

COVER STORY: The Cost of Justice, Part 1**ON THE RECORD: Art Danner on Law and Order**

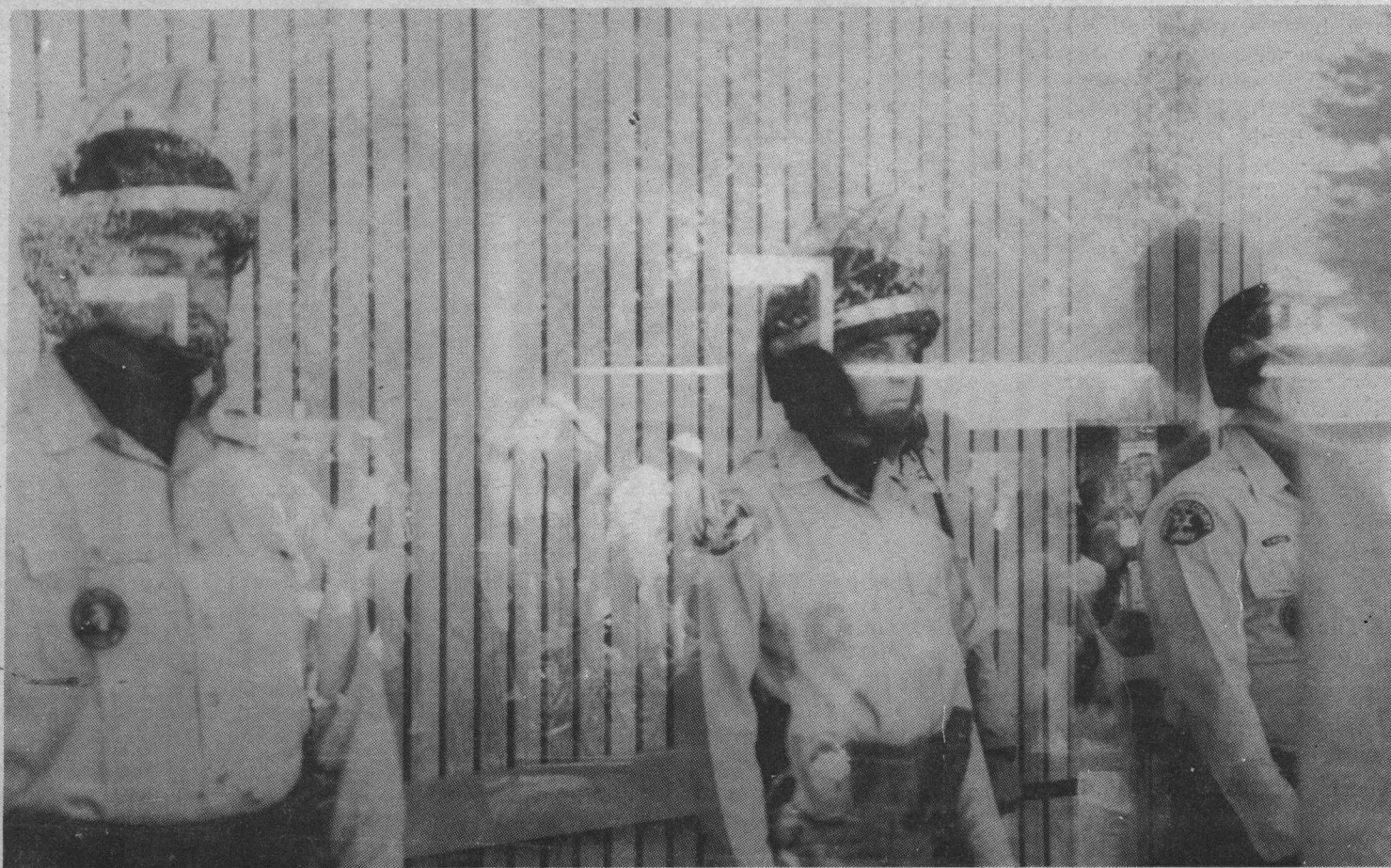
Santa Cruz County's District Attorney Talks About His Own Brand of Justice

by Mary Bryant

The sirens scream through the night. The gavel sounds the call for justice. It's a life and death struggle between good and evil, right and wrong. And, we are all caught in the middle.

