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STATE OF ALASKA  
FISCAL NOTE

Revision Date                     , 1983

I. REQUEST

Bill/Resolution No.: HJR 34  
 Title: "...election of prosecuting attorneys."  
 Sponsor: Repr. Liska  
 Requestor: House Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Prosecuting Attorneys (4  
 Program Category Affected: Admin. of Just  
 BRU, Program of Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING			*	*	*	*
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND			*	*	*	*
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME			*	*	*	*
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

\* Actual costs cannot be determined at this time. Please see the analysis.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues Director Phone: 465-3672  
 Division: Administrative Services Division Date: April 29, 1983

Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: April 29, 1983  
 Department: Department of Law

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HJR 34  
Fiscal Note  
Analysis

This resolution would place before the voters changes to the state's constitution that would establish an elected office of prosecuting attorney in each of the state's four judicial districts. The proposal would establish each of the four offices as departments and remove the offices from both the organizational control and the supervision of the governor. In order to insure that the governor's oversight that normally controls and supervises executive branch departments does not interfere with the actions of the office of each prosecuting attorney, it will probably be necessary for these offices to duplicate many of the executive branch administrative controls and services administered by the Department of Administration and the Office of the Governor. Otherwise, the approval processes normally required of executive branch agencies, such as: position authorization and classification; recruiting; purchasing; and budgeting, would continue to shape and direct the activities of the prosecuting attorney offices.

Consequently, many of the administrative procedures required of government agencies to comply with the state's statutes that govern public finance, personnel, budgeting and contracting would have to be handled in-house at each of the four prosecuting attorney offices. Obviously, a substantial price would have to be paid to achieve the degree of freedom from the governor's supervision called for by the proposal. Under the provisions of the proposal, the first election of prosecuting attorneys would occur at the first general election held after the office was established under the constitution, or 1986 at the earliest. Because of this lengthy time frame it is nearly impossible to accurately forecast the costs that will eventually be incurred. It can be anticipated, however, that establishing four separate and virtually autonomous departments will result in at least three to four times the expense that the Department of Law currently pays for its administrative services support for the entire department. Those current costs in FY 83 dollars, after taking out special programs that would not be used by prosecuting attorneys, amount to \$345,900. Before accounting for any inflation that might occur in the next three years, the costs for providing necessary administrative services support will probably be between \$1,000,000 and \$1,400,000. These funds would be required to pay for the approximately 18 to 25 personnel, accounting, payroll, supply, purchasing and budgeting positions that would, in total, be needed to perform the administrative tasks that it would take to operate all four of the independent departments.

Providing for elected prosecuting attorneys will also cause a change in the existing balance of power and that change,

which is bound to encourage single-issue politics, will result in new and wholly independent constituencies with their own demands for a share of the state's resources. Although it is unquantifiable at this time, the long term effects of this change on the state's basic political structure will most certainly have a dramatic fiscal impact.

Lastly, the proposal may be in direct conflict with the letter and the spirit of Article III, Section 22 of the state's constitution. This section reads, in part, as follows:  
"Executive Branch. All executive and administrative offices, departments, and agencies of the state government and their respective functions, powers, and duties shall be allocated by law among and within not more than twenty principal departments, so as to group them as far as practicable according to major purposes. Establishing four prosecuting departments, in addition to the one that already exists, for the identical purpose of prosecuting violations of state law seems to lead to the very sort of bureaucratic growth, overlapping responsibilities, and governmental inefficiency that the constitutional framers intended to prevent.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

*State of Alaska  
Department of Natural Resources  
Anchorage, Alaska  
January 28, 1982*

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January 28, 1982

MEMORANDUM

TO: Representative Barnes

FROM: Leslie Longenbaugh *W*  
Research Staff

RE: Relationship of Elected and Appointed Attorneys  
General in Other States to Prosecuting Attorneys  
Research Request Number 82-9

Bill Cook of your staff asked that we report on the relationship between state attorneys general and state prosecuting attorneys. Specifically, Mr. Cook asked that we survey other states in regard to their election or appointment of attorneys general and prosecutors, and the degree to which prosecutors are independent of the attorneys general.

In most states, both the attorney general and the prosecuting attorneys are elected. Most attorneys general head their states' justice or law departments but have few or no statutory responsibilities concerning the prosecution of either criminal or civil cases. When they do have prosecutorial responsibilities, attorneys general in most states prosecute only appealed criminal cases. The attorney general is charged by statute (AS 44.23.020) with, among other duties, prosecuting violations of State law. The attorney general appoints regional district attorneys to fulfill these prosecutorial duties, and he may remove these appointees from office.

Ruth Blau of the National Association of Attorneys General<sup>1</sup> informed us that most attorneys general are elected; Alaska is among the six states that appoint, rather than elect, their attorneys general. In Maine, the legislature appoints the attorney general; in New Hampshire, the governor appoints with the aid of the Executive Council, made up of county representatives who are not in the state legislature; in Tennessee, the state Supreme Court makes the appointment; and in Wyoming and New Jersey the governor appoints the attorney general.

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<sup>2</sup>Ruth Blau, Publications Director, National Association of Attorneys General, Washington, D.C.; telephone: (202) 624-5454.

According to Ms. Blau, states that elect their attorneys general usually require that the candidates be lawyers and United States citizens; some require two to ten years' residency in their states, and some two-thirds of all states require that attorneys general be of a minimum age. In thirty-seven states, candidates for attorney general must have passed the state bar examination.

The method used in New Jersey in selecting attorneys general and district attorneys is closest to that used in Alaska. As in this state, both attorneys general and district attorneys are appointed rather than elected; the major difference in New Jersey is that the district attorneys are appointed by the governor, rather than by the attorney general, and are subject to approval by the state senate.

Voters in Pennsylvania recently amended their state constitution to allow election, rather than appointment, of their attorneys general. After the constitutional change, a committee of interested attorneys, legislators and other citizens was appointed to decide how best to make the change smoothly. The elected attorney general may serve two consecutive terms of four years each; the election is held in the middle of the gubernatorial term.<sup>2</sup> The constitutional change in Pennsylvania broadened the attorney general's prosecutorial powers. Also, Ray Zimmerman, the state's first elected attorney general, was a district attorney before his election as attorney general. The new attorney general has made a commitment to cooperating with locally-elected district attorneys in investigations and prosecutions. Like his counterparts in several other states, Mr. Zimmerman has established a special office that helps local prosecutors with their investigations.

In the eastern states of Delaware and Rhode Island, attorneys general are solely responsible for prosecution of all criminal and civil cases, just as is the Alaska attorney general. The National Association of Attorneys General presumes that the two states do not have separate local district attorneys because the states are so small.

The attorney general in Ohio has no prosecutorial duties at all, even in instances of appealed criminal convictions. The attorney general in Ohio thus has little contact with the district attorneys, who are elected locally.

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<sup>2</sup>Robert Gentzel, Assistant Press Secretary, Office of the Attorney General, Harrisburg, Pennsylvania; telephone: (717) 787-3391.

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We also spoke with Tom Hinton of the National District Attorneys' Association<sup>3</sup>, who informed us that prosecuting attorneys in most states are elected from within the county, election district, or other area they serve. According to Mr. Hinton, only in Alaska, Connecticut, and New Jersey are district attorneys appointed rather than elected.

Several states make a distinction in jurisdiction between criminal and civil prosecutions. In Texas, for example, the elected "district attorneys" prosecute only criminal cases, while the also elected "county attorneys" may handle both civil and criminal prosecutions.

Some of the minimum qualifications for elected prosecuting attorneys vary widely from one state to the next, although almost all states require that candidates be trained attorneys.

Mr. Hinton stated his belief that a change to an elected attorney general could compromise the integrity of the district attorneys in Alaska, if the attorney general remained charged with their appointment. An example of such a conflict is the possibility that district attorneys' prosecutions sometimes would become entangled with the attorney general's desire to win reelection. He suggested the following methods of selection, both of which he feels would maintain the prosecutors' integrity:

- gubernatorial appointment with approval by one or both houses of the state legislature, a method which would maintain control of prosecutors at the state level; and
- popular election within the regions they serve, a method which would offer the local citizenry more direct control over its prosecuting attorneys.

Mr. Hinton stated his conviction that California has the "most efficient" criminal justice system. The popularly-elected attorney general heads the state department of justice, which performs criminal justice planning and renders legal advice to state government agencies and officials. The attorney general usually has only incidental relations with the locally-elected county district attorneys, who prosecute all civil and criminal cases during their four-year terms of office. The California attorney general and district attorneys may be impeached and removed from office by the state legislature.

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<sup>3</sup>Tom Hinton, National District Attorneys' Association, Virginia; telephone: (703) 549-9222.

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Mr. Hinton has sent us a copy of his organization's 1979 review of all states' methods of selecting district attorneys. When these materials arrive we will forward them to your office.

Please call on us if we can be of further assistance.

LL:dlp

# national prosecution standards



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# foreword

The prosecutor is the chief law enforcement official in his jurisdiction, and therefore occupies a critical position in the Criminal Justice System. His office combines legal, administrative, and judicial functions which require experience, professional personnel, and a rational and efficient organizational structure.

The NDAA standards for prosecutors cannot provide adequate salaries for prosecutors, needed manpower for understaffed offices, or new laws. However, they can provide the best tools to achieve those needs; plus the format for an efficient and effective administrative structure, standards for operations, and goals for both long and short range planning objectives.

