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REPORT OF MINNESOTA PUBLIC DEFENDER ON FIRST FOUR AND ONE-HALF YEARS OPERATION UNDER THE MINNESOTA PUBLIC DEFENDER ACT.

TO: The Judicial Council of Minnesota

In 1965 the Minnesota Legislature passed the state-wide Minnesota Public Defender Act which is nationally known as the "Chief Justice Knutson Plan" and is now recognized as a model for other states to adapt to their local situations and as "probably the best" system in the United States, by the National Defender Project of the National Legal Aid and Defender Association, the United States Attorney General's Office, the Chief Justice of the Supreme Court of California, and many others throughout the United States.

Since January 1, 1966, I have had the privilege of serving as Minnesota's first State Public Defender. In such capacity, I have had the responsibility to implement the defender system in Minnesota as an essential part of Minnesota's administration of justice.

The defender organization, as you know, is supervised by the Judicial Council of Minnesota which is provided for by Chapter 483 of the Minnesota Statutes, and is composed of eleven people, including the Chief Justice of the Supreme Court of Minnesota, two District Judges selected by the District Court Judges, one Judge

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of the Juvenile Court selected by his fellow Judges, and seven other lawyers (including one Municipal Court Judge) appointed by the Governor for three staggered terms.

Geographically, Minnesota is divided into ten local judicial districts, ranging in size from one to seventeen counties, and in population from about two hundred thousand to one million. The Minnesota Public Defender Law makes it possible for each of these districts to have a public defender and such assistant defenders as are needed to represent economically deprived persons accused of felonies (such as burglary and robbery), and may represent such persons charged with statutory and traffic and ordinance misdemeanors, as well as minors in Juvenile Court matters. This representation may take place from the time of arrest or custody through trial or other disposition, and includes extradition and probation violation cases.

We started with two districts which had public defenders prior to January 1, 1966, with about six defenders; we now have eight districts which have public defenders, with a total of forty-seven defenders. These forty-seven defenders handle more than two thousand felony cases each year. Only two out of Minnesota's ten judicial districts do not have a public defender.

The Public Defender Law also provides for a Minnesota State Public Defender and such Assistant State Public Defenders as are necessary to handle all indigent appeals to the Minnesota Supreme Court from convictions, and from unsuccessful post conviction proceedings, and to handle all post conviction

cases in the District Courts throughout the State.

The Minnesota Public Defender also is assigned the task of assisting the District Defenders by providing them with legal consultation, investigative services and trial assistance.

Additionally, the Minnesota Public Defender is responsible for the training and continuing legal education in the criminal justice field of all District and State Defenders.

In the first part of 1966, we had four part-time Assistant State Public Defenders to help us during the raw organizational stages of setting up a new office and to establish efficient procedures to handle the substantial caseload we knew would be forthcoming. Now that we are fully operational, we have nine part-time Assistant State Public Defenders. Three handle post conviction cases throughout the State, five handle appeals, and one provides trial and consultation services to all defenders. Additionally, there are three Assistant State Public Defenders, paid from other than State funds, who take care of 100-200 statutory and traffic and ordinance misdemeanors in the Hennepin County Municipal Court each month.

In the first four and one-half years of its operation through June 30, 1970, the Minnesota Public Defender's office has formally opened 890 files. This includes 96 habeas corpus petitions filed and 64 habeas corpus hearings in District Courts throughout the State in 1966 and 1967. It includes 166 post

conviction petitions filed, and 130 post conviction hearings held in District Courts throughout the State in 1968 and 1969 and the first six months of 1970.

These files include 297 direct appeals filed with the Minnesota Supreme Court and 171 direct appeal briefs filed with the Supreme Court. These files also include 63 habeas corpus appeals and 55 habeas corpus appeal briefs filed with the Supreme Court. They include 64 post conviction appeals and 50 post conviction appeal briefs filed with the Supreme Court. In other words, we have prepared and filed 264 briefs with the Minnesota Supreme Court.

