administrative procedures, and at other times expressing surprise at disclosures of derelictions on the part of certain officers which contributed to less than favorable attitudes on the part of prosecutors.

An unexpected dividend from the conference was the action taken by the Lexington League of Women Voters, who had representatives in attendance. The League praised the conference, in a letter to a representative of Eastern Kentucky University, "for providing a platform apparently for the first time for the men involved to discuss their gripes as well as their problems." The League scheduled a follow-up conference for early December, at which representatives of the city, commonwealth and county attorneys' officers, as well as the sheriff, county and city police agreed to meet and talk together, on the problems aired at the conference of November 16.

The League has also discussed the inclusion in the coming year's budget of the Lexington Police Department of dictating machines in the station and secretarial help to transcribe dictated material. It is reported that both the Chief and the Training Officer think the idea practical. It has also been discussed with the City Manager, who agrees that such a move would provide additional manpower hours in the

field and that it ought to be put into operation. The League attributes this idea as well as the follow-up conference to the matters disclosed at the first conference.

Very favorable publicity was afforded the conference by the Lexington newspapers, radio and TV stations, both before and after the conference.

Perhaps one of the most encouraging comments of the entire day came at the end, when an old-time officer, not noted for his enthusiasm for any type of in-service training, publicly stated on the conference floor that we needed more such conferences.

Maysville Conference

Basic shortcomings in law enforcement procedures in Maysville and surrounding areas were discussed and steps taken to remedy as many as possible.

As an example, it was disclosed that subjects arrested in Flemingsburg, and throughout Fleming and Bracken counties by sheriff's forces and police are not fingerprinted, although this has been standard procedure for years throughout the country. The reason given was that no one is available to do the printing, nor is fingerprinting equipment on hand in any department.

The F.B.I. was contacted and arrangements are now being made to conduct one-day courses in fingerprinting not only in Fleming and Bracken counties, but in any other areas of the state where trained personnel may be lacking. The F.B.I. also

has portable fingerprint kits, adequate for most purposes, which it makes available free of charge to each member of a fingerprint class, thus clearing up two needs simultaneously.

Another glaring deficiency was disclosed in Maysville when prosecutors stated they receive no written reports of investigations from police, but must rely upon brief oral discussions with officers immediately prior to trial. When trials are postponed repeatedly the details become increasingly vague in the minds of officers and other witnesses. The Commonwealth Attorney had long ago suggested a simple form, to be prepared in duplicate by the responsible officer immediately following an investigation, but the police had not adopted it. Since the city manager was a participant in the conference, as well as the chief of police, sheriff and other city and county officers, it was agreed by all that officers will henceforth make carbon copies of investigative reports, to be furnished to appropriate prosecutors.

Still another weakness was the inability of police officers to find the city police judge to execute search or arrest warrants except during a two-hour period in the afternoon. This was remedied by the circuit court judge advising the officers he would be willing to sign warrants at any time, as well as hold hearings in felony arrests when the police judge is not available.

Police officers observed that the city prosecutor, who was a panel member, rarely appeared in police court, hence was not available for consultation by them. The city prosecutor vowed to improve his performance.

A heated discussion developed among the circuit court judge, the prosecutors and the Assistant Attorney General over the law applicable to arrests and searches of traffic violators and their vehicles. In this instance, the judge was outvoted on the law on some points. It apparently cleared the atmosphere somewhat for the police as well as others.

In this conference, as in the first one, time ran out before all problems had been settled, leaving an appetite for a repeat performance.

Catlettsburg Conference

The third conference in this series was held in the Boyd County Courthouse, Catlettsburg, Kentucky on January 11, 1968, drew 80 participants, and was generally acclaimed by law enforcement officials, judges and prosecutors as one of the most interesting and needed conferences of its kind held in the Ashland area.

Detailed front-page coverage was afforded by the press, with photos. TV and radio coverage was afforded by the Huntington, West Virginia stations.

Boyd County Judge George R. Hall supplied coffee for the conference at both morning and afternoon breaks, as a token of appreciation for having the conference in Catlettsburg (the County Seat).

Three commanding officers from the Huntington, West Virginia, Police Department attended the conference and expressed interest in having a similar conference in West Virginia.