Caught in the middle between paying the tab on a multi-million dollar system of law and order and falling defenseless to the violent criminal element of a burgeoning population.

It is a battle which will never be won except by reporting that all is not lost.



District Attorney Art Danner

But how does this contest play out on local streets, in local courtrooms and at local jails? How exactly does the criminal justice system work, and what exactly does it cost?

These are questions *The Post* will answer in this series on the Cost of Justice. But before we begin, let's first set the bound-

daries by defining the costs to denote the price paid for protection both in terms of money spent and impacts to social and human institutions.

This is to say that rarely a tragedy occurs where it is not possible to cast both the prey and the quarry as victims. We will, in this way, look at the bigger

picture.

But how does the system work?

The simple answer is that by combining the efforts of many departments of government to secure the peace and offer justice for all, governments oversee and run what is known as the criminal justice system. There is also a slightly longer explanation.

The parts that make up the whole of justice include law enforcement, prosecution, defense, courts, incarceration and probation. These jobs are spread out among separate agencies each receiving funding from the state government as dispersed primarily through county coffers. The exception to the rule being city police departments that are financed through funds collected by individual cities.

In the County of Santa Cruz there are four city police forces, and the county's sheriff department. Additionally, the state retains law enforcement duties for state parks and highways through the work of park rangers and the men and women of the California Highway Patrol. Usually, each branch of law enforcement works alone. On big cases, or where crimes take place in several jurisdictions, they work together. Their job is to both prevent crime and to catch criminals.

When law enforcement agencies catch suspected criminals, then the case moves on to the district attorney's office.

The lawyers at the district attorney's office will decide if the merits of the case, based on the evidence gathered and the laws broken, suggest the case will be brought before the courts.

It is the district attorney's office that many suggest drives the system of justice for many reasons. The primary reason being the discretionary decisions available to prosecutors allowing these folks the right to affirm or deny the arrests made by police and to then feed the bigger system.

The bigger system is beyond the gates of the district attorney's office.

There are the people who defend the accused through the public defenders office whose legal counsel is paid directly by county government. It is the job of the public defender's office to be sure each person arrested is fairly treated through the system, whether the work requires negotiating a sentence, also known as plea bargaining, or representing the man or woman in front of a judge and jury.

The judge and jury are part of the court system. These folks render decisions about the in-

nocence or guilt of the accused and then decide the price the guilty are to pay for the crime. Often the cost of justice for the criminal is time in jail or probation.

The probation departments and jails dispense the sentences to the guilty, again at a cost to local tax funds.

There are, of course, smaller pieces to this puzzle. Then again, this was only the slightly longer explanation of a complicated and complex system of justice.

But let's go back to the role of the district attorney's office in the system. As gatekeepers of a sort, these folks keep the wheels of justice moving throughout the year.

Use a gun, Go to jail. It's the Law.

But it may be that the guys and gals of the district attorney's office are often left out of slogans like this.

Indeed, this public service announcement might better read: Use a gun while committing a crime, and should the attorney prosecuting the case decide there is enough evidence to try you, and the lawyer assigned to you by the public defenders office can't convince the prosecutor that the prosecutor should accept a plea bargain, and the prosecutor is successful in convincing a jury that you are guilty of the

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crime, then the judge hearing the case will be mandated under state law to sentence you to jail. No wonder reporters are rarely asked to write slogans.

But the point here is that the prosecutor from the district attorney's office is responsible for making the key decisions to either prosecute the case, accept the plea bargain or dismiss the case for lack of evidence.

We will, for this reason, begin the series by talking to the top prosecutor in town, the man who is this county's district attorney, Art Danner.

Let's start by offering a look at Danner.

His shoulders bend slightly forward as he walks. It is the kind of gait one might expect from someone who has carried a heavy burden for a number of years.

His expression when he listens is a kind of far away worry, as if he knows something somewhere is going on that is very important but that something doesn't happen to be taking place in the same room that he is presently sitting. Still, his voice and his answers are very much in the present.

Law books lay open on a very large desk, interspersed between piles of paper and file folders in a variety of colors and sizes. It is

the kind of office one would imagine a lawyer would design to serve the needs of a lawyer. Or, at least, this is a nice way of saying the decor leaves a lot to be desired.

The furniture looks like it hasn't been moved since the day he took the job as the county's district attorney in the late 1970s. The black and white television set with rabbit ears is another reminder that a generation full of change has passed outside the room even if the fixtures are the same.

