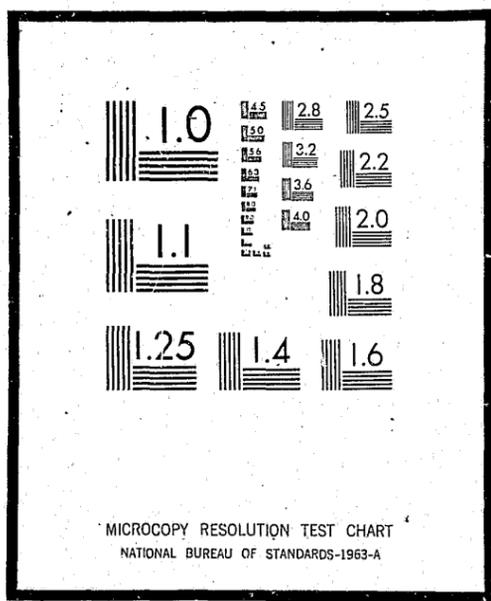


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U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
WASHINGTON, D.C. 20531

Date filmed

5/20/76

final report

~~71 DF-780~~
DF-71-780

GENERAL CLERK	
JUSTICE PLANNING	
JUL 1972	
DIR.	
ADM.	
L. COORD	
CORR.	
L. ENF.	
COURTS	
FISCAL	
AUDIT	

THE UNIVERSITY OF NEW MEXICO
SCHOOL OF LAW

NEW MEXICO DISTRICT COURTS LAW CLERK INTERN PROGRAM

32492

READING ROOM

THE UNIVERSITY OF NEW MEXICO

SCHOOL OF LAW

NEW MEXICO DISTRICT COURTS LAW CLERK INTERN PROGRAM

The University of New Mexico School of Law and the New Mexico Judicial Council cooperated in a program funded by the United States Department of Justice Law Enforcement Association Administration to provide District Court Judges and District Attorneys for various Judicial Districts in New Mexico with law clerks during the summer of 1971.

Application for funding was made through, and with the help of, the Governor's Policy Board on Law Enforcement for a Discretionary Grant under Title I, Omnibus Crime Control and Safe Streets Acts of 1968, Section 306. This section allows action monies to be appropriated at the discretion of the LEAA for special programs not emphasized in State plans.

Application Procedure. We were advised of the possibility of securing funding for this program early in April, 1971, and polled the various district judges in the state to determine if they would be interested in having a law clerk attached to their court during the summer (see Appendix A). A favorable response was received from a number of judges (see Appendixes B through H) and the application for funding was filed April 30, 1971 (see Appendix I). Official notification of approval of the grant was received on June 4, 1971, although indication that approval would be forthcoming was received May 24, 1971.

Selection of Students. Thirty-two law students applied for the 15 positions and each was interviewed by R. H. Deiss, Executive Secretary of the New Mexico Judicial Council; Professor William MacPherson, Director of the University of New Mexico Clinical Law Program; and Hunter L. Geer, Assistant

Dean of the Law School. In addition to the 15 positions under the LEAA Grant, we were advised that ISRAD would have two positions available for the City of Albuquerque Attorney's Office and that the Prosecutor's Office of the Navajo Tribe would have two positions; thus, we selected 19 students for the various positions. The two positions with the City Attorney's Office did not materialize. One of the district court judges decided, after a student was assigned to him, that he did not wish to participate in the program. We placed that student in another job and assumed the responsibility for the two assigned to the City Attorney's Office, with the request that they be assigned to the City Attorney's Prosecutor's Office. Thus, one additional intern was added to the program. We, therefore, respectfully requested approval to increase the intern salary budget by \$1440 and decrease the travel allowance by that amount.

Placement of Students. The students under the program were assigned as follows:

<u>Student</u>	<u>Judge or District Attorney</u>	<u>Location</u>
Graden W. Beal	Judge E. Forrest Sanders	Las Cruces
Michael L. Danoff	Judge Frank B. Zinn	Gallup
W. A. Goldsmith	Judge Dee C. Blythe	Clovis
Brian P. Desmond	Judge Norman Hodges	Silver City
Richard S. Robinson	Judge James W. Musgrove	Aztec
Calvin J. Hyer	Judge Kermit E. Nash	Lovington
Wayne A. Jordon	Judge Richard A. Stanley	Alamogordo
Donald A. Adams	Judge Samuel Z. Montoya	Santa Fe
William C. Madison	Judge Paul Snead	Roswell
James E. Mitchell	James C. Thompson, D. A.	Santa Fe
Lester K. Taylor	Judge Harry Stowers	Albuquerque
Stephen F. Lawless	Alexander Sceresse, D. A.	Albuquerque

<u>Student</u>	<u>Judge or District Attorney</u>	<u>Location</u>
Michael J. Myers	Frank Horan, City Attorney	Albuquerque
Owen M. Russell	Frank Horan, City Attorney	Albuquerque
Nicholas J. Noeding	Judge Harry Stowers	Albuquerque
Thomas L. Grisham	Alexander Sceresse, D. A.	Albuquerque

Operation of the Program. We were fortunate in being able to operate the program under the supervision of the Judicial Council and the Clinical Program. By doing this, we were able to obtain cooperation from the Judiciary and operate the program as a clinical experience for the students.