Panelists pointed out the lack of communication between police officers and prosecutors and courts, and stressed the need for more "fraternal spirit" between the "line" officer and the prosecutor. Boyd County Attorney C. R. Gearhart invited officers to feel free to make any suggestions concerning prosecution of cases, and emphasized the desirability of the officer's briefing the prosecutor as early as possible on the facts of a case, the testimony expected of particular witnesses, and any peculiarities which might handicap the prosecution or weaken an otherwise strong case.

Considerable discussion was had concerning misdemeanors which have not been committed in the officer's presence, and of the right and duty of an officer to arrest under such circumstances. This is a particularly knotty problem when it involves drunk driving, when only an arrest for drunkenness can be effected unless the officer actually observes the subject driving. Drinking drivers involved in traffic accidents, of course, pose the major problem. Ashland Municipal Judge A. R. Imes said he would attend a meeting of police judges of second class cities in Frankfort on January 25, and would recommend to the General Assembly the passage of an act allowing arrest of drunk drivers even though the act was not witnessed by the arresting officer.

Lieutenant John Robey, Troop Commander at the Morehead Kentucky State Police Post, pointed out that in the 15-county area covered by his men, contact is had with 44 separate courts. One of the big problems is the availability of search warrants from 40-hour-a-week judges. Another is the difficulty of arranging

pre-trial conferences between his officers and prosecutors. Lieutenant Robey was concerned because his officers "look bad" and law enforcement appears inefficient when cases go to trial without such conferences. He also suggested a short post-trial conference between officer and prosecutor when an important case is lost, at which the officer would be told of any shortcomings in his investigation or court appearance as a witness which may have contributed to the acquittal or dismissal. The conference thought this an excellent training device.

Covington Conference

The fourth conference was held in the Kenton County Court House at Covington on January 30, 1968. A total of 83 attended, including representatives of the Cincinnati Police Department.

Press coverage was afforded by both Cincinnati and Covington papers, as well as by Cincinnati TV stations.

The highlight of the morning sessions was a carefully prepared skit demonstrating both proper and improper conduct of officers on the witness stand. Circuit Court Judge Melvin T. Stubbs, who moderated the panel on Officer Demeanor in Court, based the script on an actual case in his court. He selected the cast, directed the rehearsals, and presided at the mock trial. Fellow panelists as well as the audience were invited to comment on the conduct of the witnesses. Numerous points

of both right and wrong conduct were identified and their affect on the judge and jury discussed. Judge Stubbs emphasized the necessity of each officer's "selling" his product (appearance and testimony) to the jury. The presentation elicited generous applause from the conference and provided a hey-day for press photographers.

The afternoon sessions centered on court procedures and, under the leadership of Circuit Court Judge Robert O. Lukowsky, generated the most heated discussions of the day. The panel included the Kenton County Judge, who, with his assistants, handles juvenile cases. Numerous questions concerning the arrest and questioning of juvenile offenders were raised by officers and answered by prosecutors and judges. The discussion served to clear the atmosphere considerably, and resulted in the panel's deciding that at least one of the County Judge's assistants had unduly, and without legal authority, hampered police in the investigation of a series of juvenile offenses. It appeared the investigations would be reopened and pursued in accordance with the law.

Another panelist, a police court judge from a Campbell County community, came under fire from a police officer for dismissing a charge of carrying concealed weapons in his automobile. Upon full disclosure of the facts, it was the unanimous opinion of the panel that the police court judge had acted correctly and that the complaining officer had not correctly applied the law to the facts. This discussion will be of lasting benefit to most of the officers in attendance, since a

circuit judge described in detail and with illustrations what "carrying concealed weapons" means to him.

Pikeville Conference

Pike County Judge Bill Pauley stated he had been hard pressed to find funds with which to pay jurors, in accordance with a recent change. An official from another county suggested the inclusion of such funds in the next budget of Fiscal Court.

Floyd County Attorney Barkley Jennings Sturgill aired his major problem, lack of sufficient knowledge of the laws on the part of police officers and especially sheriffs' deputies to properly charge offenders arrested or cited. A suggested remedy was an intensive training course for all newly elected sheriffs and their newly appointed deputies.

It was pointed out by Kentucky State Police representatives that such training has been available for police officers through the Kentucky State Police and the F.B.I., especially for the smaller departments lacking their own academies. It was also stressed that the proposed Standards and Training Act would ensure such training for newly appointed officers in the future, and would be available on a voluntary basis to sheriffs and their deputies.