It is felt that the Criminal Justice System should be able to swiftly determine the guilt or innocence of an accused individual, provide sentences with potential rehabilitation and deterrence from future crime, and protect the rights of society and the offender. The NDAA, through its members, developed standards and goals to achieve those ends. In doing so, the standards will reflect the overall priorities of attaining speed and efficiency in the pre-trial and trial proceedings and prompt finality in appellate proceedings; upgrading the basic and ancillary functions of prosecution, and insuring the high quality of justice reflective of the values of the citizenry of this country.

By giving the nation's prosecutors the tools to increase their efficiency, it is expected that the effectiveness of the prosecutorial process will be enhanced. Furthermore, it is felt that by attaining speed and efficiency in the pre-trial and trial proceedings, rendering prompt finality in appellate proceedings, upgrading the function of prosecution itself, and insuring a high quality of justice, the system will be able to demonstrate an increase in crime deterrence, quicker and more positive alternatives to incarceration and rehabilitation, lower recidivism rates, better screening/diversion/intake of incoming cases, and a general upgrading of the total judicial system.

The term "standards and goals" has become cliché in the Criminal Justice System. It is by no means a new concept, nor is it a revolutionary idea. Standards, as normally defined, are entities established by authority, common usage, or public consent as an example or model; as a reference point for the comparison of value, quantity or quality; a means of arriving at a determination of what a thing

should or ought to be.

Previous "standards" have been developed. The American Bar Association Project on Standards for Criminal Justice; the National Advisory Commission on Criminal Justice Standards and Goals; and The American Law Institute's Code of Criminal Procedure and Model Penal Code are well known in the criminal justice system. NDAA's Standards complement these works in their effort to establish a high level of efficiency and expedition in the reduction of crime.

The National District Attorneys Association, being the national service organization for all prosecutors throughout the country, did not become involved in the standards and goals efforts because everyone else was working on that concept, but rather because NDAA feels that prosecutors were often ignored and not given adequate consideration for their important position within the "judicial systems" portion of the Criminal Justice System. Instead of covering all areas of the Criminal Justice System, NDAA developed Standards specifically for prosecutorial services and only addressed other areas of the Criminal Justice System if those areas interrelate directly with the prosecutorial function. Throughout the development of the Standards, the concept "standards and goals" was utilized as a vehicle for planning and initiating change where needed.

It is expected that these Standards have the potential of becoming the most far reaching project NDAA has ever undertaken. The Standards at times will ask for sweeping reform and other times for simple changes and mere transpositions. They may not be accomplished for years, or they may be achieved tomorrow. But overall they are something to strive for, goals felt necessary for the efficient and effective operation of the prosecutorial portion of the total judicial system.

The National District Attorneys Association's Standards and Commentaries are not, however, exhaustive of past or present ideology and thought on their respective topics. Nor are they a conclusive review and reflection of the literature available on any given subject. Rather, they are the reactions and collective intelligence of the nation's prosecutors as represented by the individual Task Force members and NDAA Board members, supplemented and supported by research where applicable.

When developing the Standards, the Task Force members were not constrained or coerced by existing law and rules, but had the foresight to look at "what should be, what ought to exist." The task forces did not operate in a vacuum with their prosecutorial experience as their only reference, however, but considered the rationale behind existing laws and rules, and only advocated statutory and rule alteration when current application was inadequate or impractical.

Because of this merging of existing laws and alterations, there will be a broad variation in the extent to which current laws and rules will need to be modified in order to implement these Standards. Also, some states and local jurisdiction have already equaled or surpassed these Standards, both in intent and application. Many have not, however, thus pointing up how the need to alter current laws, rules, and practices will vary from state to state and jurisdiction to jurisdiction.

In all cases, each state and local jurisdiction is encouraged to evaluate, compare, consider, and deliberate existing operations and policies, laws, court and administrative rules, and adjudication practices in relation to these Standards.

The Standards must be viewed as flexible. It is anticipated that some Standards will not be applicable in various

jurisdictions, and it is expected that many Standards will be modified to suit local needs. Individual prosecutors are encouraged to take the opportunity to implement the Standards wherever possible; each office may, however, wish to expand, modify, or alter them in order to make the Standards reflective of community needs and in practical harmony with jurisdictional realities.

It is hoped that the reader of these Standards will thoroughly review the Introduction of this document before perusing the Standards themselves, and that the reader will give the Commentaries their respective review and consideration.

The Task Force Members, who served unselfishly throughout the project have earned the highest regard and appreciation. Equally sincere gratitude is given to the Prosecutor/Evaluators and Independent Evaluator of the program. And, as in all projects, the Staff are accorded the highest praise — without them it would never have been done. Particular thanks goes to Jim Manak, Project Director, Jeff Thurmond, Deputy Project Director and Director of Research, and Will Hornsby, Prosecutor Analyst.

*Patrick F. Healy,*  
Executive Director

# chapter 1.

## the prosecutor

This chapter is the heart of the prosecutorial service; the prosecutor himself. It deals with the most pressing and common concerns of the position, and seeks to equate a balance of the various alternatives for individuals occupying the position, and the creation and maintenance of the position itself.

Nowhere in the criminal justice system is the power of authority and discretion more balanced or more powerful. No matter how many arrests the police make, how prolific the courts are at gavel pounding and sentencing, or how many rehabilitated criminals corrections personnel process; if the prosecution doesn't act, the system stops. Being quasi-judicial, the prosecutor acts in an executive position executing legislative directives, affects legislative action through his inherent discretion of charging and screening, and functions in a judicial capacity by the very nature of his position.

Taking all of this into account, this set of Standards deals with such critical issues as how the prosecutor attains office, the qualifications required for the position, the responsibilities the prosecutor must be both held account-

able for and function within, what constitutes reasonable compensation for the prosecutorial service performed, and what safeguards and sanctions need to be established and how to apply them to check the balance of prosecutorial power.

Experienced and professional personnel are required to carry out the legal, judicial, and administrative functions of the prosecutor's office. The problem of crime is unlikely to be reduced or solved if prosecutors continue to be underpaid, understaffed, and inefficiently administered. There are several thousand prosecutors in the nation, the majority of whom work in offices having part time positions. Although salary levels have been rising, prosecutors still receive far less than lawyers of similar experience in private practice. This leads to high turnover in the position, inexperienced personnel in office, too few qualified individuals seeking office, too high of a political orientation to the position, chance of abuse of power due to political pressure and/or lack of understanding of the position's responsibility, and poor administration. These Standards were designed to help reduce those impediments.

## standard 1.1 selection\*

- A. The prosecutor shall be a locally-elected official.
- B. The term of the office of prosecutor shall be at least four years.
- C. The office of prosecutor shall be approached as a career position.

\* *Task Force II feels that because of small jurisdictional size, the election should be non-partisan, with incumbent designation. The term of office should be at least six years, and the position should be approached by candidates, the public and current office holders as a career position.*

## standard 1.2 qualifications\*

- A. The prosecutor must, at time of filing for election and for the duration of his term of office, be a member of the bar in good standing, be a resident of the jurisdiction, and be otherwise qualified to run for and hold office under state statutes.

\* *Because of various degrees of available candidates in different jurisdictions, Task Force I advocates that candidates be residents of the state for at least six months; Task Force V states that candidates be in good standing with the bar for at least two years prior to election for office; and Task Force VI feels that candidates should be practitioners of law for at least five years prior to filing for election for the office of prosecutor.*

## standard 1.3 responsibilities

- A. The office of the prosecutor shall be a full-time profession. The prosecutor shall neither maintain nor

profit from a private legal practice. In those jurisdictions unable to justify the employment of a full-time prosecutor, the prosecutor may serve part-time until the state determines that the merger of jurisdictions or growth of caseload necessitates a full-time prosecutor.

The prosecutor shall devote primary effort to his office, and shall have no outside financial interests which could conflict with that duty.

- B. The prosecutor shall represent the case of the people as to both civil and criminal jurisdiction. The criminal representation shall be the primary responsibility. In jurisdictions where civil and criminal responsibilities are vested in the prosecuting attorney, provision for alternative representation in the case of conflicts should be made.
- C. The duties of the prosecutor's office shall be conducted in a professional and non-partisan manner.
- D. The prosecutor should consider all available models of control of human behavior from the standpoint of the ultimate benefit to society. The prosecutor should at all times be zealous in the desire to protect the rights of individuals, but must place the rights of society in a paramount position in exercising prosecutorial discretion in individual cases and in the approach to the larger issues of improving the law and making the law conform to the needs of society.

*Task Force I & II:*

*The prosecutor should be willing to represent the consensus in the community even if it differs from personal points of view.*

*Task Force IV:*

*It is the duty of the prosecutor to enforce the laws as written by the legislature and upheld by the courts, within the legal, discretionary powers of screening and diversion. Until such time as specific laws are changed by legislative or judicial action, the prosecutor shall enforce such laws, whether the prosecutor personally agrees with them or not.*

## standard 1.4 compensation

- A. Mechanisms should be established for provision of

compensation commensurate with the responsibility and importance of the office of prosecutor.

B. Determination of an appropriate level of salary for the prosecutor should include reference to and consideration of:

1. Salary levels of positions with analogous responsibilities in private firms and industry;
2. Salary levels of United States attorneys and chief trial judges of the jurisdictions; and
3. Population of the jurisdiction of the prosecutor, including seasonal fluctuations, correctional population, and other relevant considerations.

C. The salary of the full-time prosecutor should be at least that of the salary of the chief judge of general trial jurisdiction of the district of the prosecutor. The salary of the part-time prosecutor shall be set by a professional compensation board at the state level.