We completed work on and closed 672 of the 890 files we opened in the four and one-half year period.

In 145 of these closed and completed cases where court action was commenced, our clients took our advice not to proceed further because their cases lacked merit. The breakdown of these follows:

With the consent of our clients, 79 appeal cases were dismissed at our request after we had given our opinion that the cases lacked merit. 11 potential habeas corpus appeals were not filed after we have given our clients our opinion that the cases lacked merit. 15 post conviction petitions were dismissed at our request without the necessity of a District Court hearing, again after we had given our clients our opinion that the cases lacked merit. 40 potential post conviction appeals were not filed after we had given our clients our opinion that the cases lacked merit.

Additionally, in 318 of these closed and completed cases in which

we opened files, but did not commence court action, our clients accepted our legal advice that the case did not have merit, after we had interviewed the clients and thoroughly reviewed the records in the case.

In addition to the 890 files we opened, we also had 264 inquiries from potential clients which were taken care of by correspondence without the necessity of court action. We have an additional 35 of these inquiries in which we are still corresponding.

We also handled 37 cases involving detainers. These required the obtaining of a dismissal or a trial for prisoners on criminal charges pending against them which charges had not been tried or otherwise disposed of.

Obviously, as can be seen from the figures above, in a great number of cases we were able to give clients sound legal advice without the necessity of taking the time of judges or prosecutors in cases which were without merit.

We have successfully obtained some relief in Court for 63 clients. Additionally, we have successfully arranged for the dismissal of charges in almost all the 37 detainer cases we have handled. We also arranged for a substantial number of detainer cases to be dismissed through administrative handling with the Department of Corrections without the necessity of our personal involvement. We have obtained assistance for many of the 264 individuals who made inquiry to our office, without the necessity of formally opening a file or starting court action.

We have handled cases originating from each of the ten judicial districts. We have handled cases from every county in six judicial districts, and all but 13 of the 87 counties in our State.

Prior to January 1, 1966 our courts were flooded with unintelligible, handwritten documents prepared by prisoners for themselves or for other prisoners. We now provide a highly qualified attorney for every prisoner who thinks he wants to appeal or attack his conviction in a post conviction proceeding. Many of these cases require only legal advice to square away misunderstandings and misinformation without court action. If there appears to be a substantial legal defect in a conviction, the prisoner has a qualified lawyer to present his case. The flood of time-consuming unintelligible documents has almost entirely ceased.

From a cost point of view, the services of volunteer lawyers in 1964 and 1965 would have been, at a minimum, between $170,000 and $200,000 a year, if these lawyers had charged for their services, and this did not include the breadth of representation now provided. We based our estimated costs on this experience. In the start-up year of 1966, the cost of the State Public Defender's office, including grant money, for the first six months was about $41,000.

We have held our cost of operation almost level for the four fiscal years beginning July 1 and expect to do the same for the currect fifth fiscal year.

July 1, 1966 to June 30, 1967 was about	$160,000
July 1, 1967 to June 30, 1968 was about	$182,000

July 1, 1968 to June 30, 1969 was about	$170,000
July 1, 1969 to June 30, 1970 was about	$178,000
July 1, 1970 to June 30, 1971 will be about	$174,000.

We are still within the estimated cost of the volunteer system, in spite of the tremendous increase in the cost of living in the last four years.

The cost of operation of the eight district defenders and their assistants is about $350,000 a year. The cost per client represented by public defenders is less than the cost of assigned counsel in the two non-defender districts, and the public defenders are highly skilled and trained in the field of criminal law.

Four years ago, continuing legal education in the criminal justice field of the law was non-existent. We started an Annual Criminal Justice Course in 1966, administered by the Continuing Legal Education Department of the University of Minnesota. About 60 people attended, including all the defenders. At our instigation, the Annual Course is now a joint venture with the Attorney General and the County Attorneys Association. In 1969, 235 people attended, including all the public defenders, a majority of the County Attorneys, 60 police officers, and 29 senior law student interns. In 1970, the Fifth Annual Criminal Justice Course was equally successful. Prosecutors, defense counsel, police officers and students can learn with and from each other.