Another obvious need brought out by the discussions was for a police officer's manual, compact enough to carry on the person, but comprehensive enough to contain the most frequently used laws. It was noted the development of such a manual is one

of the matters being considered by the Kentucky Crime Commission.

Circuit Court Judge Charles E. Lowe developed his own moot court script and directed his own cast in a skit designed to demonstrate the proper way of testifying, as well as pinpointing many of the faults exhibited by officers appearing on the witness stand. This method of instruction is especially effective since it uses well-known local officers in the roles, and enables the conferees to identify with the properly dressed, carefully prepared witness, at the same time recognizing some of their own shortcomings in the unimpressive witness.

The presence on the program of Assistant Attorney General George F. Rabe drew some defense attorneys whose questioning of police procedures based upon varying interpretations of Supreme Court decisions spiced the afternoon session. Since some of the prosecutors as well as the judges were also present, the officers had the benefit of the views of all participants in the trials except the defendants themselves. It afforded a rare opportunity for all to express opinions and challenge the predicted course of future decisions of the courts in directing police procedures. Lessons learned by officers during such discussions are apt to endure.

A new area of community relations was opened up for discussion by placing on the program Brett Scott, Director of the Corrections Program at Eastern Kentucky University. Developing the theme that law enforcement's effectiveness is

measured not only by its apprehensions and convictions, but by the constructiveness of the corrective action taken in penal institutions and by probation and parole officers, Mr. Scott explained the responsibilities, limitations, and objectives of corrections personnel in the state system. The questions asked by both officers and judges indicated a fertile field for increased understanding in the area of aftercare to reduce recidivism. Greater understanding on the part of both law enforcement personnel and the public is clearly needed.

London Conference

The sixth conference in this series was presented at the Laurel County Courthouse in London, Kentucky, on March 28, 1968. The forty-two who attended heard the most instructive talks of the series on officer demeanor in court and court procedures.

The panelists on case preparation were also outstanding as to both content and delivery of their presentations. One police lieutenant stated he had learned enough to enable him to prepare a case for prosecution which had looked hopeless before the conference.

Circuit Court Judge B. R. Stivers, who feels deeply the increasing lack of respect for law and the courts, lectured from the heart on the background, meaning and necessity of certain court procedures, emphasizing the part law enforcement officers should play in upholding the dignity of the court. Judge Stivers

believes that circuit courts and courts of cities and counties should be so conducted as to demand the same respect as federal courts. This is the standard upon which he insists in his court, though he admits ruefully it isn't necessarily the way to win elections.

Judge Stivers and Commonwealth's Attorney Carlos E. Pope covered a vast number of points which are often considered too technical to discuss before any but lawyers or law students, under Court Procedures. Their presentation was down-to-earth, understandable by law enforcement officers, and established a firmer foundation for future relations. A number of officers who had misunderstood and actually feared the rigid discipline and decorum of this court had their minds changed during the day, in favor of greater dignity.

Basic points of conduct for officers, such as removal of sidearms before entering court, careful attention to dress and grooming, whether in uniform or mufti, and adequate preparation for each trip to the witness stand were emphasized. The availability of legible notes or reports, the importance of properly identified and preserved evidence, and the impartial attitude of the officer-witness were stressed. The moot court skit presented living examples of effective and of inadequate, harmful testimony on the stand.

London City Attorney J. Milton Luker, a former F.B.I. Agent who has since served as county attorney pro tem, commonwealth's attorney, judge and city attorney, in addition to handling a thriving private practice, gave an excellent talk

from the standpoints of an officer, a prosecutor, and a judge, tying their respective duties together in a logically progressing relationship. He pictured law enforcement as a team effort, requiring skill, diligence, integrity, dedication and a deep understanding of human nature to achieve maximum results.

Brett Scott, Director of the Corrections Program at Eastern Kentucky University, followed Mr. Luker's lead by adding the post-conviction treatment of the criminal, as the last and often the most important step, to the teamwork necessary to effect lasting remedies. He pointed out that cooperation and understanding on the part of law enforcement officers is necessary if the work of the probation and parole officers is to achieve its goal of sending a convicted person back to a community as a law-abiding, productive member.

Robert Clark Stone, Executive Director of the Kentucky Law Enforcement Council, pointed out, on the Police-Community Relations panel, that training of up to four weeks will soon be available to Kentucky officers, at little or no cost to the community employing the officer, other than for his salary. Better training, in addition to increasing efficiency, will instill greater understanding of community problems and human relations in each officer.