D. A mechanism should be established for in-term review of the prosecutor's salary in reference to changing economic conditions. Review should take place more than once per term.

E. A program of benefits, including health and pension provisions, should be established to complement the salary of the prosecutor and be at least equal to that provided to members of the state judiciary.

## standard 1.5

### disciplinary sanctions

A mechanism should be established to enable the legislature or court of highest appellate jurisdiction to suspend, remove, or supersede a local prosecutor upon a demonstration, after reasonable notice and hearing, that the prosecutor is incapable of carrying out the duties of his office.

A. Disciplinary Initiation:

Such suspension, removal or superseder should be initiated by the appropriate professional body, in a proceeding designed to safeguard the rights of the prosecutor.\*

B. Disciplinary Rationale:

Such proceedings should be initiated only for just and serious cause, including:

1. Disbarment
2. Conviction of a felony, or a crime involving public corruption
3. Mental incompetency and/or physical disability which would prevent performance of the duties of prosecution
4. Willful neglect of duty

\* *Task Force V feels that the appropriate body would include either the Governor or the Attorney General in initiating proceedings.*

## commentary

### SELECTION

Popular election is the most common method of selection of prosecutors: "The historical traditions of the demand for decentralized administration of criminal justice had led to the almost universal practice of electing local prosecutors. . . ." <sup>1</sup> "In choosing a method of selecting a prosecutor, most jurisdictions have determined that the advantages of popular election of chief prosecuting attorneys outweigh any disadvantages."<sup>2</sup> Local election of prosecutors

. . . increases the likelihood that the prosecutor will be responsive to the dominant law enforcement views and demands of the community. Since he is not dependent on another official for reappointment, the prosecutor possesses a degree of political independence that is desirable in an officer charged with the investigation and the prosecution of charges of bribery and corruption . . . The election of local prosecutors is engrained in our political traditions. Moreover, experience in several large cities has shown that the elective process can produce dedicated career prosecutors who are highly professional and competent.<sup>3</sup>

Prosecutors are elected officials in 45 states.<sup>4</sup> This elective status is determined by constitutional provision in 36 states and by statute in 9 others.<sup>5</sup> Delaware<sup>6</sup> and Rhode Island<sup>7</sup> have no local prosecutors; the Attorney General handles criminal prosecutions for the State. In Connecticut the county state's attorneys are appointed by judges of the superior courts,<sup>8</sup> and the prosecuting attorneys are appointed by the judges of the courts of common pleas.<sup>9</sup> In Alaska, local prosecutors are appointed by the Attorney General.<sup>10</sup> In New Jersey county prosecutors are appointed by the Governor with the advice and consent of the Senate.<sup>11</sup>

Appointment of the prosecutor has sometimes been recommended as a potential method of removing the prosecutor from partisan considerations.<sup>12</sup> Appointment of the prosecutor, however, is not a desirable alternative. An appointed prosecutor does not have direct authority from, and responsibility to, the voters of his district. In addition, selection by appointment has other disadvantages. Appointment by the Governor or Attorney General results in the selection of the prosecutor by a central authority, and not by those (the voters) who can best appreciate what characteristics are suited to their particular jurisdiction. While appointment might be acceptable in smaller states, in larger states such appointment would be "too removed from the county or district served to be preferable to local elections".<sup>13</sup>

Appointment by local courts also is disadvantageous. Johnson notes:

The appointment of a prosecutor by superior court judges, as in Connecticut, is a possible alternative; but the primary function of judges does not involve a responsiveness to popular will, so that the same two fears of prosecutorial unresponsiveness and even abuse of discretion might still be aroused by this alternative.<sup>14</sup>

Norman notes in his examination of the Connecticut

system that "the influence of politics has in no sense been eliminated, only camouflaged".<sup>15</sup> He also suggests that such appointment makes the prosecutor subservient to the judicial function, since "personnel whose re-appointment depends upon the judges they appear before cannot be expected to press their respective cases to the limit of the law".<sup>16</sup> An analogous problem would presumably exist under any appointive system.

Non-partisan elections are sometimes recommended because they keep the prosecutor responsive to the people, but not subservient to political parties, and not "subject to the pressures and demands of partisan politics".<sup>17</sup> Johnson's study found that "those offices that select their chief prosecutor in non-partisan elections have as little political influence as do appointive jurisdictions in the selection of deputies".<sup>18</sup> Non-partisan selection systems are in common use as applied to judicial selection, usually through some variation of the 'Missouri Plan'.<sup>19</sup>

Non-partisan elections for prosecutor are currently used in Oregon and California. The Oregon statute provides, in part, that:

At all primary elections at which candidates for district attorney are to be nominated . . . the county clerk shall prepare and furnish a ballot entitled "District Attorney Ballot" upon which the names of candidates for the office shall be placed without any party designation. Following the name of each candidate shall be a statement, not exceeding 10 words of his qualifications and experience . . .<sup>20</sup>

A similar procedure is used in the general election.

Some question exists as to the need for non-partisan election of district attorneys in all jurisdictions. Jacob's study of Wisconsin district attorneys indicated that despite the use of a partisan ballot most elections for prosecutor in that state were characterized by a lack of partisanship because many candidates ran unopposed.<sup>21</sup> "From 1944 to 1962, between 31 per cent and 59 per cent of the elections for prosecutor went uncontested in both the primary and general elections".<sup>22</sup> The result is that elections for district attorney were as non-political as non-partisan judicial elections in Wisconsin.<sup>23</sup> And since district attorneys generally had less previous linkage to political parties than did the more politically-experienced judges, Jacob notes: "Although elected on a partisan ballot, district attorneys are perhaps more apolitical than judges".<sup>24</sup> If the Wisconsin situation may be assumed to exist throughout the country in those areas which have a minimum of competition for the position of district attorney, then elections for prosecutor may now be operating on a *de facto* non-partisan basis in many areas.

A final question in the election of prosecutors is whether the election ballot should carry a designation of the incumbent. Such a designation is designed to increase professionalism by providing clear identification of the more experienced candidates. One method of accomplishing this is illustrated on the previously cited Oregon ballot, which allows for a brief description of qualifications. Incumbency designation is now followed in some judicial elections.<sup>25</sup>

#### TERM OF OFFICE

The most common length of term of prosecutors is four years. Other term-length distribution is indicated in the following table:<sup>26</sup>

TERM OF OFFICE IN YEARS	NUMBER OF STATES
2	11
4	32
5	1
6	2
8	1
no set term	3

Source: NDAA Prosecutors Surveys — 1976 data

Two-year terms are served by prosecutors in eleven states: Arkansas, Hawaii, Idaho, Kansas, Maine, Missouri, New Hampshire, North Dakota, South Dakota, Vermont, and Wisconsin. Three-year and four-year terms are served by prosecutors in New York. In New Jersey, county prosecutors serve five years. The district attorney in Louisiana and the commonwealth attorney in Kentucky have six-year terms. In Tennessee the district attorney general is elected to an eight-year term.<sup>27</sup> The remainder of offices and jurisdictions have four-year terms. Recommendation is made for at least a four-year term because it is considered short enough to maintain responsiveness to the electorate, but long enough for the prosecutor to be able to carry out his programs and responsibilities. Longer terms might be considered in areas wishing to provide increased incentive for candidates for the office of prosecutor. The longer term would serve to enhance the professionalism of the office of prosecutor by increasing the experience of the incumbent. Terms longer than four years have been accorded other criminal justice officers — the median term length for major trial court judges in those states which limit judges' terms is six years.<sup>28</sup>

#### CAREER ORIENTATION

The office of prosecutor should be approached as a career position:

The advantages of career prosecutors are fairly obvious. Longevity should breed commitment to the tasks of a prosecuting career. Experience should develop the expertise necessary to avoid trial error and appeals, which are costly to the district attorney's office in time, money, and efficiency.<sup>29</sup>

Increased experience in prosecution should result in a greater number of convictions and greater efficiency in criminal justice administration.<sup>30</sup>

Turnover of district attorneys has commonly been high. The study of prosecutors by the NAAG reports that:

Nearly 50 percent of all respondents to COAG's 1973 questionnaire are currently serving their first term in office. Prosecutors in general are fairly young, since the median year in which all 1973 respondents were admitted to the Bar was 1958. Almost 30 per cent had been admitted since 1967.<sup>31</sup>

Jacob notes, in his study of Wisconsin prosecutors, that:

Most district attorneys (65.1 per cent according to election records) left the office voluntarily rather than because of an electoral defeat. Almost half (44.6 per cent) of those no longer incumbent said they left the office because they had become too

busy with their private practice, or because they felt it had impeded the growth of their private practice and income. Consequently, despite the infrequent defeat of incumbents, there is a high turnover in the office. The mean tenure of Wisconsin prosecutors between 1942 and 1963 was four and one-half years. . . .<sup>32</sup>

Ori's study of Indiana county prosecutors discovered that only 3 per cent of those prosecutors examined intended to make a career of prosecution.<sup>33</sup> Engstrom's study of Kentucky prosecutors indicated that 44.7 per cent of those questioned were interested in seeking other political or governmental positions,<sup>34</sup> utilizing the office of prosecutor as a "stepping-stone" to higher office.