Before the students began their duties with the judges and district attorneys, they met with the three directors of the program. Their duties and responsibilities were explained at this meeting.

The students were required to keep a record of their activities and to submit a weekly report of their activities to the director of the clinical program. In addition, they were required to submit a paper covering the area of their activities. An example of this is attached (see Appendix J). All the students sent in weekly time slips, signed by the judge or district attorney.

The students also participated in case load study of the district courts and supplied the Judicial Council with information necessary to complete a statistical study, the results of which are attached as Appendix K.

During the summer, students were encouraged to call the law school if they encountered any problems so that we were able to take care of anything of this nature, thus insuring a smooth operation of the program.

At the end of the summer, the students met with representatives of the Judicial Council and a Supreme Court Judge and commented on the operation of the court system. A copy of the report of that three-day meeting is attached (see Appendix L).

Letters received from the judges around the state indicate their enthusiasm for the program much better than we can. They were unanimous in their desire to have the program continued (see Appendixes M through T).

Publicity regarding the program is attached as Appendixes U through X.

The final portion of the program was held in late January when the students spent some time studying appellate briefs submitted to the New Mexico Court of Appeals and listened to the oral arguments of the attorneys. This experience was originally scheduled for the last week of the summer program, but due to a change in the school calendar and the fact that the Supreme Court was not in session during August, it was not possible to schedule it then, thus we scheduled it for the semester break.

Evaluation of the Program. From the viewpoint of assisting the district courts and district attorneys, we can report that in all districts in which we had summer clerks, we have received no indication that the courts were unable to meet the six-months deadline on bringing persons charged with crime to court. In many cases, the students were able to help the judges or district attorneys in long-needed special research projects. An example of this is the work done by the students assigned to the Second Judicial District Prosecutor's Office. Those students researched, organized and wrote a uniform set of criminal jury instructions and prepared questionnaires for former jurors which were designed to give some insight to the decision making of the jurors. Other students participated in similar programs. This released assistant district attorneys to do work on the backlog of cases.

Prognosis. The program was considered very successful and all those involved, students and judges alike, are very hopeful of having a similar program next year. It is possible that a source of funds other than the LEAA will be forthcoming in a few years.

THE UNIVERSITY OF NEW MEXICO
SCHOOL OF LAW
1915 ROMA N.E.
ALBUQUERQUE, N.M. 87106

OFFICE OF THE DEAN

April 6, 1971

Dear Judge :

The School of Law would like to enlist your assistant to help us inaugurate an intern program being planned for the summer months. Application for funds has been made to finance a program of training whereby third year students would spend up to ten weeks with a judge and a district attorney to learn something of the workings of the courts and the district attorney's office. You would be expected to allow the student to observe the workings of the Court, assist with legal problems, and to give him assignments for research. The district attorney or his assistants could use him to perform investigations, interview witnesses, do legal research, and observe the work of the legal system. These interns could also assist court-appointed attorneys who are defending indigents charged with crime. It is planned that each student will spend a week in Santa Fe to observe the work of the appellate courts.

We believe this can be a very worthwhile program for our students and at the same time be of assistant to the Court. Although we have not yet been granted the funds to pay the students for this summer work, we are encouraged to believe that we will receive the grant. We will know definitely by the middle of April.

So that we may make plans to commence this project as soon as it is definitely known that funds are available, we are asking you to consider using a student during the summer. If you and the local District Attorney or Assistant District Attorney can participate, we would appreciate your letting us know. Your consideration of this request is sincerely appreciated.

Very truly yours,

Thomas W. Christopher
Dean

TWC:kr

APPENDIX A

The attached letter was sent to each of the N.M. District Judges as listed below:

The Honorable
Samuel Z. Montoya
County Courthouse
Santa Fe, NM 87501

The Honorable
James M. Scarborough
County Courthouse
Santa Fe, NM 87501

The Honorable
John B. McManus, Jr.
County Courthouse
Albuquerque, NM 87101

The Honorable
Robert W. Reidy
County Courthouse
Albuquerque, NM 87101

The Honorable
Edwin L. Swope
County Courthouse
Albuquerque, NM 87101

The Honorable
D. A. Macpherson, Jr.
County Courthouse
Albuquerque, NM 87101

The Honorable
Paul F. Larrazolo
County Courthouse
Albuquerque, NM 87101

The Honorable
Gerald D. Fowlie
County Courthouse
Albuquerque, NM 87101

The Honorable
E. Forrest Sanders
County Courthouse
Las Cruces, NM 88001

The Honorable
Joe Angel
P. O. Box 1658
County Courthouse
Las Vegas, NM 87701

The Honorable
Caswell S. Neal
P. O. Box 98
County Courthouse
Carlsbad, NM 88220

The Honorable
George L. Reese, Jr.
County Courthouse
Roswell, NM 88201

The Honorable
Kermit E. Nash
County Courthouse
Hobbs, NM 88240

The Honorable
Richard A. Stanley
County Courthouse
Alamogordo, NM 88310

The Honorable
Norman Hodges
County Courthouse
Silver City, NM 88601

The Honorable
Garnett R. Burks
County Courthouse
Socorro, NM 87801

The Honorable
C. R. McIntosh
County Courthouse
Raton, NM 87740

The Honorable
Dee C. Blythe
County Courthouse
Clovis, NM 88101

The Honorable
J. V. Gallegos
County Courthouse
Tucumcari, NM 88401

The Honorable
James W. Musgrove
County Courthouse
Aztec, NM 87410

The Honorable
Frank B. Zinn
County Courthouse
Gallup, NM 87301

CHAMBERS OF
SAMUEL Z. MONTOYA
JUDGE, DIV. I

State of New Mexico
First Judicial District Court
Santa Fe

YUCCA 3-7181
POST OFFICE BOX 2288

April 29, 1971

RECEIVED
APR 30 1971
SCHOOL OF LAW
UNIV. OF NEW MEXICO

Dean Thomas W. Christopher
School of Law
University of New Mexico
1915 Roma N.E.
Albuquerque, New Mexico 87106