The number of questions raised by the presentations, and particularly by that of the representative of the Attorney General's office, George F. Rabe, clearly reflected the interest of the officers and the value of this program.

Richmond Conference

The seventh conference, held in an auditorium in the John Grant Crabbe Library at Eastern Kentucky University, Richmond, on April 11, 1968, drew 53 participants, and some outstanding panelists.

Blake Page, Clark County Attorney, drew an analogy between an investigation in a criminal case and the tedious, time-consuming preparation going into a TV production, or the thousands of man-hours of work preceding a launching in the space program. The trial of the criminal case is relatively short, frequently attracting far more interest than the investigation, or even the crime itself. Yet, its success depends largely upon the attention to detail which has gone before. Any small missing part can ruin the launching of a missile or the conviction of a felon.

Mr. Page stressed the need for beginning the reasoning process at the point where a piece of physical evidence is found, and adding to it each new strand, represented by additional evidence, thus weaving a tapestry that is perfect, or as nearly perfect as possible. When the pattern is recognizable by the court and the jury, and has no ruinous holes, it generally means a fair trail. The investigator's job is to complete the pattern or to come up with a reasonable explanation as to the missing pieces. Imaginative reasoning is necessary throughout the process. No stone can be left unturned without risk of losing the case.

Circuit Court Judge James S. Chenault presided at a moot court during which Blake Page examined witnesses who illustrated

the proper and improper ways to present testimony. Judge Chenault's colorful language and fund of practical points for officer-witnesses held everyone's attention and caused much note-taking among the officers.

George W. Robbins, Madison County Attorney, won many friends among the officers by advising them to keep the prosecutor fully informed of the progress of an investigation, in order that evidentiary holes may be plugged in timely fashion. He also suggested the officers take the prosecutor along on important investigations, in order that he may be in a better position to present the facts to the jury. He emphasized the desirability of contacting the prosecutor as early as possible in the development of a case, in order that he may know what the case is about, long before the trial, and help in any way possible. This attitude on the part of a prosecutor, especially one with a private practice, is especially appreciated by the officers and is relatively rare.

Commonwealth's Attorney Marcus C. Redwine, Jr. stressed the importance of an early disclosure to the prosecutor of any weakness in a case, or of the possibility of an alibi. Too often, he has observed, the lack of pre-trial communication between the prosecutor and the investigating officer leaves the prosecutor open to surprise witnesses or to unexpected holes in the State's case. Timely notice might have resulted in a fairer trial, and a better public impression of the competence of both officer and prosecutor.

Judge Chenault delivered an outstanding lecture on the need for both attorneys and officers to be thoroughly trained and to operate in a professional atmosphere in the courtroom. The average defendant is in court only once in his life as a defendant and the impression he receives will have an influence for good or evil, according to the dignity and fairness of the proceedings. As Judge Chenault says, "courtrooms are not for whittling, smoking or newspaper reading." Officers are not permitted to wear sidearms in his court because his bailiff is the sergeant-at-arms, charged with keeping order. Likewise, an officer taking the witness stand with his sidearm visible to the jury is not apt to appear as impartial as one going unarmed. Judge Chenault does not consider a crying baby an asset in a courtroom and will not permit such distracting influences.

Clark County Judge Dorsey P. Curtis, a former sheriff, was an excellent panelist because of his understanding of the problems of the law enforcement officer as well as the judge. He stated his policy to be one of accommodation, especially in traffic cases. He is inclined to hear such cases at any time the officer brings them before him, to save the time of both the officer and the defendant. He usually hears these cases in his office. If the officer can't be in court when a traffic case has been set for hearing, the judge will continue the case rather than dismiss it for lack of evidence.

As the judicial authority responsible for disposing of juvenile cases, Judge Curtis stresses his insistence that the

child be represented by an attorney. He points out that it is even more important that a six-year-old have an attorney than that an older defendant be represented, since the six-year-old may be committed to the custody of juvenile authorities until he is 21 years old, a much more severe sentence than adults usually receive. Nor does he countenance the hurried consultation which frequently marks the hearings when counsel are appointed by the court, and serve without pay. Judge Curtis appoints counsel at the first session at which the child appears in court, then puts the case over to the following week, allowing time for both investigation and consultation. His interpretation of the judicial function would do credit to many a higher court, presided over by judges professionally trained in the law, as he is not.