Lack of interest in prosecution as a career is pervasive in the prosecutor's office, not merely limited to the chief prosecutor. Felkene's study of prosecution offices in Alabama and California concludes:

There seems to be a definite lack of career orientation within the district attorney's office, despite the fact that almost all respondents reported job satisfaction in their present situations. This may be due, in part, to the failure of the district attorney to carry out any extensive recruiting program in the law schools. The responses of the deputies indicated that they gave very little, if any, consideration to prosecution work while in law school, probably due to a lack of information concerning the job and its availability. Presumably, most attorneys form set goals while they are still in law school, and the fact that district attorneys do not recruit on campuses to any great extent may well preclude any consideration of this type of law practice as a career. If an attorney later accepts a position as a prosecutor, incentive probably will be to gain experience which will facilitate the accomplishment of his previously determined goals, preventing him from viewing the district attorney's office as a potential career.<sup>35</sup>

The position of prosecutor should be approached as a career position. Candidates for the office of prosecutor should not seek election to that office unless they reasonably believe that they are willing to devote to the office of prosecutor that dedication and commitment commensurate with making it a successful and lasting career. The office of the prosecutor should not be viewed simply as a stepping-stone to other political positions.

### QUALIFICATIONS

Given the importance and grave responsibilities of the office of prosecutor, some minimum requirements are deemed necessary to insure that holders of the office meet minimum standards of competence. "The prosecutor has the responsibility of presenting the government's case in court, and his skill as a trial lawyer can be a crucial determinant of whether an offender is convicted."<sup>36</sup> Most states require by statute or constitutional provision that a prosecutor be a licensed attorney, and it has been held that even in the absence of such requirement there exists an inherent implication that he should be so.<sup>37</sup> New Jersey requires that appointees to the office of county prosecutor have practiced law for at least 5 years.<sup>38</sup> Pennsylvania also has a minimum practice requirement for certain metropolitan areas.<sup>39</sup> Other states have similar require-

ments.<sup>40</sup> Whether a specific jurisdiction will wish to establish such requirements depends on its particular circumstances. Smaller jurisdictions might elect not to adopt such requirements in order to facilitate applications for the post of prosecutor.

The responsibility of the prosecutor for representation of the state in criminal matters makes it desirable that the prosecutor have experience in the practice of criminal law, through prior experience in the prosecutor's office, if possible. This ideal will not be possible in all jurisdictions. Some jurisdictions may want to explore the possibility of certification procedures for prosecutors.<sup>41</sup>

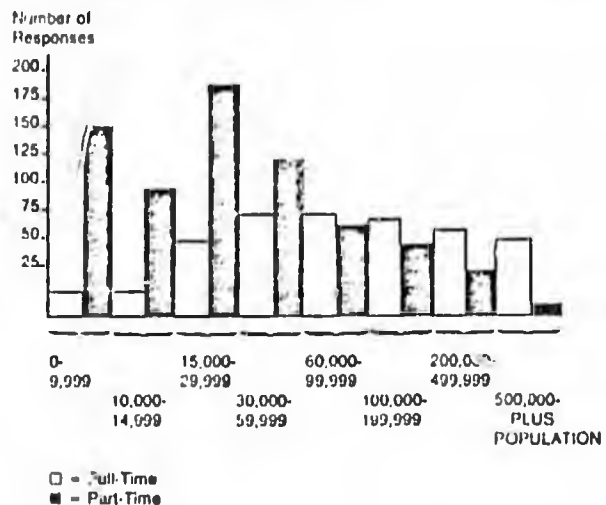
The prosecutor should also be a resident of the jurisdiction which he represents. This will not only enable the prosecutor to attain increased familiarity with the people and conditions of this area, but will also enhance the confidence of the area's population in the commitment of the prosecutor to his jurisdiction.

### DUTIES: FULL-TIME

The nature and responsibilities of the office of the prosecutor demand continued and concentrated effort by the holder of that position. For this reason, it would be desirable if all prosecutors served full-time, and devoted no effort to private practice:

The complexity of today's criminal law practice requires that all prosecutors devote their full efforts to their roles as prosecuting attorneys. Part-time law practice is inconsistent with the type of commitment the community has a right to expect of its prosecutor.<sup>42</sup>

Part-time service is common within the present criminal justice system.<sup>43</sup>



In smaller jurisdictions the majority of prosecutors serve part-time, either for financial reasons, or because of lack of need for a full-time prosecutor in a small district, or simply because the prosecutor in that area has always served only part-time. This practice of part-time prosecutorial service may face the problem of conflicts of interest:

While direct conflicts of interest between the prosecutor's public office and his private practice are clearly unlawful and, we may assume, rare, there are many indirect conflicts that almost invariably arise. The attorneys he deals with as a public officer are the same ones with whom he is ex-

pected to maintain a less formal and more accommodating relationship as counsel to private clients. Similar problems may arise in the prosecutor's dealings with his private clients whose activities may come to his official attention. It is undesirable to place a prosecutor in a position in which he must always be conscious of this potential for conflict and be careful to avoid improprieties or the appearance of conflict.<sup>44</sup>

Even where no conflict of interest arises a potential for difficulty exists:

... 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 continuing temptation to give priority to private clients.<sup>45</sup>

Argument can be made that many areas of the country lack the need for a full-time prosecutor. While this may be true presently, it will not be true in the future:

The part-time system originated in the days when most county seats had only one attorney. Even now in many counties the part-time system is still probably workable, but as population centers grow the work load of the state's attorney will increase to the point that a part-time prosecutor will not be able to handle it.<sup>46</sup>

The office of prosecutor should be a full-time occupation. The holder of the office should neither engage in nor profit from a private legal practice. The full-time requirement should not be construed to prohibit an incumbent prosecutor from participating in either legal education programs or in commission or consultant work connected with criminal justice concerns, since both of these efforts are considered unlikely to produce conflicts of interest, and each is likely to produce benefits of its own to the criminal justice system.

Practical realities dictate that some jurisdictions will be unable to justify the employment of a full-time prosecutor at the present time. Each state should consider merger of jurisdictions which would allow for employment of a full-time prosecutor, or such states should require full-time prosecution when growth of caseload necessitates such a position in those jurisdictions.

## JURISDICTION

The prosecutor shall represent the case of the people as to both civil and criminal jurisdiction. This is currently the case in most jurisdictions today:

Most local prosecutors have both civil and criminal justice responsibilities. Only 12 [now 13 — Editor's Note] states assign the prosecutor solely criminal duties. In at least four others — California, Hawaii, Kansas, and Michigan — prosecutors in urban areas are divested of civil responsibilities which become the province of county or city corporation counsel.<sup>47</sup>

A state-by-state analysis of jurisdictional responsibilities is provided in Appendix 1 — I.

In those areas where the prosecutor is assigned civil jurisdiction the majority of the prosecutor's time is spent on criminal concerns:

Prosecutors devote most of their time to crim-

inal matters: 78 per cent reported they spend over one-half of their time on criminal work. The median percentage of time on criminal matters is 75 per cent. In contrast, only 2 per cent spend over one-half of their time on civil matters.<sup>48</sup>

Despite this, in many areas the civil duties of the prosecutor may be many, varied, and complex. This is especially true in areas where the prosecutor acts not only as criminal district attorney, but also as general city or county counsel. Many small areas simply lack the availability of attorneys to provide for both a full-time criminal district attorney and a full-time county counsel.

In some areas of prosecutorial duties civil lawsuits can be of significant importance. Civil lawsuits have some advantages over criminal actions:

... civil lawsuits give the prosecutor certain major advantages. The advantages are such that civil suits may be the only practical remedy. The potential damages are greater. Due to the lack of stigma, civil suits may lead to faster correction of the problem and resolution of the lawsuit. The prosecutor is not limited by the dictates of the Fifth Amendment so his right to discovery is more effective and meaningful and the lawsuit is more easily won.<sup>49</sup>

In some areas, civil lawsuits are particularly advantageous:

The great advantage of the consumer fraud prosecution in such instances is that it is not criminal, but civil in nature. Therefore all methods of civil discovery, including depositions, interrogatories, admissions, and inspection and copying of business records are available to the People. In fact, because the civil penalties sought in such an action are so similar to punitive damages, the People may also discover the financial status of the defendants.

In addition, because these consumer fraud actions are not criminal certain constitutional rights peculiar to criminal actions are not available to the defendants. The defendant does not have a right to a jury trial, there is no requirement that the evidence be established beyond a reasonable doubt, but rather only by a preponderance of the evidence, nor does the defendant have the Sixth Amendment right to be confronted by the witnesses against him. Of equal importance, a criminal acquittal does not bar the civil action on the basis of double jeopardy.<sup>50</sup> (footnotes omitted).

Other advantages in consumer fraud prosecution include a more effective case if the defendant is a corporation, possibility of greater damages than are available by criminal fine, fewer "Sheppard" restrictions on comments or publicity, and possible avoidance of extradition problems.<sup>51</sup>

Civil suits can also be useful to the prosecutor in areas such as child support enforcement,<sup>52</sup> environmental law,<sup>53</sup> and others.<sup>54</sup>

The full-time prosecutor can serve both criminal and civil functions, and should have the responsibility for both civil and criminal jurisdiction.