My dear Dean Christopher:

Reference is made to your letter of April 6, 1971, with respect to the intern program which is being planned for the summer months, using law students in the various courts and the district attorney's office. I have not replied to your letter sooner as the District Attorney has been out of town and I wanted to discuss the matter with him, and since his return I have been making arrangements for the Tri-State Judicial Conference and have found it difficult to keep up with my correspondence.

I am certainly willing to cooperate with such an intern program, and very frankly would welcome the assistance of a law student. The District Attorney has also advised me that he would be most willing to cooperate and would be most happy to have the assistance of a law student. I do not see any particular problem in being able to use them effectively and in such a way as would be mutually advantageous to the student as well as the Court.

Is it your plan to assign one student to the District Court and one to the District Attorney's office, or is there a possibility that a student intern would be available for each of the three district judges here in Santa Fe? If three students can be made available to the three courts, I will be in contact with the other two judges to see if they can effectively utilize their services.

APPENDIX B

Dean Christopher
April 29, 1971
Page Two

I want to thank you for remembering us in connection with this program, and rest assured that if the grant is obtained, we will do our utmost to insure a valuable experience being gained by the students while assisting us with our work.

With kindest personal regards, I am,

Very truly yours,

Samuel Z. Montoya
SAMUEL Z. MONTOYA
District Judge

SZM/rr



STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT

CHAMBERS OF
PAUL F. LARRAZOLO
DISTRICT JUDGE
DIVISION SIX

April 12, 1971

P. O. BOX 488
ALBUQUERQUE, NEW MEXICO

Dr. Thomas W. Christopher,
Dean
School of Law
University of New Mexico
1915 Roma N.E.
Albuquerque, New Mexico 87106

Dear Dean:

This is with reference to your letter of
April 6, 1971 concerning the use of a third year law
student in the summer work of the Court.

Please be advised that I shall be happy to
cooperate in your program. ✓

Kindly advise when the program is to start.

Very sincerely yours,

Paul F. Larrazolo
Paul F. Larrazolo

PFL:hc

APPENDIX C

RECEIVED
APR 13 1971
SCHOOL OF LAW
UNIV. OF NEW MEXICO

DONA ANA - LINCOLN COUNTIES
Alton B. Warren (1914-1967)
Assistant District Attorney

William J. Perry
Assistant District Attorney
Las Cruces, N. M.

Lawrence M. Pickett
Assistant District Attorney
Las Cruces, N. M.



E. H. WILLIAMS, JR.
THIRD JUDICIAL DISTRICT ATTORNEY

County Court House, Room 207
Phone 523-5696
Las Cruces, N. M. 88001

April 14, 1971

OTERO COUNTY
James G. Huber
Assistant District Attorney
Alamogordo, N. M.

RECEIVED

Honorable Thomas W. Christopher, Dean
School of Law
University of New Mexico
Albuquerque, NM 87106

Dear Dean Christopher:

Your letter of April 6, 1971, addressed to Judge
Sanders together with a copy of his letter to you of
April 13, 1971, was on my desk upon my return to the
office. We certainly are interested in any programs ✓
to assist in the education and training of law students
and would do anything possible in that regard.

In the past our office has hired law students during
summer months as law clerks, however, having been
victimized, budgetwise, by the last legislature, we
have no funds with which to participate in such pro-
grams, but if grants are available, we certainly would
be interested in participating.

Yours truly,

E. H. Williams, Jr.
E. H. Williams, Jr.
District Attorney

EHMJr:amf

APPENDIX D

PAUL SNEAD
DISTRICT JUDGE
C. G. BLAIR
COURT REPORTER

CHAMBERS
FIFTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
ROSWELL, NEW MEXICO
88201

April 28, 1971

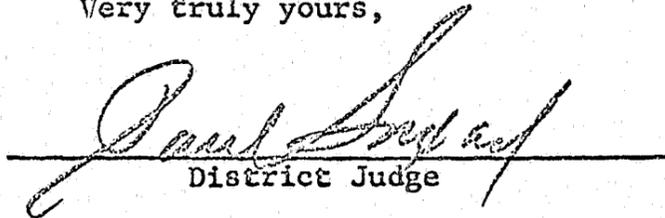
POST OFFICE BOX
1776
TELEPHONE
822-2212
RECEIVED
APR 29 1971
LAW
UNIV. OF NEW MEXICO

Mr. Thomas W. Christopher
Dean
The University of New Mexico
School of Law
1915 Roma N.E.
Albuquerque, New Mexico 87106