Harlan Conference

As usual, new problem areas in law enforcement, peculiar to this section of the State, were uncovered. Daniel Boone Smith, Commonwealth's Attorney for the 26th District for the past 36 years, has found that preparation of complete and legally fool-proof search warrants by magistrates is difficult and rare. Failure to obtain from the officers adequate information as to the exact address of the premises, as well as a complete description of the articles or documents sought is the principal weakness. A guide line for sufficiency was suggested by Mr. Smith: "If the officer serving the search

warrant must ask questions to find the premises, the warrant is defective."

Another weakness is in the failure of the officers to prepare any type of investigative report, or as in the case of the Kentucky State Police, to furnish a copy of the report to the prosecuting attorney. As expressed bluntly by one panelist, "the difficulty is much more pronounced with the uneducated, untrained police in the rural areas." Even in the city of Harlan, the prosecuting attorney rarely has more than a bare record of the defendant's name, address and offense charged, and sometimes this is not available.

Failure of the investigating officer to make adequate notes, or any notes at all, plagues the prosecuting attorneys. The volume of cases being handled by each officer, coupled with the repeated continuances and trial delays, makes it impossible for him to carry all pertinent details on each case in his head. Vague and inaccurate responses on the witness stand result in miscarriage of justice, increased lack of respect for law enforcement, and a poor record of convictions for both the police department and the prosecutor's office. Insistence upon note taking, preferably in a loose-leaf note book, should be administrative policy in every police agency.

The panelist representing the Kentucky State Police will present the matter of making copies of investigative reports available to prosecuting attorneys to his director,

in order that it may be considered on a policy basis for the entire force.

One detective suggested that he would appreciate having the prosecuting attorney examine him, and even cross-examine him, on the details of a case before trial, in order to preclude an investigative oversight. It was pointed out to him that he should be so familiar with the elements of each offense, and the evidence necessary to prove each element, that he would know when he has completed his investigation. Likewise, while the prosecutor felt it necessary to have a pre-trial conference with the investigating officer, the number of cases handled by him would preclude the suggested detailed attention to the cases of any one officer. Intensive and continuous training was a suggested solution.

Mr. Smith pointed up the very real problem of obtaining expert witnesses to testify on behalf of the State, when no funds are available to pay their expenses or reasonable fees. This problem is aggravated when the trial is held in a remote mountain area, as in Harlan County, where a one-day court appearance may mean a three-day absence from the professional man's office. When continuances are granted after the witnesses for the prosecution are all assembled, it means still further loss of valuable time and money for the expert witness.

Coupled with this basic problem is another - the scarcity of qualified experts in certain fields of science. Psychiatrists available to the State, and willing to appear, are rare. The time during which the defendant must be under observation by

the psychiatrist poses another problem. A defendant with adequate funds may have a distinct advantage over the State, since he can pay the fees and expenses necessary to bring to the witness stand psychiatrists favorable to his case, whereas the State cannot match or overcome this testimony by their own experts because of lack of funds.

A suggested solution was to continue to seek for qualified experts willing to cooperate with the State in cases wherein their services are necessary. Untapped sources were suggested. A second suggestion was to have the prosecuting attorneys associations sponsor legislation appropriating funds and establishing realistic fee schedules for expert witnesses.

Circuit Court Judge Edward G. Hill discussed the need for legislation providing for concurrent jurisdiction in cases where insanity is an issue, thus permitting the customary three-day examination to be conducted in the judicial district where facilities and qualified professional people are available and can handle the examination incidental to their normal duties. Such legislation is being sponsored by the Judicial Conference.

FINAL EVALUATION OF THE PROGRAM

That there has long existed in Kentucky, as elsewhere, a pressing need for both extensive and intensive training for law enforcement officers has been recognized by virtually everyone, and has been acknowledged by all but a few die-hard frontier-type officers too embarrassed by their inadequacies to admit it.

What has not been generally apparent, however, has been the magnitude of the ignorance of many veteran officers in those matters dealing with the trial and disposition of the cases their efforts have brought before the courts.

To a layman, this would be astonishing, if not incomprehensible. The public generally associates police officers with prosecutors, judges, and even jailers and prison guards and officials, as part of the team having responsibility for law and order. As a matter of practice, however, many police officers have little or no contact with prosecutors and even less with judges.