There are awards hung about the office, but most of the trophies and plaques are piled in corners or propped up against walls.

Danner, at least for the purposes of this interview, talks in soft tones, but his face is a constant moving picture of expressions one might conceive that have been practiced and perfected before many a jury through the years.

How did he arrive in Santa Cruz?

Danner starts the story at the beginning.

He was born in Brooklyn in 1943. He grew up outside Philadelphia in a small suburb. He attended classes at and graduated from the University of Illinois.

He met his wife in college,

and together they moved west in 1968. His first job out of school was practicing civil law in Salinas.

His father was an artist. His mother worked as a medical transcriber, receptionist and physician's assistant between

"People think of the system as being far away and somewhat mysterious and maybe they are not very much interested in problems until they get ripped off."

—Art Danner

raising three kids.

A short while after passing the bar, Danner moved on to prosecuting cases for the district attorney's office in Santa Cruz County.

What was the county prosecutor's office like in the late 1960s?

"There were five of us and Peter Chang was the D.A.," Danner recalled of what was a small office in a small town working with a very small budget. But times do change.

The construction and expansion of a campus of California's University system had a lot to do with the rapid growth in the area's population and criminal justice system. So did a booming tourist trade.

But what made a name for the district attorney's office in

Santa Cruz County had little to do with socio-economics or land use concerns. It had much more to do with the reputation the county gained for being a home to mass murders. These were murders that made national

headlines for months some 20 years ago. These were random, gruesome and sensational cases that weren't supposed to happen in sleepy beach-side resort communities.

These cases also set in motion a continuing local media fascination in off-beat cases even if the circumstances are no longer, by today's standards, bizarre or extraordinary in nature.

But how did Danner first gain office?

After serving a brief appointment as Acting District Attorney, which he abdicated when the Board of Supervisors appointed another attorney to fill the vacancy left by Chang who was, at the time, seeking office as judge, Danner ran and was elected in 1978. Since then he has served as the county's chief attorney for the prosecu-

tion, a job which includes administering a large staff and budget, trying the occasional case and managing a number of lesser known duties mandated by state law.

In this first installment of The Post's series on The Cost of Justice, Danner talks about the past, the changing role of the district attorney and the cost of justice.

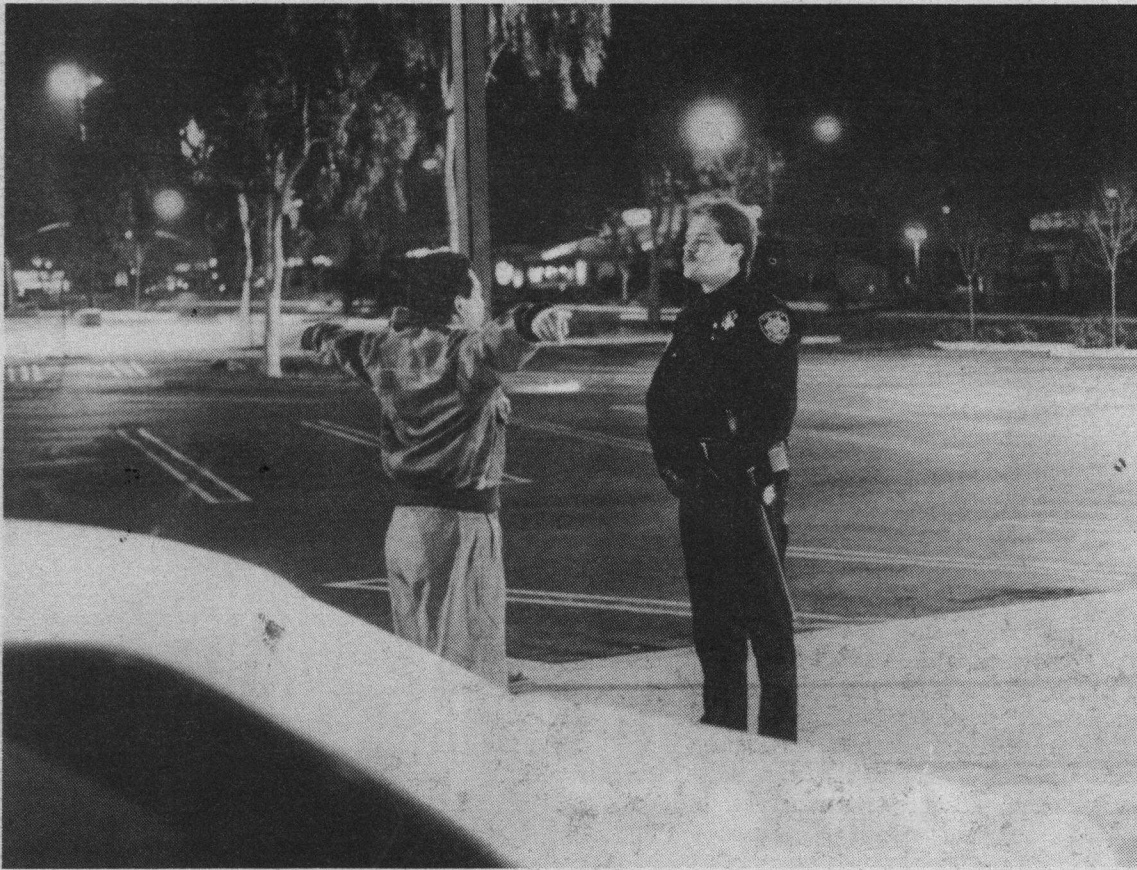
MCP: There has been a resurgence in the past decade in the popular view of law and order. There are many new laws on the books and new statutes dictate mandatory sentencing. Executions have even been reinstated. What do you believe, looking back, has caused the most recent fever for justice?