## PROFESSIONALISM AND NON-PARTISANSHIP

The duties of the prosecutor's office must be conducted in a completely professional and non-partisan fashion. The authority of the office of prosecutor can only be ex-

exercised in the interest of the People and not for private concerns:

The powers of a district attorney under our laws are very extensive. They affect to a high degree the liberty of the individual, the good order of society, and the safety of the community . . . Powers so great impose responsibilities correspondingly grave. They demand character incorruptible, reputation unsullied, a high standard of professional ethics and sound judgment of no mean order . . . A district attorney cannot treat that office as his selfish affair. It is a public trust. The office is not a private property, but is to be held and administered wholly in the interests of the people at large and with an eye single to their welfare.<sup>55</sup>

Unprofessional use of the authority of the prosecutor's office for private concerns demeans the office of the prosecutor and violates the public trust and confidence in the criminal justice system. Loss of public confidence only makes the prosecutor's job more difficult and less rewarding. Partisanship may also affect the prosecutor's staff:

Highly qualified practicing lawyers and recent law school graduates may be prevented from entering the prosecutor's office because they are unable or unwilling to acquire political sponsorship. Lawyers who are considering a career in the prosecutor's office may be daunted, even if they have the required political support, by the likelihood of discharge if their party does not retain control of the office at the next election. Furthermore, the obligations usually attached to a patronage position, such as purchasing or selling tickets to fund-raising dinners, campaigning, or systematically contributing to the party, may be distasteful to many lawyers.<sup>56</sup>

Partisanship can also adversely affect the general conduct of the prosecution function:

Political considerations make some prosecutors overly sensitive to what is safe, expedient, and in conformity with law enforcement views that are popular rather than enlightened. Political amputation does not encourage a prosecutor to take the

risks that frequently inhere in reasoned judgments.<sup>57</sup>

The prosecutor must strive to conduct his office and his duties in a completely professional and non-partisan way, exercising the powers and authority of his position for the interest of the People and not for any private or personal concern. To do otherwise is a violation of his responsibility and his electoral mandate.

### COMPENSATION

Provision of an adequate salary is an absolute necessity if the office of prosecutor is to function at maximum efficiency. An adequate salary is essential for attracting capable candidates to the position of prosecutor:

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.<sup>58</sup>

"If public service careers are pursued in an austere setting on depressed salaries, few talented people will be attracted to local prosecutorial service and experienced attorneys will seek other employment."<sup>59</sup> Failure to provide adequate salaries has resulted in a lack of prosecutorial candidates, as illustrated by the example of Oklahoma:

In that state, as in some others, archaic legal limitations prevented payment of compensation which would attract competent lawyers, and the administration of criminal justice suffered. This reached crisis proportions when, in 1964, no attorneys sought election as County Attorney in 55 of the state's 77 counties.<sup>60</sup>

Subsequent to this, Oklahoma reorganized its prosecutorial system. Other states have faced similar problems. In Kansas, in January 1975, in 29 out of 101 counties the candidate for prosecutor chose not to seek re-election. In 89 counties the candidate for prosecutor ran unopposed.<sup>61</sup> Many jurisdictions face difficulties enough in attracting candidates for prosecutor without having to contend with low salaries. Jacob notes that in Wisconsin "the pool of potential candidates is quite small: eighteen

Jurisdiction	Reason For Leaving		Nature of New Employment									
	Discharged (%)	Retirement (%)	Death (%)	Sickness (%)	More Money (%)	Other (%)	Indiv. Practice (%)	Estab. Firm (%)	Law Firm (%)	New Law Corp. (%)	Gov. (%)	Other (%)
Los Angeles	1.3	5.2	2.6		63.6	22.1	50	16				34
Detroit	5	50			45		30	30	20		10	10
Brooklyn	1	32	4		63		65	17	11	2	5	
Cleveland			22		33	45		66			34	
Houston	2		2		96		20	50	20		10	
Bronx		11.5			88.5		24.5	8.5	5.5	2.5	59.0	
Miami	5	5			80	10	50	50				
Buffalo					70	30	40	30	20	20	10	
St. Louis	10		5		70	15	15	60	10		15	
Phoenix					100				90		10	
Cincinnati					100							
Baltimore					90	10	5	90	5			
Sacramento					10	90		50			50	
Atlanta		50			50		25			25	50	
Crown Point		10	10		80		75	10	5		10	
Portland	6				34			59	10			
Denver					15	30	20	44		12	24	
St. Paul					100			40	40		20	

counties in 1965 had fewer than 10 active attorneys".<sup>62</sup> Provision of an adequate salary is thus crucial to guaranteeing the existence of sufficient qualified prosecutors.

Provision for an adequate salary level is also essential to reduce the rapid turnover of local prosecutors.<sup>63</sup>

Turnover among prosecutors is one of the major problems which limits the development of prosecutorial expertise. The major reason cited for leaving the job is failure of salaries to meet the level which attorneys can reach in private practice.<sup>64</sup>

"Turnover in prosecutor's offices far exceeds that in any other government office dealing with the administration of criminal justice."<sup>65</sup> Turnover in prosecutor's offices across the country may be as high as 33 per cent annually.<sup>66</sup> The primary reason for this high turnover is inadequate financial compensation, as the previous table indicates.<sup>67</sup>

Provision of adequate salaries will also act to reduce the likelihood of prosecutorial misconduct, since "adequately paid, full-time district attorneys and their staffs will be less susceptible to temptations of outside employment and to offers of money or favors in return for accommodating individuals whose cases come before them".<sup>68</sup>

The source of the prosecutor's salary varies among jurisdictions, as the following table indicates:<sup>69</sup>

#### SOURCE OF PROSECUTOR'S SALARY

Source	Number of Responses	Percent of Total (636)
State	83	13
State (County may Supplement)	40	6
State and County	86	14
County	425	67
Information not available	2	—
TOTAL	636	100

Examination should be made of the feasibility of state or federal supplementation in those local areas which are unable to adequately provide a salary for the prosecutor.

#### LEVEL OF SALARY

Salary levels for prosecutors vary considerably across

the country. The following table gives the result of a nationwide survey of prosecutors' salaries:<sup>70</sup>

#### ANNUAL SALARY OF PROSECUTORS

Annual Salary	Number of Responses	Percent of Total Responses
\$Under 10,000	352	37.4
10,000-11,999	104	11.0
12,000-15,999	176	18.7
16,000-19,999	112	11.9
20,000-24,999	136	14.6
25,000-49,999	59	6.4
TOTAL	939	100.0

"The median income of all prosecutors in 1973 was \$ 2,500 per year. The total salary range reported was from \$1,120 to \$44,028. These figures include part-time prosecutors. Full-time prosecutors received a median of \$22,042 per year . . . When a median hourly salary is computed for full-time prosecutors, the figure derived is \$11.74. For part-time prosecutors, the hourly median salary is between \$6.50 and \$7.50."<sup>71</sup> Additional material on various prosecutors' salaries, along with a comparison of trial judge salaries, is provided in Appendix 1 — III. Figures on increases in salaries by years of service for metropolitan prosecution offices are shown in the table below.<sup>72</sup>

The salary provided the prosecutor should be at least that of the salary of the judge of general trial jurisdiction of the district of the prosecutor:

For purposes of salary, the prosecutor should be considered to be on the same level as the chief judge of the highest trial court of the local criminal justice system. Both positions require the exercise of broad professional discretion in the discharge of the duties of the offices. It is therefore reasonable that the compensation for the holders of these offices have the same base.<sup>73</sup>

Those jurisdictions which still have a part-time prosecutor should have salaries set by a professional compensation board at the state level.

#### SALARIES BY YEARS OF SERVICE

Jurisdiction	Aver. Beginning Salary		Aver. Salary 2 yrs.		Aver. Salary 5 yrs.		Aver. Salary 10 yrs.		Sick Leave	Vacation	Vacation Low—High	
	Low	High	Low	High	Low	High	Low	High				
Los Angeles	\$889	\$1,107	\$1,203	\$1,499	\$1,499	\$1,867	\$1,673	\$2,084	Yes	Yes	2 wk. - 4 wk.	
Detroit	750	1,043	1,082	1,331	1,353	1,610	1,618	1,882	Yes	Yes	12 da.	
Brooklyn	—	—	—	—	—	—	—	—	Yes	Yes	—	
Cleveland	833	1,000	1,000	1,167	1,167	1,333	1,333	1,500	Yes	Yes	2 wk. - 4 wk.	
Houston	730	960	960	1,210	1,210	1,405	1,405	1,675	Yes	Yes	1 wk. - 4 wk.	
Bronx	833	958	1,000	1,083	1,165	1,375	1,450	1,916	Yes	Yes	15 da.	
Miami	625	792	792	958	958	1,125	1,125	1,333	Yes	Yes	1 wk. - 4 wk.	
Buffalo	665	850	948	1,191	1,067	1,340	1,243	1,496	Yes	Yes	4 wk.	
St. Louis	679	956	867	1,107	1,004	1,282	1,282	1,635	Yes	Yes	2 wk. - 4 wk.	
Phoenix	591	650	650	795	795	1,013	1,013	1,294	Yes	Yes	15 da.	
Cincinnati	416	538	538	750	750	1,083	1,083	1,417	Yes	Yes	2 wk. - 4 wk.	
Baltimore	811	851	780	986	939	1,198	1,141	1,457	No	Yes	30 da.	
Sacramento	905	1,000	1,274	1,404	1,475	1,626	1,626	1,792	Yes	Yes	1 yr. 2 wk. - 2 yr. 4 wk.	
Allanta	666	833	833	1,000	1,000	1,166	1,166	1,333	Yes	Yes	2 wk. - 3 wk.	
Crown Point	708	790	790	875	875	1,000	1,000	1,166	No	Yes	2 wk. - 2 wk.	
Portland	857	1,006	985	1,156	1,135	1,332	1,315	1,544	Yes	Yes	2 wk - 4 wk.	
Denver	700	833	1,000	1,166	1,166	1,166	1,166	1,166	Yes	Yes	12 da.	
St. Paul	875	1,107	1,023	1,295	1,197	1,515	1,347	1,705	Yes	Yes	2 wk. - 4 wk.	
New York	—	3,083	Increase based on salary increases of judiciary-chief trial court of jurisdiction				1,515	1,347	1,705	Yes	Yes	1 wk - 4 wk.