Dear Dean Christopher:

In response to your letter of April 6th, we would
be pleased to have an intern in Chaves County during
the summer. ✓

Very truly yours,


District Judge

PS:b

APPENDIX E

NORMAN HODGES
DISTRICT JUDGE
A. A. RIVERA
OFFICIAL COURT REPORTER

CHAMBERS
Sixth Judicial District Court
STATE OF NEW MEXICO
POST OFFICE BOX 390
SILVER CITY, NEW MEXICO

April 12, 1971

COUNTIES OF
HIDALGO
GRANT
LUNA

Mr. Thomas W. Christopher, Dean
The University of New Mexico
School of Law
1915 Roma N. E.
Albuquerque, New Mexico 87106

Re: Law School
Intern Program

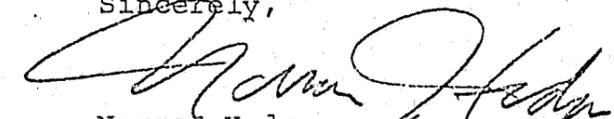
Dear Dean Christopher:

Receipt of your letter of April 6th is acknowledged.

Both the District Attorney and myself are entirely
willing to participate in the above program. ✓

Thanking you and with my best personal regards, I am

Sincerely,


Norman Hodges
District Judge

NH:ef

cc: Mr. E. C. Serna
District Attorney

APPENDIX F



ALVIN BOATMAN
JUVENILE OFFICER
SALLY HERRERA
ASST. JUVENILE OFFICER

TENTH JUDICIAL DISTRICT COURT
TUCUMCARI, NEW MEXICO

COUNTIES: DE BACA HARDING QUAY

J. V. GALLEGOS
DISTRICT JUDGE

April 15, 1971

FRANCES STULL
DISTRICT COURT CLERK
HAROLD BORDEN
COURT REPORTER

RECEIVED
APR 16 1971
SCHOOL OF LAW
UNIV. OF NEW MEXICO

Mr. Thomas W. Christopher, Dean
University School of Law
The University of New Mexico
1915 Roma N. E.
Albuquerque, New Mexico 87106

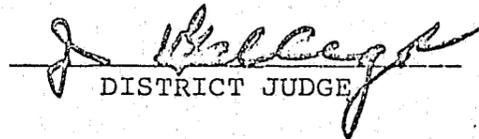
Dear Mr. Christopher:

I have your letter of April 6th.

I believe that the contents of your letter constitute a very worthy undertaking, and I would be very happy to assist a student during the summer in the manner you mentioned. ✓

I assume that the District Attorney's office here will cooperate.

Very truly yours,


DISTRICT JUDGE

JVG:hb

APPENDIX G



State of New Mexico
Eleventh Judicial District Court
Aztec

TELEPHONE 334-6151

April 9, 1971

CHAMBERS OF
JAMES W. MUSGROVE
DISTRICT JUDGE
DIVISION ONE

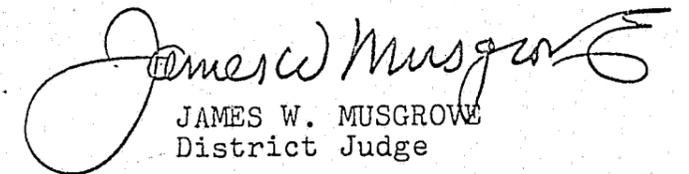
Dean Thomas W. Christopher
The University of New Mexico
School of Law
1915 Roma N.E.
Albuquerque, New Mexico 87106

Dear Dean Christopher:

Thank you for your letter concerning the use of third year students during the Summer.

I am very much interested in this project. I have also talked to the District Attorney here in San Juan County and he is very enthusiastic about the project. We will be happy to cooperate in any way. ✓