AD: I guess I would think of a couple of things.

I think what really has impact on people is the fact that they can become random victims. The fact that serial killers showed up on the scene in the last decade or so... I think has unnerved a lot of people...

There is also just a lot of crime that touches people out there on an everyday basis. Their car stereo has been ripped off, their car has been tampered with, their homes been broken into... People have on their minds that the crime problem

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is a number one problem.

MCP: Has society found through the court systems, the best way to address those who don't obey society's laws?

AD: I think what most people are going to look for is a system that evolves and becomes more flexible with the nature of the particular problem. And that's what they ought to demand... There are a lot of things that the system has done in the past that don't necessarily make a lot of sense today.

It's not a system that's very good about responding to change, and it doesn't change very rapidly, and I think part of

the problem lies in that it needs to be more flexible.

MCP: You said if the system is going to work its best then it needs to evolve past what it is today. If that's the case, what one event would you say in the past few years has demonstrated change within the system?

AD: I think one of the biggest indicators was the fact that people were willing to participate in the system when they voted out a Supreme Court Justice... That was a very strong signal from a lot of people that the system needs to be much more responsive to their needs. Because for most people who voted in that election, the question was: 'Are these judges really being responsive to our needs?'

I think they found, because of the way the vote had been going, that... what they (the supreme court justices under Justice Rose Bird) were doing was largely not responsive to their needs and what they thought the courts should be doing.

MCP: In terms of the total system, while that's certainly an excellent example of how people have responded to people running the system, I guess what I was asking more about was the system itself. There's been the change in terms of a district attorney's choice to take indictments to the Grand Jury to speed up preliminary trials in serious cases, there's been a change in the jury selection process, there's been changes in incarceration procedures with emphasis put towards mandatory sentencing. Would these be more telling of the evolution of the system than the change of people or...

AD: I think these are absolutely indicators and probably necessary for the system to evolve in a way that will more fit the needs of what the community has in mind. I don't think for a moment that it will stop here nor do I think it should. Fundamentally all people out there want a fair system. It's just a question of defining what fair means, and I think that it's important and healthy that debate continues... there have got to be more changes along those lines both in substance and procedure to effect the kinds of change that is going to make the system relevant in somebody's everyday life...

[People] think of the system as being far away and somewhat mysterious and maybe they are not very much interested in problems until they get ripped off.

MCP: Does the system need to also become more efficient? If so, how?

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The Duties Of The D.A.

The district attorney is an elected official serving a four-year term of office.

While most people are familiar with the district attorney's prosecuting capacities, this is only one of his duties. Within this office are several divisions. They include:

Criminal Prosecutions Division

The district attorney is responsible for the prosecution of felony and misdemeanor crimes committed in Santa Cruz County, as well as traffic infractions, county ordinance violations, and juvenile cases. The district attorney also advises and conducts investigations for the Grand Jury. In the capacity of public administrator, he is responsible for the administration of probate estates.