## REVIEW OF SALARY

A review mechanism should be established to periodically examine and evaluate the salary of the prosecutor in light of changing economic conditions. Current practice in many jurisdictions is to provide review and alteration of the prosecutor's salary only at the beginning of each term. This could result in a net decrease in the prosecutor's salary, as Trimble notes:

A Constitutional prohibition against a salary increase during a term of office in Oklahoma means that the DA receives no salary increases or cost of living adjustment for 4 years. This is crazy. He is making 24% less when he ends the term than when he starts it.<sup>74</sup>

Unless statutory provision is made for periodic in-term increases in salary, a board or mechanism should be established with authority to review and revise prosecutors' salaries in light of changing economic conditions.

## BENEFITS

A program of benefits should be established to complement the salary of the prosecutor and his staff. These benefits should include both health insurance coverage and provisions for accumulation of retirement benefits. Since it is comparatively rare for a prosecutor to serve exclusively as a prosecutor throughout his career, a method should be established whereby a prosecutor may be provided retirement coverage commensurate with the length of his service in office. Connecticut provides that the prosecutor on retiring "shall receive annually as retirement salary, for each year he has served in any such office, one-tenth of two-thirds the salary of the office which he held at the time of his retirement, as such salary may be changed from time to time; but in no event more than two-thirds of such salary".<sup>75</sup>

## SUSPENSION

A means should be instituted whereby the prosecutor may be suspended from office. Suspension should be instituted as a punishment for actions of minor misconduct which do not warrant removal of the prosecutor. Suspension might also be instituted as a prelude to the institution of removal proceedings against the prosecutor. Suspension mechanisms should provide for hearing procedures at which the rights of the prosecutor are protected.

## REMOVAL

Provision should be established for expeditious removal of the prosecutor when it has been fairly determined that he is no longer fit to hold office.

Various removal mechanisms are employed by different states. Impeachment is the most usual method of removal.<sup>76</sup> Removal by the Governor is another common method. Other methods of removal include removal by a court,<sup>77</sup> removal on recommendation of the Attorney General,<sup>78</sup> impeachment by the legislature,<sup>79</sup> or recall provisions.<sup>80</sup>

Grounds for removal also vary among the different states. Grounds for removal include such causes as "malfeasance, misfeasance, nonfeasance, or nonadministration in office",<sup>81</sup> "incompetency, neglect of duty or misuse of office when such incompetency, neglect of duty or

misuse of office has material adverse effect upon the conduct of such office",<sup>83</sup> and "incompetency, corruption, malfeasance or delinquency in office, or other sufficient cause".<sup>84</sup> Disbarment and conviction of a serious crime are other common grounds for removal. Removal proceedings, however, are seldom utilized: "The district attorney need fear ouster only for criminal activity, and even where evidence of such conduct exists, ouster proceedings are seldom employed."<sup>85</sup>

The method adopted for removal of the prosecutor should provide a clear statement and interpretation of all possible grounds for removal, and a speedy means of accomplishing the removal hearing. Protection of the rights of the prosecutor must be guaranteed by any system of removal.

## footnotes

1. Advisory Commission on Intergovernmental Relations, *Report: State-Local Relations in the Criminal Justice System* 112 (1971) [hereinafter cited as *ACIR*].
2. National Advisory Commission on Criminal Justice Standards and Goals, *Courts* 230 (1973) [hereinafter cited as *NAC Courts*].
3. President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report: the Courts* 73-74 (1967) [hereinafter cited as *Task Force Report: The Courts*].
4. See Appendix 1 — *Infra*.
5. *ACIR* 112.
6. *Del. Code Ann.* tit. 29 §2502, (1975).
7. *R.I. Gen. Laws An.* §42-9-1 (1970).
8. *Conn. Gen. Stat.* §51-278 (1960).
9. *Id.*, §51-282.
10. *Alaska Stat.* §44.23.050 (1962).
11. *N.J. Stat. Ann.* §2A: 158-1 (1971).
12. See "Prosecutor Indiscretion: A Result of Political Influence", 34 *Ind. L.J.* 477 (1959).
13. Johnson, "The Influence of Politics Upon the Office of the American Prosecutor", 2 *Am. J. Crim. L.* 187, 193 (1973).
14. *Id.* at 193.
15. Newman, "Prosecutor and Defender Reform: Reorganization to Increase Effectiveness", 44 *Connecticut B.J.* 567, 569 (1973).
16. *Id.* at 569.
17. A.B.A. *Project on Standards for Criminal Justice, Prosecution Function* 61 (Approved Draft, 1970) [hereinafter cited as *ABA Prosecution Function*].
18. Johnson, *supra* note 13, at 204.
19. See "Application of the Missouri Court Plan to Judicial Selection and Tenure in America Today", 15 *Buffalo L. Rev.* 378 (1965); "Judicial Selection and Tenure — the Missouri Plan", 58 *Illinois B.J.* 510 (1970); "Merit Selection and Merit Election of Judges", 4 *G. St. B. J.* 169 (1967).
20. *Ore. Rev. Stat.* §252-640(1) (1953).
21. Jacob, "Judicial Insulation — Elections, Direct Participation, and Public Attention to the Courts in Wisconsin", 1966 *Wisconsin L. Rev.* 801.
22. *Id.* at 809.
23. *Id.* at 812.
24. *Id.* at 811.
25. See, e.g., *Minn. Stat.* §487.03 (1961).
26. NDAA Prosecutors Surveys, 1976 data compilation. For additional data, the following may be used: NAAG, *The Survey of Local Prosecutors*, which is one of a series of invaluable reports on the Attorney General and on local prosecutors prepared by the Committee on the Office of the Attorney General of the National Association of Attorney Generals. Others in the continuing examination include *The Office of the Attorney General (1971) Survey of Local Prosecutors: Data Concerning 1000 Local Prosecutors* (1973), and *The Prosecution Function: Prosecutors and the Attorney General* (1974).

27. See Appendix 1 — *Infra*.
28. Jacob, *supra*, note 21, at 809.
29. Johnson, *supra*, note 13, at 194.
30. See Kuh, "Careers in Prosecution Offices", 14 *J. Legal Ed.* 175, 178 (1961).
31. NAAG, *The Prosecution Function: Prosecutors and The Attorney General* NDAA (1974) [hereinafter cited as NAAG *Prosecutor Function*].
32. Jacob, *supra* note 21, at 810.
33. Ori, "The Politicized Nature of the County Prosecutor's Office, Fact or Fancy? — The Case in Indiana", 40 *Notre Dame Lawyer* 292 (1965).
34. Engstrom, "Political Ambitions and the Prosecutorial Office", 33 *J. Politics* 190, 192 (1971). This figure may be deceptively low in estimating prosecutors who do not intend to make a career of prosecution, since it only applies to those interested in leaving office for political reasons, not to seek a position in private practice.
35. Felkenes, "The Prosecutor: A Look at Reality", 7 *Sw. U. L. Rev.* 106 (1975).
36. *Task Force Report: The Courts* 72.
37. See *People ex rel Elliott v. Benefiel*, 405 Ill. 500, 91 N.E. 2d 427 (1950); Application of Sposato, 43 N.Y.S.2d 785, 180 Misc. 940 (1943).
38. *N.J. Stat. Ann.* §2A: 158-1 (1971).
39. *Pa. Stat. Ann.* tit. 16, §1401 (1956).
40. For an interesting interpretation of "practicing law" see *Riddle v. Roy*, 126 So. 2d 448 (1960), which concerns a Louisiana constitutional requirement of three years practice as eligibility for the office of district attorney. The court held that an attorney was "practicing law" as long as he was ready, willing, and able to practice law, even if he had no clients or conducted no legal business. Most states now use "admission to the practice of law" rather than "practicing law".
41. See NDAA Standards 4.1 — 4.3 re Certification, Training, and Education *infra*.
42. NAC *Courts* 229.
43. NAAG *Prosecution Function* 9.
44. *Task Force Report: The Courts* 73.
45. ABA *Prosecution Function* 60.
46. Taylor, "The State's Attorney's Dilemma", 16 *S.D. L. Rev.* 222, 226 (1971).
47. ACIR 113.
48. Morgan & Alexander, "A Survey of Local Prosecutors", 47 *State Gov't.* 42, 43 (1974).
49. California District Attorneys Association, *Uniform Crime Charging Standards* 54 (1974).
50. Bowley, "Law Enforcement Role in Consumer Protection", 14 *Santa Clara Lawyer* 555, 564 (1974). See also, "Consumer Protection: An Expanded Role for the Local Prosecutor", 44 *U. Cin. L. Rev.* 81 (1975).
51. Bowley, *supra* note 50, at 565-567.
52. See Busch, "Role of the District Attorney in Civil and Criminal Child Support Enforcement", 47 *LAB Bull.* 56 (1971).
53. See Wagoner, "Environmental Protection in California: Court Action Powers of State and Local Government Attorneys", 14 *Santa Clara Lawyer* 296 (1974).
54. See Stulberg, "Civil Alternatives to Criminal Prosecution", 39 *Albany L. Rev.* 359 (1975).
55. *Attorney General v. Tufts*, 239 Mass. 458, 489 132 N.E. 322, (1921).
56. *Task Force Report: The Courts* 73.
57. *Id.* at 73.
58. *Id.* at 74.
59. NAC, *Community Crime Prevention* 271 (1973).
60. ABA *Prosecution Function* 52.
61. Zody, "Kansas County Attorneys: A Survey Analysis", 2 *Kan. Prosecutor* 13 (Winter 1975).
62. Judicial Insulation, *supra* note 21, at 810.
63. See also the Commentary and Standards on Career Orientation *infra*.
64. NAAG *Prosecution Function* 11.
65. Gelber, "Who Defends the Prosecutor?", 14 *Crime & Delinquency* 315, 316 (1968).
66. *Id.* at 316.
67. NDAA, *Report on Proceedings, NDAA Metropolitan Prosecutor's Conference* 44 (1971). The information for Denver seems to be either inaccurate or incomplete, since the stated figures do not represent a 100% sample.
68. NAC, *Community Crime Prevention* 271 (1973).
69. NAAG, *Survey of Local Prosecutors* (1972).
70. NAAG *Prosecution Function*.
71. *Id.* at 11.
72. NDAA, *Report: Proceedings, NDAA Metropolitan Prosecutor's Conference* (1971); NDAA Prosecutors Surveys — 1976 data.
73. NAC *Courts* 230.
74. Trimble, "Here Comes the DA", 7 *Prosecutor* 476, 478 (1971).
75. *Conn. Gen. Stat. Rev.* §51-287 (1960).
76. See Appendix 1 — *Infra*.
77. In Connecticut, New Hampshire, and Texas.
78. See *Md. Const.* art. V, §7.
79. See *Md. Const.* art. V, §7; *Wash. Const.* art. 4, §9.
80. As in Oregon.
81. *Hawaii Rev. Stat.* §62-13 (1968).
82. *Md. Const.* art. V §7.
83. *Va. Code Ann.* §24.1-79.5 (1975 Supp.).
84. *Wash. Const.* art. 4, §9.
85. "Private Prosecution: A Remedy for District Attorney's Unwarranted Inaction", 65 *Yale L.J.* 209, 212 (1955).