The bulk of the violations handled by officers are in the misdemeanor and petty offense category - traffic violations, drunkenness, family and neighborhood squabbles, juvenile offenses - requiring a minimum of report writing, investigation and court appearances. Even when a patrolman makes an arrest in a felony case, the follow-up investigation and report writing, if any, will generally be done by a detective. Pre-trial conferences with prosecuting attorneys are thus generally reduced to a ten-minute conversation immediately before trial, in which the patrolman relates hurriedly what he remembers of the case which may now be months or years old! The testimony of the officer on the stand may take no longer than the pre-trial conference. This is the limited association of the judge and the patrolman. Under the formal atmosphere of a circuit court trial, there is little opportunity or inducement for the officer to learn

about court procedures in depth. He is not apt to ask questions afterward because of the natural reluctance to display his ignorance. He may go through his entire career without understanding some of the most basic court procedures and the reasons therefor.

Likewise, prosecutors and judges rarely offer constructive criticism of an officer's appearance or performance on the witness stand. The officer may be embarrassed by the defense attorney, or even by the prosecutor, on occasion, through his inability to answer a question, or his contradiction of his own testimony. The judge may have to caution the witness concerning his conduct on the stand. The lessons thus learned are effective as to the particular officer on the stand and as to any other officers in the court room. A post-trial conference at which the principals in the trial (excluding the defendant) discuss what has occurred and how the officer's performance can be improved in future cases is not held.

Thus we see that the lack of initial education and training, remedied by on-the-job experience and sporadic in-service training as to certain areas of law enforcement, still leaves the officer mystified as to the technical aspects of evidence, its preservation and admissibility, testifying, and court procedure. Prosecutors and judges have long recognized this, and generally have suffered over it in silence, or with resignation. They have learned to live with it, even devising techniques to compensate for the expected inadequacies in investigation, report writing, and court room demeanor. It was

for these reasons that cooperation of prosecutors and judges was not only forthcoming upon request, but was enthusiastic.

Without exception, the prospect of participating in a training conference aimed at correcting some of these deficiencies appealed to the professional instincts of judges and prosecuting attorneys. They sensed an opportunity to benefit the officer and themselves at the same time. Many of them were frankly selfish, recognizing that the officer's better understanding of his responsibilities, particularly those dealing with case preparation and court presentation, would relieve them of considerable detail, insure a better record, and improve law enforcement generally.

It often appeared that the judges and attorneys were more enthusiastic at the prospects of such a conference than the officers for whom the training was being planned. Once the officers observed how informally the conferences were conducted, with full opportunity to ask virtually any type of question without being ridiculed by anyone, the participation quickened, and the conferences usually ran overtime due to engrossing discussions.

It was generally apparent that when an officer finally screwed up his courage to ask a question, other officers were interested and had themselves hesitated to ask similar questions. One topic under discussion would trigger questions in an allied field, and occasionally the original topic would fall by the wayside because of the

opening up of another field of more interest to the officers and attorneys of that particular geographical area.

This was observed repeatedly in the dry counties, where officers continually face difficult and delicate legal problems as to the extent to which a search may be made in the automobile of a person arrested on a traffic violation. In other counties, the question of searching a vehicle for concealed weapons is more pressing. Narcotics trouble officers in still other counties. Wording of search warrants or the unavailability of judicial officers to execute them worry other officers. The fingerprinting of juvenile offenders, for investigative purposes only, pose a problem in one northern county. In each such case, prosecuting attorneys, and often judges, would discuss the questions, furnish answers, and suggest legal procedures for the future guidance of the officers. Occasionally a question would be posed for which no answer was readily available. The representative from the State Attorney General's Office, present at every conference, would volunteer to research the matter and advise each interested participant by letter.

Thus, in addition to participating in the prepared discussions on the advertised topics of the conferences, the officers had the unique advantage of the combined talent, experience and knowledge of several veteran attorneys and judges, in addition to that of officers from other communities and counties, in arriving at solutions to special problems. Since the judges and attorneys usually were from several communities and counties, a representative cross-section of opinions was available. This was beneficial to both officers and attorneys.

In fact, many judges and attorneys observed during the conferences that they had learned a great deal about the problems of law enforcement officers, of some of which they had been vaguely aware, but about which they had never before entered into a discussion with the officers. In too many cases, misunderstandings had existed on both sides, with neither taking the initiative to seek out the cause or attempt to remedy the matter.