Consumer Affairs Division

This office, headed by the district attorney, investigates consumer complaints. A mediation/arbitration program staffed by community volunteers is also operated by this office. Additionally, this division investigates environmental code infractions.

Family Support Division

This division enforces child support obligations. The staff of this office also investigates civil and criminal cases involving paternity and child support issues. Child support payments are collected by this office and dispersed by another county

agency. Welfare and food stamp fraud cases are also prosecuted through this division.

Victim/Witness Assistance Program

Funded by state grants, this program offers financial, emotional, and informational assistance to victims and witnesses.

Mobile Home Commission

This group provides accounting for expenditures and revenues associated with staffing the Mobile Home Commission and administering the county's Mobile Home Rental Adjustment Ordinance.

Bad Check Collection Program

This program allows individuals to be diverted from prosecution on a bad check if the individual is eligible for the program. The bad check writer must agree to abide by certain conditions, including full restitution to the victim. Individuals who ignore notices by this program risk prosecution.

Asset Forfeiture Program

This program conducts investigations and initiates asset forfeiture proceedings against criminal drug traffickers in the county.

Capitol/Death Penalty Cases

The district attorney is also responsible for the prosecution of both capitol and death penalty cases in Santa Cruz County. □

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AD: There are a lot more paralegals and legal assistants today, all of whom, while needing to act under the supervision of a lawyer, can do a lot of things that lawyers used to do. I think that's going to keep expanding and that's a very good trend as far as dealing with the legal issues that we have in society today...

Now, do I think that we're going at a pace that is fast enough? No.

I think we need to move faster in certain regards and in the criminal justice system the recent passage of Proposition 115 is a demonstration of a system that's much too slow to react and change when it's necessary for everyone. Let's face it, we can't keep going on paying for the system in the amounts that we've invested before...

It's incumbent on those of us who work in the system to be continuously looking for those kinds of solutions.

MCP: What has been an efficiency that you've implemented within the last few years?

AD: For instance, one of the things that we do now is what they call direct file cases from law enforcement agencies right through to the courts. Prior to this we used to review every single case that came in through here, and we sometimes have

as many as 22,000-23,000 per year. You can imagine what kind of a task that was...

[What we did was] we took categories of cases in which we felt we had trained the officers in the areas... for example, driving under the influence cases [are cases that] the Highway Patrol is very specialized in and are very good at working... [and] we felt that those cases could be 'direct file' without any real serious review from our standpoint.

What this does is free up our attorney time to concentrate on cases that otherwise may get filed that shouldn't get filed because of not enough review time.

For example, when you get a disturbance of the peace, there may be as many as a dozen people involved, and you have to sort out what's going on and whether this is an appropriate case really to file with the courts...

We're trying to put our resources where they count most.

MCP: What part of the criminal justice system do you believe to be the most important?

AD: In a large measure, I think the function that we have is just highly critical to the system because we're the... gatekeeper of the system...

I think that it's as important for us to decide not to file a case as it is for us when we file a case... The real focus of what

we do seems to be on that kind of function.

When we're talking about the rest of the system, they really only react to what we do when we make that decision....

You can't ignore the fact that the system works best that's able to test it's 'own' integrity by the jury process, by the process that sorts out with the help of the community involved in juries, the judgments of those people in the [law enforcement] system.

MCP: In this county, leaders spend more than 40 percent of our discretionary county funds on various parts of the criminal system. This amount includes law enforcement, prosecution, defense and jails. Are we spending enough or are we spending too much?

AD: If you look at the discretionary budget and you say we're spending 40 percent, that's a lot, no question about it. But it should be a lot because, to my way of thinking, one of the primary reasons that we have government is so it can protect it's citizens...

Our portion of it as you can probably guess is a very small percentage of that 40 percent. I think we're at 7 or 8 percent. The largest outlay has to do with the jail population and the maintenance of adequate facilities for that population, and second to that is the Sheriff's obliga-

tion.

As you know we don't just take cases from the Sheriff, we take them from the entire county, so we have that percentage of the county budget, we must respond to cases from all the cities as well as the county law enforcement.

MCP: Is the spending correctly balanced within the system?