## appendix 1 — I

### NATURE OF THE PROSECUTOR

STATE	TITLE	JURISDICTION	AREA	SELECTION	TERM	REMOVAL
Alabama	District Attorney	Criminal-Civil	Judic. Dist	Elected	4 years	Impeachment
Alaska	District Attorney	Criminal-Civil	Judic. Dist	Appointed		Governor
Arizona	County Attorney	Criminal-Civil	County	Elected	4 years	
Arkansas	Dist. Pros. Att.	Criminal	Judic. Dist.	Elected	2 years	Impeachment
California	District Attorney	Criminal-Civil	County	Elected	4 years	Impeachment
Colorado	District Attorney	Criminal	Judic. Dist.	Elected	4 years	Impeachment
Connecticut	Prosecuting Att.	Criminal	County	Appointed	4 years	Court of Common Pleas
	State's Attorney	Criminal	County	Appointed	4 years	Superior Court

STATE	TITLE	JURISDICTION	AREA	ELECTION	TERM	REMOVAL
Delaware	No local prosecutor					
Florida	State's Attorney	Criminal-Civil	Judic. Circuit	Elected	4 years	
Georgia	District Attorney	Crim.-Civil App.	Judic. Dist.	Elected	4 years	Impeachment
Hawaii	City or County Att.	Criminal-Appeals	County	Elected	2 years	Impeachment
Idaho	Prosecuting Att.	Criminal-Civil	County	Elected	2 years	
Illinois	State's Attorney	Crim.-Civil App.	County	Elected	4 years	
Indiana	Prosecuting Att.	Criminal	Judic. Dist.	Elected	4 years	Impeachment Supreme Court Recall, Impeachment
Iowa	County Attorney	Criminal-Civil	County	Elected	4 years	
Kansas	County Attorney	Crim.-Civil-App.	County	Elected	2 years	
Kentucky	County Attorney	Misdemeanors-	County	Elected	4 years	
	Commonwealth Attorney	Felonies-St. Civil	District	Elected	6 years	Impeachment
Louisiana	District Attorney	Crim.-St. Civil	Judic. Dist.	Elected	6 years	
Maine	District Attorney	Criminal-Civil	Prosecutorial District (8)	Elected	2 years	Supreme Judi- cial Court
Maryland	State's Attorney	Criminal-Civil	Co. or City	Elected	4 years	Impeachment, AG
Massachusetts	District Attorney	Crim.-St. Civil-App.	Judic. Dist.	Elected	4 years	Impeachment, AG
Michigan	Prosecuting Att.	Crim.-Civil-App.	County	Elected	4 years	Governor
Minnesota	County Attorney	Crim.-Civil-App.	County	Elected	4 years	Governor
Mississippi	District Attorney	Felonies	Judic. Dist.	Elected	4 years	
	County Pros. Att.	Misdemeanors	County	Elected	4 years	
Missouri	Prosecuting Att.	Criminal	County	Elected	2 years	Suit
	County Attorney	Misdemeanor	County	Elected	2 years	Suit
Montana	County Attorney	Criminal-Civil	County	Elected	4 years	
Nebraska	County Attorney	Criminal-Civil	County	Elected	4 years	Governor Suit by Accusation, Complaint
Nevada	District Attorney	Criminal-Civil	County	Elected	4 years	
New Hampshire	County Attorney	Criminal-Civil	County	Elected	2 years	Superior Court
New Jersey	County Prosecutor	Criminal	County	Governor with consent of Sen.	5 years	
New Mexico	District Attorney	Criminal	Judic. Dist.	Elected	4 years	
					4 years	
New York	District Attorney	Crim.-App.	County	Elected	3 years	Governor
North Carolina	District Attorney	Criminal	District	Elected	4 years	
North Dakota	State's Attorney	Crim.-App.	County	Elected	2 years	Governor
Ohio	Prosecuting Att.	Crim.-Civil-App.	County	Elected	4 years	
Oklahoma	District Attorney	Criminal-Civil	District	Elected	4 years	Impeachment, Suit
Oregon	District Attorney	Crim.-Civil-App.	County	Elected	4 years	Recall, Suit
Pennsylvania	District Attorney	Civil-Crim.-App.	County	Elected	4 years	Impeachment
Rhode Island	No local prosecutor					
South Carolina	Solicitor	Criminal-St. Civil	Judic. Dist.	Elected	4 years	
South Dakota	State's Attorney	Criminal-Civil	County	Elected	2 years	Governor
Tennessee	District A.G.	Criminal	Judic. Dist.	Elected	8 years	Impeachment
Texas	County Attorney	Criminal-Civil	County	Elected	4 years	District Court
	District Attorney	Criminal	District	Elected	4 years	District Court
	Criminal D.A.	Criminal	County	Elected	2 years	
						Court Trial, Referendum, Impeachment
Utah	County Attorney	Crim.-Civil-Felonies	County	Elected	4 years	
Vermont	State's Attorney	Crim.-Civil-App.	County	Elected	2 years	Impeachment
Virginia	Commonwealth Attorney	Criminal-Civil	County or City	Elected	4 years	Circuit Court Legislative Resolution
Washington	Prosecuting Att.	Crim.-Civil-App.	County	Elected	4 years	
West Virginia	Prosecuting Att.	Criminal-Civil	County	Elected	4 years	Impeachment

STATE	TITLE	JURISDICTION	AREA	SELECTION	TERM	REMOVAL
Wisconsin	District Attorney	Criminal-Civil	County	Elected	2 years	Governor
Wyoming	County and Prosecuting Att.	Criminal-Civil	County	Elected	4 years	Governor

Source: The following chart is a composite developed by NDAA of material gathered from various sources, including

- \*1. NAAG, COAG, *Survey of Local Prosecutors* (June 1972)
2. NAAG, COAG, *The Prosecution Function* (1974)
- \*3. ACIR, "State-Local Relations in the Criminal Justice System" (Aug. 1971)
4. NDAA, "The Prosecuting Attorneys of the U.S. — 1965 (1966)
5. Statute research by Standards and Goals Staff. (NDAA)

States status updated to 1975-76 by National District Attorneys Association.

## ix 1 — II

### PROSECUTOR SALARY AND BUDGET COMPARISON SURVEY 1975 - 1976

JURISDICTION	POPULATION	CURRENT BUDGET	NO. OF ASSTS.	ASST. SALARIES MIN.	ASST. SALARIES MAX.	CHIEF PROS. SALARY
Orange County (Calif.)	1,646,300	\$ 5,450,696	94	\$14,412	\$42,408	\$45,360
Baltimore City (MD.)	900,000	2,653,918	96	13,500	24,700	37,000
San Diego County (Calif.)	638,000	6,077,671	102	13,680	39,168	42,996
Cook County (Chicago, Ill.)	5,493,529	11,465,986	341	14,400	39,660	42,200
Sacramento County (Calif.)	700,000	4,739,113	69	13,238	34,723	38,377
Alameda County (Oakland, Calif.)	1,100,000	4,043,635	105	13,632	36,180	40,056
Bronx County (NY.)	1,478,000	6,032,230	151	13,000	40,000	40,800
Nassau County (NY.)	1,500,000	4,053,500	96	15,000	39,500	45,000
Dade County (Miami, Fla.)	1,389,400	3,638,422	80	12,000	38,000	46,000
Harris County (Houston, Texas)	2,000,000	4,191,426	109	14,136	33,168	43,120
Los Angeles County (Calif.)	7,100,000	28,014,818	605	15,516	44,000	44,028
Oakland, CA (Alameda County)	1,100,000	4,044,000	105	13,632	36,180	40,056
Phoenix, AZ (Maricopa County)	1,119,000	2,567,060	80	12,000	30,000	23,500
San Jose, CA (Santa Clara County)	1,665,000	4,537,589	69	14,424	38,463	46,128
Minneapolis, MN (Hennipin County)	981,000	1,600,000	54	13,000	28,500	32,000
St. Louis, MO	957,100	1,240,000	37	11,000	22,000	22,500
Hackensack, NJ (Bergen County)	911,480	1,800,000	23 (72 Inv.)	14,500	34,000	40,000
Buffalo, NY (Erie County)	1,127,000	1,838,601	62	10,680	32,716	48,996
Seattle, Washington (King County)	1,144,000	2,300,000	60	13,240	27,156	30,300
Milwaukee, WI	1,060,000	2,028,000	53	16,000	33,300	37,391
St. Paul, Minn. (Ramsey County)	483,309	1,100,000	31	14,676	34,104	33,500
Salt Lake City, Utah (Salt Lake County)	506,000	1,200,000	33	12,000	25,000	25,250

Source: NDAA Prosecutor Surveys conducted in 1976.