Very truly yours,


JAMES W. MUSGROVE
District Judge

JWM:vf

APPENDIX H

United States Department of Justice LAW ENFORCEMENT ASSISTANCE ADMINISTRATION		APPLICATION FOR GRANT - Page 1 DISCRETIONARY FUNDS PROGRAM H-5	
(PLEASE BLANK FOR OFFICIAL USE ONLY)			
Application is hereby made for a grant under Section 300 of the Omnibus Crime Control and Safe Streets Act of 1970 (PL 91-351) in the amount and for the purposes set forth in this application.		APPLICATION NUMBER	PROGRAM DIVISION ASSIGNED
		DATE RECEIVED	REGION ASSIGNED
1. SHORT TITLE OF PROJECT (Check applicable box or boxes) Law Student Intern Program in <input checked="" type="checkbox"/> Prosecutor Offices <input type="checkbox"/> Defender Offices			
2. TYPE OF APPLICATION: (Check one) <input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> REVISION <input type="checkbox"/> CONTINUATION OF GRANT NO. _____			
3. DISCRETIONARY PROGRAM UNDER WHICH APPLICATION IS MADE: 1971 OF Program H-5-Law Student Interns in Prosecutor/Defender Offices			
4. PROJECT DURATION: Total length <u>3</u> months		5. LEAA SUPPORT SOUGHT: <u>0</u> 25,140	
6. APPLICANT OR IMPLEMENTING AGENCY OR GOVERNMENTAL UNIT: (Name, address, and telephone) New Mexico Judicial Council and the University of New Mexico School of Law, University of New Mexico, Albuquerque, New Mexico 87106		7. PROJECT DIRECTOR (Name, title, address, and telephone) Hunter L. Geer, Assistant Dean University of New Mexico School of Law Albuquerque, New Mexico 87106 505-277-2146	
8. FINANCIAL OFFICER (Name, title, address, and telephone) E. B. Kasner, Director Research & Fellowship Service University of New Mexico Albuquerque, N.M. 87106 277-3746		9. OFFICIAL AUTHORIZED TO SIGN APPLICATION: (Name, title, address, and telephone) E. B. Kasner, Director Research & Fellowship Service University of New Mexico Albuquerque, N.M. 87106 277-3746	
10. NAME OF EMPLOYING PROSECUTOR/DEFENDER AGENCY(IES): a. District Courts of the State of New Mexico and District Attorney of N.M. (See III)		11. NUMBER OF INTERNS CONTEMPLATED: a. Prosecutor: <u>15</u> b. Defender: <u>15</u> Total: <u>30</u>	
12. NAME OF COOPERATING LAW SCHOOL(S): a. University of New Mexico School of Law		13. TYPES OF PLACEMENTS CONTEMPLATED: a. Part-time School Year Placements: _____ b. Summer Employment Placements: <u>X</u> (Need not conform to item 11 total since some intern may receive both school year and vacation placements)	
14. Does the agency accept and undertake to comply, if a grant is awarded, with the LEAA Grant Conditions and the program specifications for the Law Student Intern Program (1971 Discretionary Grant Guide, p. DF 72)? YES <input checked="" type="checkbox"/>		15. Summary Budget and Special Project Data Sheets Attached and Completed. YES <input checked="" type="checkbox"/>	
16. DATE April 30, 1970	17. SIGNATURE OF AUTHORIZED OFFICIAL (See item 9 of Application):		
18. State Planning Agency Endorsement: The <u>N.M.</u> State planning agency hereby endorses this application and certifies that: <input type="checkbox"/> It will accept a DF grant based on this application for award to the implementing agency or unit <input type="checkbox"/> It will incorporate this project as an improvement effort in the State plan. <input type="checkbox"/> It will not reduce or otherwise impair allocations or funding to the implementing agency or unit, its metropolitan area, or region.			
19. DATE	20. SIGNATURE TITLE:		

DF 191

STANDARD GRANT CONDITIONS - Applicant understands and agrees that any grant received, directly or through its State law enforcement planning agency designated under P. L. 90-351, as a result of this application shall be subject to and incorporate the following grant conditions:

- Reports. The grantees shall submit, at such times and in such form as may be prescribed, such reports as the Law Enforcement Assistance Administration may reasonably require, including quarterly financial reports and periodic progress reports and final financial and narrative reports.
- Copyrights. Where activities supported by this grant produce original books, manuals, films, or other copyrightable material, the grantees may copyright such, but LEAA reserves a royalty-free, non-exclusive and irrevocable license to produce, publish, and use such materials, and to authorize others to do so.
- Patents. If any discovery or invention arises or is developed in the course of or as a result of work performed under this grant, by any level of implementing grantees, subgrantees, or contractors, the grantees shall refer the discovery or invention to LEAA, which will determine whether or not patent protection will be sought, how any rights therein, including patent rights, will be disposed of and administered, and the necessity of other action required to protect the public interest in work supported with Federal funds, all in accordance with the Presidential Memorandum of October 10, 1963, on Government Patent Policy. The grantees in their final narrative reports (see (1) above) shall identify any discovery or invention arising under or developed in the course of or as a result of work performed under this grant or shall certify that there are no such inventions or discoveries.
- Discrimination Prohibited. No person shall, on the grounds of race, creed, color or national origin, be excluded from participation in, be refused the benefits of, or be otherwise subjected to discrimination under grants awarded pursuant to P. L. 90-351 or any project, program, activity, or subgrant supported by such grants. Grantees must comply with the provisions and requirements of Title VI of the Civil Rights Act of 1964 and regulations issued by the Department of Justice thereunder as a condition of award of Federal funds and continued grant support. Grantees further must comply with the Justice Department equal employment opportunity regulation in Federally assisted programs, to the end that discrimination in employment practices of State planning agencies, law enforcement agencies and other agencies or offices administering, conducting or participating in any program or activity receiving Federal financial assistance, on the grounds of race, color, creed, or national origin, be eliminated. This grant condition shall not be interpreted to require the imposition in State plans or planning agency subgrant programs of any percentage ratio, quota system, or other program to achieve racial balance or eliminate racial imbalance in a law enforcement agency. The United States reserves the right to seek judicial enforcement of this condition.
- Termination of Aid. This grant may be terminated or fund payments discontinued by LEAA where it finds a substantial failure to comply with the provisions of P. L. 90-351 or regulations promulgated thereunder, including these grant conditions or application obligations, but only after notice and hearing and pursuant to all procedures set forth in Sections 510 and 511 of P. L. 90-351.
- Inspection and Audit. The Administration and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purposes of audit and examinations to any books, documents, papers, and records of the grantees, and to relevant books and records of subgrantees and contractors, as provided in Section 521 of P. L. 90-351. A notice to this effect shall appear in all subgrants and other arrangements for implementation of this project.
- Maintenance of Records. All required records shall be maintained until an audit by LEAA or its representatives is completed and all questions arising therefrom are resolved, or for three years after final payment is made on the grant, subgrant, contract, or subcontract under which this project is being implemented, whichever is sooner.
- Utilization and Payment of Funds. Funds awarded may be expended only for purposes and activities covered by grantees' approved project plan and budget. Project funds may be made available through a letter of credit system pursuant to rules and procedures as to establishment, withdrawals, etc., issued by the Administration and with which grantees must comply. Where grant awards are not sufficiently large to require this system, payments will be made on the basis of periodic requests and estimates of fund needs submitted by the grantees. Payments will be adjusted to correct previous overpayments or underpayments and disallowances resulting from audit. Letters of credit may be revoked for failure to comply with requirements pertaining thereto.
- Allowable Costs. The allowability of costs incurred under any grant shall be determined in accordance with the general principles of allowability and standards for selected cost items set forth in Bureau of Budget Circular No. A-87, "Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments," as further defined and delimited in conditions 10 and 11 below, and in the LEAA Financial Guide for Administration of Planning and Action Grants.
- Expenses Not Allowable. Grant funds may not be expended for (a) items not part of the approved budget or separately approved by LEAA; (b) purchase or construction of land and buildings or improvements thereon, or payment of real estate mortgages or taxes, unless specifically provided for in the grant agreement; (c) dues to organizations or federations; (d) entertainment, amusements, or social activities, and incidental costs related thereto; (e) purchase of automobiles or other automotive vehicles unless provided for in the grant agreement; or (f) indirect (overhead) costs, where the grantees does not have an indirect expense allocation system and rate acceptable to LEAA. Expenditure of funds in excess of the submitted total cost estimate for any major budget category will be permitted only with LEAA approval where this involves an increase of more than 10 percent in the total category cost estimate. Such increases will be deemed, in effect, to constitute an amendment of the grant application and award requiring grantor concurrence. In certain cases, grantees which are State law enforcement planning agencies may extend these approvals on behalf of LEAA for their subgrantees.
- Written Approval of Changes. Grantees must obtain prior written approval from LEAA for major project changes. These include (a) changes of substance in project activities, designs, or research plans set forth in the approved application; (b) changes in the project director or key personnel identified in the approved application; and (c) changes in the approved project budget as specified in the preceding condition.
- Project Income. All interest or other income earned by the grantees with respect to grant funds or as a result of conduct of the grant project (such as publications, registration fees, service charges on loans, etc.) must be accounted for. Interest on grant funds must be returned to LEAA by check payable to the United States Treasury, and other income should be applied to project purposes or in reduction of project costs provided, however, that if the grantee is a unit of government, the grantees shall not be accountable for interest earned on grant funds pending their disbursement or actual application for project purposes.
- Title to Property. Title to property acquired in whole or in part with grant funds in accordance with approved budgets shall vest in the grantees, subject to divestment at the option of LEAA (to the extent of LEAA contribution toward the purchase thereof) exercisable only upon notice within 120 days after the end of the grant period or termination of the grant. Grantees shall exercise due care in the use, maintenance, protection and preservation of such property during the period of project use.
- Publications. The grantees may publish, at its own expense, the results of grant activity without prior review by LEAA provided that any publication (written, visual, or sound) contains an acknowledgement of LEAA grant support. At least 25 copies of any such publication must be furnished to LEAA but only 10 copies of training materials (where used in grant project) must be supplied, except as otherwise requested or approved by LEAA. Publication of documents or reports with grant funds beyond quantities required to meet standard report requirements must be provided for in approved project plans or budgets or otherwise approved by LEAA and, for large quantity publication, manuscripts must be submitted in advance to LEAA.
- Third Party Participation. No contract or agreement may be entered into by the grantees for execution of project activities or provision of services to a grant project (other than purchase of supplies or standard commercial or maintenance services) which is not incorporated in the approved proposal or approved in advance by LEAA. Any such arrangements shall provide that the grantees will retain ultimate control and responsibility for the grant project and that the contractor or subgrantees shall be bound by these grant conditions and any other requirements applicable to the grantees in the conduct of the project.
- Obligation of Grant Funds. Grant funds may not, without advance written approval by LEAA, be obligated prior to the effective date or subsequent to the termination date of the grant period. Obligations outstanding as of the termination date shall be liquidated within 90 days. Such obligations must be related to goods or services provided and utilized within the grant period.
- Fiscal Regulations. The fiscal administration of grants shall be subject to such further rules, regulations, and policies, concerning accounting and records, payment of funds, cost allowability, submission of financial reports, etc., as may be prescribed by LEAA, including those set forth in the LEAA Guide for Discretionary Grant Programs and those specified as applicable to discretionary grants in the LEAA Financial Guide for Administration of Planning and Action Grants.

ASSURANCE OF COMPLIANCE WITH CIVIL RIGHTS ACT OF 1964. The grantees hereby assure that it will comply with and will insure compliance by its subgrantees and contractors with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to regulations of the Department of Justice (28 C.F.R. Part 42) issued pursuant to that title, to the end that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance from the Department of Justice. The grantees further will comply with and insure compliance by its subgrantees and contractors with Justice Department equal employment regulation in Federally assisted programs (28 C.F.R. Part 42, subpart D) to the end that employment discrimination in such programs on the grounds of race, color, creed or national origin, shall be eliminated. The grantees recognize the right of the United States to seek judicial enforcement of the foregoing covenants against discrimination, and will include a similar covenant assuring the right of the United States to seek judicial enforcement in its subgrants or contracts.