AD: There are two ways to answer this question... One is a kind of macro view, what's going on in the rest of the system? Obviously there are some very important needs in the field of health, treatment and education that all of us want to make high priorities in the macro-sense...

I think I said one of the major fundamental duties of government is to protect it's citizens and to the extent that you don't do that, it's going to be difficult to have any effective education system or any other systems because people are going to feel totally unsafe. There will be chaos if you don't have an adequate effort in those areas.

Now in the micro-picture, if you're asking me do I think that right now in this county the D.A.'s office is appropriately funded, opposed to say, the public defender... I think that's out of balance and I've told the board [of supervisors] that on several occasions, and I think that's an important factor for

people to understand.

When we talk about the portion of our budget, which is over \$7 million dollars now, that goes to our prosecution efforts in the courts, we're talking about a budget that is smaller by \$500,000 to \$900,000 than of all the monies that are spent on defense services in the public sector.

That does not even touch the situation where private attorneys come in, which they can of course, and represent individuals and we still have to, of course, prosecute those cases...

The initial research that we've done [indicates] there's only one other county in the state of California that's in this position, that's up in Napa.

I don't understand why that is, but all I can say is this is one of the best held secrets... that here we spend a lot more on defense services than we do on prosecution services.

I'm not one that says: 'Hey we need to spend to always be effective.' But I am one that says that when it becomes clear that we can't be effective and we're being out gunned, so to speak, from the defense side, then it's time to investigate why that is.

MCP: When the state cuts back spending to the counties, what part of the system is most vulnerable?

AD: Before when times have been tough, there's been some

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across the board cuts. There have been some cuts in discretionary kinds of services, for example, probationary services.

The reason why, I suspect, is because a lot of the things we do are mandatory. When the courts are in session, the law says we have to be there, that's mandatory. The court has to be in session under the state law regardless of whether they have the money to have the clerks there...*

A District Attorney must investigate crime, that's a mandated obligation under the law, and a appropriate charge against the county when the D.A. contracts with an investigator to go do that because that's the mandated function. The Sheriff [Department] is the same way...

Probation has certainly taken some of those hits, some of the Sheriff's services that aren't required and some of the D.A.'s services that aren't mandated have taken those cuts. I suspect that's where it would come.

For example, in our office, one of the areas that's most productive for citizens is in the civil area, unfair business practices... We've been very active in that area but as you probably can suspect that is not a mandated function for us.

MCP: Within your department, how many attorneys do you employ?

AD: Right now we have 31.

MCP: Do they all do the same work to prosecute cases?

AD: No, 24 out of that 31, are active in the criminal courts everyday. The rest of those attorneys are [working in] either family support where there are two, consumer affairs where we have two, research attorneys where we have seven, or administrative attorneys... The lawyers [administrative attorneys] do other functions in the office other than go to court on a daily basis.

MCP: How many investigators do you have?

AD: Presently we have 11, we lost one in the budget crunch.

MCP: Why do you conduct investigations separate from the Sheriff's or the city police departments?

AD: Sometimes the nature of the case requires that because traditional law enforcement training does not include training in a lot of the areas that now we need to file cases in.

For example, high-tech fraud, in which we have this Borland case, is a prime example where the traditional training for law enforcement doesn't train them in that particular area. White collar fraud is another one.

MCP: Do your investigators have training in high-tech fraud?

AD: A number of them do and we're able to have them

specialize in that area so that when we have that kind of case we're able to get them into it faster than say the traditional law enforcement unit out there.

The other reasons have to do with how the functions separate between a law enforcement agency and the D.A.'s office.

For example, when a [law enforcement] agency is accused, that is when one of its agency members is accused of commit-

MCP: Do you have any investigations of public agencies currently?

AD: Yes, sure. We seem to always have something going on in that regard. Either an agency or a member of a particular agency. It may be law enforcement or another agency.

For example, if somebody alleges that there's something going on in the Pajaro School District, you've seen the news, they could bring that to us and

over talk about budget issues in another part of the day.

MCP: What case do you think you'll be best remembered for prosecuting or have you tried that case yet?

AD: I've tried so many cases over the years, maybe as many as 300 jury trials. Obviously, the serial killer, the trail-side killer case that lasted a year in Los Angeles [after a change of venue]... that's a career case some people say. That was David Carpenter.



"I think what I've tried to do at the office is to become involved in a much broader sense in the system."