**JUDICIAL SALARIES IN APPELLATE AND TRIAL COURTS**

State	Supreme Court	Intermediate Appellate Court	General Trial Court	Date of Last Salary Change
Alabama	\$ 33,500	\$ 33,000	\$ 25,000	12/ 1/75
Alaska	52,992		48,576	6/ 1/75
Arizona	37,000	35,000	33,000	1/ 6/75
Arkansas	29,553		27,500	7/ 1/75
California	57,985	54,361	45,299	9/ 1/75
Colorado	35,000	32,000	28,000	7/ 1/73
Connecticut	36,000		34,500	1/ 3/73
Delaware	42,000		39,000	7/ 1/75
Florida	40,000	38,000	36,000	1/ 1/75
Georgia	40,000	39,500	32,500	7/ 1/75
Hawaii	45,000		42,500	1/ 1/76
Idaho	31,500		28,500	7/ 1/76
Illinois	50,000	45,000	37,000	7/ 1/75
Indiana	38,100	38,100	26,500-31,500	6/ 1/75
Iowa	36,000		31,500	7/ 1/75
Kansas	32,500		27,500	7/ 1/75
Kentucky	39,000	37,000	35,000	7/ 1/76
Louisiana	50,000	47,500	42,500	8/ 1/75
Maine	26,000		25,500	4/ 1/74
Maryland	44,100	41,400	39,200	7/ 1/75
Massachusetts	40,788	37,771	36,233	1/ 1/74
Michigan	43,500	41,961	26,500	1/ 1/76
Minnesota	36,500		32,000	7/ 1/73
Mississippi	34,000		30,000	7/ 1/74
Missouri	36,500	34,000	31,000	7/ 1/75
Montana	27,000		25,000	7/ 1/75
Nebraska	35,500		32,500	1/ 1/75
Nevada	35,000		30,000	1/ 1/75
New Hampshire	34,060		33,952	7/20/75
New Jersey	48,000	45,000	40,000	6/23/74
New Mexico	33,500	32,000	31,000	7/ 1/76
New York	60,575	51,627	46,998	7/ 1/74
N. Carolina	38,000	35,500	30,500	7/ 1/73
North Dakota	32,000		30,000	7/ 1/75
Ohio	40,000	37,000	34,000	1972
Oklahoma	30,000	26,000	25,000	7/ 1/75
Oregon	38,700	37,500	35,000	7/ 1/76
Pennsylvania	50,000	48,000	40,000	12/ 1/72
Rhode Island	33,000		31,000	5/26/74
South Carolina	37,762		37,762	7/ 1/75
South Dakota	28,000		26,000	4/ 1/75
Tennessee	39,330	36,052	32,775	9/ 1/74
Texas	47,400	41,800	32,803	9/ 1/76
Utah	30,000		27,500	7/ 1/75
Vermont	29,900		25,800	7/ 1/74
Virginia	\$ 44,000	\$ 41,000	\$ 36,900	7/ 1/76
Washington	39,412	36,325	34,250	7/ 1/75
West Virginia	35,000		31,500	7/ 1/76
Wisconsin	42,462		28,788	7/ 1/75
Wyoming	32,500		30,000	7/ 1/75
National Average	38,152 <sup>a</sup>	39,070 <sup>b</sup>	32,527 <sup>a</sup>	NA
District of Columbia	40,140		37,800	10/ 1/75
Federal System	63,000	44,600	42,000	10/ 1/75
Commonwealth of Puerto Rico	37,000		26,000	7/31/74

Source: National Center for State Courts, *Survey of Judicial Salaries in State Court Systems*, April, 1976.

<sup>a</sup> Arithmetic average figured for the 50 states.

<sup>b</sup> Arithmetic average figured for the 26 states that have intermediate appellate courts.

NOTE: Salaries including supplements are shown in parentheses immediately beneath the figures for state-paid salaries.

appendix 1 — IV

**Floating Salary Statutes**

California, Massachusetts and Tennessee provide for judicial salary increases based on a consumer price index. California utilizes the California consumer price index while Massachusetts and Tennessee use the U.S. consumer price index. Maryland provides automatic salary increases for the judiciary based on general salary increases awarded to all state employees. Rhode Island provides for longevity increases as shown in this section. The statutory authority for these automatic salary increases follow.

**California:** The California Government Code 68203 provides:

"In addition to the increase provided under this section on September 1, 1968, on the effective date of the 1969 amendments to this section and on September 1 of each year thereafter, the salary of each justice and judge named in Sections 68200 to 68202, inclusive, shall be increased by that amount which is produced by multiplying the then current salary of each justice or judge by the percentage by which the figure representing the California Department of Industrial Relations has increased in the previous calendar year."

The judges named in 68200 to 68202 include the Chief Justice of California, associate justices of the Supreme Court, justices of courts of appeal, superior court judges and municipal court judges.

**Maryland:** Maryland Code I-703 Pay Plan; Automatic Salary Increases, provides:

"(a) Pay plan. — Section 27, Article 64A of the Code applies to judicial salaries, except for its provisions authorizing emergency salary increases with approval of the Board of Public Works.

"(b) Automatic salary increases. — Whenever a general salary increase is awarded to state employees, each judge shall receive the same percentage increase in his salary as awarded to the lowest step of the highest salary grade for classified employees in the state salary plan."

**Massachusetts:** Massachusetts General Laws Annotated Chapter 30 §46 provides:

"The director of personnel and standardization shall annually determine the percentum difference between the average cost of living for the next preceding calendar year and the average cost of living for the calendar year during which the weekly rates prescribed in the above salary schedule were last revised, both as shown by the United States Consumer Price Index for such years, and shall prepare and submit to the general court a report of such determination within a reasonable time after said index for the next preceding calendar year has become available. Whenever such determination indicates a percentum increase or decrease of at least three percentum, such report shall be accompanied by a recommendation for legislation to provide a corresponding percentum increase or decrease in the salaries of all employees in the service of the commonwealth and paid from the treasury thereof. . . . Whenever such determination indicates a percentum increase of at least three percentum, as hereinbefore described, such report shall be accompanied by a recommendation of legislation to provide a corresponding percentum increase in the salaries of the chief justice and associate justices of the supreme judicial court, the appeals court, the superior court and the municipal court of the city of Boston, the judges and associate judges of the land court, the chief judge and the judges of probate and insolvency, the chief justice and the justices of the district courts other than the municipal court of the city of Boston, the justices and special justices of the Boston Juvenile Court, the justices of the Worcester, Bristol County and Springfield juvenile courts, and special justices of the district courts, including the municipal court of the city of Boston, such increase to take effect as of the beginning of the first payroll period of the year in which such report is submitted."

**Rhode Island:** General Laws of Rhode Island 36-4-16.5 provides:

Judges as well as all other court personnel are entitled to longevity increments. Longevity after seven years 5%, after

eleven years 10%, after fifteen years 15%, after twenty-five years 20%.

Tennessee: T.C.A. §2303 provides:

Beginning September 1, 1974, the compensation of judges and chancellors shall be the base salaries fixed in this law adjusted to reflect the percentage of change in the Consumer Price Index as reported by the U.S. Department of Labor. The adjustments shall occur on September 1, 1974 and on September 1 of every year thereafter for the ensuing year commencing September 1.

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*Washington Constitution* article 4, §9.

## related standards

ABA, *The Prosecution Function*: 1.1, 2.1, 2.2, 2.3

NAC, *Community Crime Prevention*: 12.9, 14.1  
*Courts*: 12.1

NDAA: 1.1 relates to: 1.2, 25.2

1.2 relates to: 1.1, 1.3, 1.4, 4.1, 25.2

1.3 relates to: 1.2, 1.4, 1.5, 2.1, 2.2, 2.3, 4.1, 4.2, 4.3, 25.1, 25.2

1.4 relates to: 1.2, 1.3, 25.1, 25.2

1.5 relates to: 1.3, 25.1

I. REQUEST

Bill/Resolution No.: HJR 34  
 Title: Election of Prosecuting Attorneys  
 Sponsor: Representative Liska  
 Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Office of the Governor  
 Program Category Affected: Exec. Operation  
 BRU, Program of Subprogram(s), Affected: Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not provided

IV. ANALYSIS: HJR 34 has no fiscal impact as the Division of Elections plans for the inclusion of constitutional amendments on the general election ballot.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dana C. Coffman, Deputy Director

Phone: 586-6181

Division: Division of Elections

Date: April 27, 1983

Approved by Commissioner: *[Signature]*

Date: 4/28/83

Department: Lieutenant Governor

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