This course produced an excellent civil and criminal evidence manual by Professor Joseph Livermore. It produced a good two-volume outline of criminal procedure and evidence by Professor David L. Graven and Robert E. Oliphant.

Professor Arnold Enker has prepared a working draft of badly needed criminal procedures for Minnesota, after the procedural rules and statutes of all fifty states were compiled and summarized.

We have a model post conviction statute to remedy convictions obtained with substantial legal defects.

We have detainer legislation to insure prisoners prompt trials on outstanding charges.

Through the amazing efforts of the judges of the juvenile court and Professor Donald Marshall, we have model rules of procedure and forms for our juvenile courts.

We have a fair trial-free press council in Minnesota, chaired by Justice Walter F. Rogosheske.

We have quality minimum standards for all phases of criminal justice from the American Bar Association.

We have two full time district prosecutors to assist the fifteen part-time county attorneys in the Fifth Judicial District and the seventeen part-time county attorneys in the Ninth Judicial District.

Four years ago the involvement of law students in our criminal justice system was practically zero. Since then our Supreme Court has adopted a Senior Law Student Practice Rule which permits students to engage in court work

under the supervision of a lawyer. Our Supreme Court also adopted a rule requiring the appointment of counsel to represent indigent defendants in traffic and other misdemeanor cases. Today, we have three full time public defenders representing such defendants in the Hennepin County Municipal Court, together with a new professor of Clinical Law at the University. 75 senior law students each year now get in-court practical clinical experience assisting in the defense of these defendants.

These students also help prepare prosecution and defense briefs for the Supreme Court. These students also have a chance to ride with on-duty police officers and see first-hand the tough job a policeman has. Additionally, we now have paid summer senior law student internships which permit students to work full time with a prosecutor or defense counsel for ten weeks. All of this student clinical work is part of the student Legal Aid Clinic at the University of Minnesota, under the supervision of the Professor of Clinical Law, Robert E. Oliphant.

What does the future hold?

We badly need the adoption of rules and statutes of criminal procedure. Professor Enker's work promptly should be following up by the Judicial Council, the Supreme Court and the Legislature. A joint committee of judges, prosecutors and defense counsel promptly should be formed to take care of this.

We need further pilot demonstrations of public defender representation in out-state juvenile and municipal courts.

We need regionalization of our municipal and juvenile courts and a parallel regionalization of prosecutors and defense counsel for these courts. The legislative study and draft bills should be followed up by the Judicial Council, the Court and the Legislature.

We need some form of regionalization of prosecutors for felony cases in District Court, as well as for the misdemeanor cases in Municipal Court.

At the present time we have some thirty cases on the September-December, 1970 Supreme Court calendar for argument, 20 cases on the January-March, 1971 Supreme Court calendar, 23 cases in which briefs are being prepared, and 31 cases awaiting the availability of brief writers.

This is in addition to 28 post conviction cases presently pending in the District Cour ts throughout the State.

We need some additions to the staff of the Minnesota Public Defender's Office. This includes at least one more secretary, two more appellate attorneys, one more Municipal Court defender, two more law clerks, one more investigator, and most of all, a deputy public defender. The latter would relieve the State Public Defender of desk-type duties, so that the necessary administrative, consultation and demonstration work in the districts could be tightened up, and more time spent on improving the over-all criminal justice system.

As previously indicated, we have held to a roughly identical budget for each of the past four fiscal years and for the estimated budget for the current

fiscal year. We said at the outset that our task was to first prove that the system would be effective and economically efficient. That is done. Now considerable additional financing must be forthcoming.

We need added compensation for our staff of highly skilled Assistant State Public Defenders and secretarial staff. To put this on a personal basis, the Minnesota Public Defender has not had an increase in compensation since July 1, 1967.

Respectfully,

C. Paul Jones

October 2, 1970