—Art Danner

ting some sort of crime, it's necessary that we have our own independent investigators to be able to function independent of any law enforcement agency... to conduct those investigations for purposes of determining whether or not we have a case...

The final area is the Grand Jury. The Grand Jury does a number of investigations which we assist them on. In the trial preparation of the case... some of them are enormous in size and the logistics problems alone, are incredible.

You take a trial of a serial killer like David Carpenter, we had to coordinate more than 80 witnesses, some of whom had to fly here from all parts of the country and world, and coordinate all those efforts so that when the Judge says: 'Call your next witness,' you've got one...

it's one of the types of things we might be called upon to do.

MCP: Are you investigating the Pajaro School District?

AD: I'm not going to comment one way or another on that since it's not really the subject matter for us today, but it's the kind of thing that could come to us.

Another example, one that you probably know that we have. We're investigating a complaint against the [Santa Cruz] City Council on a Brown Act violation.

MCP: At this point in your career, did you ever envision running a department this size?

AD: No... I was very happy trying cases which I still love to do, I love the courtroom and to take a case into trial was something I worked at and tried to be the best I could at and that's what I enjoyed.

I loved the job of Chief Deputy because it was a much narrower segment of what the office did and, in that respect, you could choose your cases even though you were responsible for a lot of the operation in the office...

But, I want to hasten that I've really enjoyed the challenges of D.A. I couldn't think of a more diverse job on a day-to-day basis than this one. It's just an incredible challenge to talk about a homicide in one segment of the day and then come

There was a case against a doctor a number of years ago. I was still an assistant, which was an incredible case in my mind and it was amazing, where the doctor was defrauding the Medical system by not really examining the people who needed care and then billing the state saying that he did.

It's very tough to make a decision to prosecute a doctor who is in the first place willing to look at folks that are poor and that's what he said he was, the poor people's doctor, and then on the other side we found out what he was not doing. He certainly deserved prosecution.

There are so many others... I'm not sure you want to be remembered for any of that stuff. While there's a challenge to doing the case and putting it on and being effective in bringing an individual to justice, there's a side to that that's tragic as well. The fact that somebody's murdered somebody or some people, and the fact that somebody like a doctor is really not giving care is really pretty tragic... I guess some of that gets notoriety and that's the way the system will always be.

MCP: Does the D.A.'s style affect justice in this community or any community?

AD: I think without a doubt what one of the most challenging things in being the D.A. has to do with having a

chance to make things happen, and without a doubt there's something to be said for style, your approach, the way you do business. Without a doubt there's a brand put on the system because of how the D.A. is.

MCP: How does your style or approach affect this community?

AD: I'd like to think that it has in this respect, the D.A.'s office... has responded to a lot of different community concerns. What I mean by that is that the traditional view of a D.A.'s office is they take the case that comes to them, they go to court with it and they prosecute it.

I think what I've tried to do at the office is to become involved in a much broader sense in the system. To understand that while you're a big part of the system, there's a lot of work that needs to be done in making the system the best it can be for the people out there in the community.

So we get involved in educational issues, we get involved in systems issues having to do with jail overcrowding, alternatives to incarceration...

I hope that we've added to this office and we will get involved in those things as long as I'm D.A. because I think that's necessary so that... we're more effective at what we do.

MCP: Over a decade ago Santa Cruz was called the 'murder capital.'

AD: Right

MCP: Have we lived down that reputation?

AD: I don't know if you ever live something like that down, I guess, it may always be there and for a while there was no question in my mind that we were living up to it.

But in these last number of years, thank goodness, I think that we've been able to back away from it statistically if not by reputation.

I'd like to think that was one of the impacts that we've had on working on the drug issue, from the standpoint of prevention, treatment, education. Prosecution has had a lot of impact on that issue. Our murder rates I believe reflect that, they're down.

MCP: Why do murder trials in this county gain so much attention in the press?

AD: I think that it's always been that the cases that have some twist or bizarre nature to them, if it's not somebody who has cut off somebody's hands or is a serial killer or killed a mass of people, by and large when the media thinks we'll dedicate this room, will this follow in the footsteps of our history... The last one we had was that one with the vampire stuff in it. It always seems like we have some unusual issue running through some of the homicides that we have so as a result I think that's why there's a lot of media interest. □