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Project Title: LAW STUDENT INTERNS IN PROSECUTOR DEFENDER OFFICES

Implementing Agency: _____

SUMMARY BUDGET DATA

Insert grantee's best estimates of projected expenditures in the standard LEAA major budget categories:

Major Budget Category	LEAA Support	Grantee Contribution	Total Cost Estimate
A. Personnel			
Intern Compensation	21,600		21,600
(Other Professional or Clerical Benefits)		9,000	
B. Professional Services (consultants and contractors)			9,000
C. Travel (transportation and subsistence)	2,560		2,560
D. Equipment			
E. Supplies and other operating expenses	980		980
TOTAL	25,140	9,000	34,140

Breakdown for Intern Compensation Estimate

(1) Type of Placement	(2) No. of Placements	(3) Aver. Hrs. or Wks. Per Placement	(4) Aver. Hourly or Weekly Compensation per Intern	(5) Total Est. Compensation (Columns 2 X 3 X 4)
School year				\$
School vacations	15	12 weeks	\$120/week	\$ 21,600
TOTAL (should conform to total estimate for "Intern Compensation" in Summary Budget)				\$

- Where the LEAA support includes block grant funds, indicate the amount here: \$ _____. The grantee contribution to this special grant series must be at least 40 percent of the total project cost estimate.
- The budget should relate to placements for the 1971 summer vacation period and during the 1971-1972 academic year (commencing in the fall of 1971) and not beyond.
- It is anticipated that the bulk of grant funds will be applied to intern compensation. However, grant funds may be budgeted to defray costs of supervision, clerical expenses or supplies to be incurred as a direct result of the program by the implementing agency or any law school serving in a supervisory or coordinative capacity (not to exceed 15 percent of grant request) or for defraying the cost of any law school seminar or tutorial course developed as an adjunct to the program (not to exceed 15 percent of grant request). Where federal funds have been budgeted for this purpose, an explanation of how they were computed should be set forth in the application (what travel or what rates or what supervision or office expense items and how much for each kind). Insert any such required explanations on the reverse side of this page.

Short Form Application--Law Student Interns
in Prosecutor/Defender Offices

Space for Explanatory Text on Summary Budget Items:

The major item of \$21,600 is for salary of 15 rising third-year law students* during the summer months. These students will act as law clerks for district courts and assist District Attorneys in various functions in criminal cases and research for judges and the District Attorney. Travel expense will cover travel and per diem for the one week during which the students will be under the guidance of a Supreme Court Justice or Court of Appeals Judge to learn of the operation of these Courts and observe the handling of appealed cases.

This week at the appellate level is computed at \$20 a day per diem and 10 cents a mile travel to and from Santa Fe.

The supplies and operating expense will include the miscellaneous costs incidental to the operation of the program such as telephone calls, stationery, mailings and reproducing the final report of the program. Telephone expenses will be high because the students outside of Albuquerque will be encouraged to call the law school freely to discuss problems. Approximately \$400 of the budget is allocated for telephone, \$200 for preparing and printing the final report, and \$380 for incidental cost.

Grantee contribution is in the form of professional supervision of the students and includes judges, district attorneys, Director of the UNM Law School Clinical Program (William MacPherson), Executive Director of the New Mexico Judicial Council (Robert H. Deiss), and Assistant Dean of UNM Law School (Hunter L. Geer). We are estimating 60 hours per student (or 5 hours per week) of supervisory time by the various judges, district attorneys, etc. For 15 students, this amounts to 900 hours for the total program. It is estimated that the average income of persons involved as supervisors is between \$16,000 and \$18,000 per annum. We are conservatively charging \$10 per hour for supervisory cost, our contribution.

The travel expense is difficult to determine because of the various distances from which the students will be traveling. For example, the round-trip mileage from Hobbs to Santa Fe is 756 miles, the round-trip mileage from Albuquerque to Santa Fe is 124 miles, with other cities around New Mexico being various distances in between. We are estimating an average mileage of 400 round trip per student, or 6,000 at 10 cents = \$600.00. Fifteen weeks per diem at \$20 per day or \$100 per week amounts to \$1,500 for a total travel for students at \$2,100.

Cost of travel for supervisors is estimated at 1,600 miles at 10 cents per mile and 15 days per diem at \$20 per day, or a total of \$460.00. Total travel cost for the program will be \$2,560.00

*and possibly outstanding second-year students



Project Title: LAW STUDENT INTERN PROGRAM

Implementing Agency: _____

SPECIAL PROJECT DATA

I. Explain what steps have been and will be taken to assure recruitment of the planned number of aides, both for part-time school year placements and full-time summer placements and attach endorsements of major prosecutive/defender agencies (other than applicant) and law schools whose cooperation will be necessary for the program effort. District Court Judges and District Attorneys interested have indicated their agreement to participate. Many agreed to participate when contacted by telephone and others, as shown by attachment, have shown acceptance in writing.