On the other hand, officers were made aware, some for the first time, of common faults in investigation, reporting and testifying which had detracted from the effectiveness of the judicial process. Some of the disclosures by the judges and attorneys were painful to the officers, but served to clear the atmosphere and pave the way toward better performance and better understanding all around. Officers became aware that judges are human, and often possess a terrific sense of humor, as well as unexpected depth of understanding of human nature, in spite of their austere and disinterested attitude on the bench.

Some judges, with reputations among officers for maintaining severe discipline in their court rooms, had opportunities to explain why this is necessary, and how it increases respect for the law generally, thus benefitting the officer and the public. They made allies and supporters out of officers who had before been critical.

The most important by-product of the conferences was the discovery on the part of the officers that they could communicate with prosecutors and even judges, and that such

communication could be mutually beneficial. Many prosecutors pointed out that the only way they could become aware of an officer's problem was through communication initiated by the officer. They invited such contacts, and stressed the increased benefits which generally accrue when such contacts are made at the inception of an important felony investigation, rather than at the conclusion, or immediately before trial. This theme ran through the series of conferences, and would have justified the conferences, had there been no other benefits.

Statistically, the conferences exceeded the anticipated attendance. In the 53 counties, it had been expected an average of five per county, or 265 would attend the eight conferences. The actual attendance was 452. The figures are encouraging to observers who know the reluctance of the independent-minded men of Eastern Kentucky to risk a display of ignorance, or to willingly adopt a new idea.

On the other hand, the attendance was disappointing to judges and prosecutors in at least three cities. Several commented that those who needed the training most were conspicuously absent. It is entirely possible that emergencies, common in police work, accounted for the absences. It was the impression of a number of panelists that the favorable impression carried away by those attending the conferences would do much to increase attendance, should conferences of similar nature be repeated in the next year or two.

That many more benefited than actually attended is indicated by the copious notes taken by representatives of some

of the departments, who stated they had responsibilities in the training of recruit and in-service classes. Also, extra packets of the hand-out material were requested at each conference, "for those on duty and unable to attend."

The judges and attorneys were as interested in the contents of the hand-out folders as the police officers, and like the officers, many requested extra sets for their office staff and colleagues. The Handbook on Search and Seizure and the checklist on case preparation and court appearance were considered most valuable of the items included. (A list of the hand-out material is appended.)

This evaluation would certainly not be complete without a word concerning the last panel on each day's conference, on improving relations between the police and the community. None of the conference sites had been the scene of serious civil disorders recently, and city officials appeared confident that community relations would remain satisfactory. Should this series be continued next year in the Western half of the State, including Frankfort, Louisville and Paducah, more emphasis would be placed on Police-Community Relations, since the value of this portion of the program would be recognized in those areas.

As an in-service training device, this one-day workshop has had both police and attorney appeal. Many usually unavailable persons have been able to participate because it has required only one day away from their duties,

including travel time. The participation and attendance have been remarkable, considering the lack of reimbursement for travel, subsistence, or consultation. It is believed the program has contributed substantially toward better law enforcement and is worthy of continuation.

Bernard C. Brown

Project Director

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APPENDIX

Each officer in attendance was furnished an attractive file folder containing the following documents:

1. *An Invitation to Live and Learn.* A 48-page, illustrated outline of the opportunities available for beginning and continuing education programs at Eastern Kentucky University.

2. . . . *and Justice for All.* The 47-page booklet published by the Ford Foundation, 477 Madison Avenue, New York, New York 10022, Library of Congress Catalog Card Number 67-28644, August, 1967. This deals with the following topics: The Rights of the Poor, Perfecting Justice, Research, Law and the Family, Law and Society, and Law Enforcement.

3. *The Police Officer Testifying in Court.* A five-page outline used in teaching courses in the School of Law Enforcement at Eastern Kentucky University.

4. *Court Appearance Check List.* A five-page outline affording a comprehensive check list for use by the police and the prosecutor to determine whether the case is ready for court and whether the officer is fully prepared to present his evidence for maximum effect. This is also one of the aids used in the School of Law Enforcement.

5. *Handbook on the Law of Search and Seizure.* A 60-page document prepared by the Legislation and Special Projects Section, Criminal Division, Department of Justice, January, 1967, for sale by the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.

6. *Laymen's Guide to Individual Rights Under the United States Constitution.* Printed by the U. S. Government Printing Office, Washington, 1966, for sale by the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.