II. Discuss briefly, but with specificity, the agency's plans for orientation and training of the interns. One orientation class will be held at the School of Law to explain duties and responsibilities of the program; to explain workings of Court Clerks and District Attorney offices; to assure students of their acceptance of their work in the community to which they are assigned.

Continued on Reverse Side

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III. Discuss briefly the types of duties and assignments planned for the interns (should reflect the broad range of functions and professional experience contemplated by LEAA program guidelines). The students will be placed under the tutelage of various district judges throughout the state and will serve with the local district attorneys as well as with attorneys appointed to represent indigents charged with crimes (New Mexico has no public defender system). The cases will be highly selective and will include some magistrate (lower court) cases to allow these students to be exposed to a full spectrum of criminal cases and the method of handling them. They will conduct research and perform other projects as may be assigned by the supervising judge. When possible they will interview witnesses for the District Attorney or defendants attorney and observe the trying of the cases.

New Mexico has just adopted a rule that all criminal charges pending must be brought to trial within six months or be dismissed. This recent change will place much urgency on district attorneys to clear up the criminal docket of what by the new order became suddenly a backlog of cases. This proposal will also assist prosecutors at this difficult time.

One of the twelve weeks will be spent at the appellate level when *
IV. Are any law school training efforts (seminars, tutorials, fellow supervision-- credit or otherwise) planned as a supplement to the intern work experience. If yes, describe. A session is planned at the end of the summer. The students participating in the program will discuss their experiences and comment on the court's handling of criminal cases. Those students expressing an interest in the prosecution's side of criminal law will be encouraged to participate in that area during their third-year clinical program experience.

NOTE

This Special Project Data Sheet, combined with other portions of the application and the obligations and specifications set forth in the LEAA 1971 Discretionary Grant Guide for this program (incorporated by reference in the application) will define the project effort for grant award purposes. Any planned deviations or variations from the program guidelines must be set forth in the Data Sheet and explained so that they may be fully considered in LEAA review.

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* the student will travel to Santa Fe and spend the time under the guidance of a Supreme Court Justice or Court of Appeals Judge. He will there observe the making up of the docket in criminal appeals, read the record, listen to oral arguments by counsel and discuss the decision with his supervising Justice or Judge.

Oct. 21, 1971

To: Mr. Hunter Geer
From: W.C. Madison
Re: Follow-up recommendation from work as summer intern.

During this passed summer I have had extensive opportunity to work with the drug statutes of the state of New Mexico, in particular the new drug legislation passed by the last session of the New Mexico legislature. While so working with these laws I have had reason to see their effects on the courts, narcotics law enforcement, and prosecution and defense of cases. As a result of my contacts with these laws, I have come to the conclusion that the state of drug legislation in New Mexico is at a very low ebb.

It seems to me that no real effort has ever been made to pass intelligent, concise, and consistent legislation. It appears that drug legislation in New Mexico has come into being as a result of a random, shot-gun type approach, ie. just one series of stop-gap measures after another with no effort being put forth to pass workable, practicable legislation. Our present state of the law in this area is replete with inconsistencies and possible loopholes which defeat the very purpose of some of the legislation.

Attached is a copy of some cursory research done in this field of the law which serves as an example of the downfallings of some of the most recent drug legislation passed in the state. Some of the errors apparent in these laws makes one wonder if in fact anyone actually read some of the laws that have been passed.

As called for in the attached paper I believe that the only feasible approach to correcting the state of our drug laws is to in effect wipe the whole slate clean and pass consistent and workable laws.

William C Madison

APPENDIX J

New Mexico's Drug Legislation

Imagine if you will, a drug pusher giving out joints (hand rolled cigarettes) or roaches (butts or small joints) of marijuana to the students at your local high school. You would logically believe that he could be punished for this activity, but it is quite possible that he cannot. This could possibly be the unforeseen result of the new drug statutes passed by the last session of the New Mexico Legislature;¹ and since drugs and drug abuse seem to be a paramount problem in today's society, the purpose of this paper will be an attempt to interpret these new statutes and render some insight as to their applicability and/or inapplicability. The body of this paper will be divided into four (4) main parts dealing in turn with the new statutes regarding: 1) dangerous drugs, 2) narcotics, 3) marijuana, and 4) immunity from criminal prosecution. It is hoped that this presentation will serve the multiple functions of explaining the new laws, differentiating them from the previous statutes, and pointing out some possible shortcomings that may be encountered in their enforcement.

I. DANGEROUS DRUGS

All of the legislation regarding dangerous drugs is contained in what is commonly known as the

"New Mexico Drug and Cosmetic Act",² and as a result of recent legislation this act has been substantially altered. The new or amended sections of the Drug and Cosmetic Act are those pertaining to: definitions as used in the New Mexico Drug and Cosmetic Act,³ exclusion of marijuana from classification as a dangerous drug,⁴ and a new penalty section.⁵

The first problem that we encounter in looking at the definitions section is in the definition of "depressant, stimulant or hallucinogenic drug",⁶ specifically the definition that theoretically defines a "depressant" as:

Any drug (emphasis added) which contains any quantity of a barbituric acid or any of the salts of barbituric acid (emphasis added); or any derivative of barbituric acid which has been designated by the Federal Act under Section 502 (d) as habit forming.⁷

On looking at this subsection in combination with the new section on penalties⁸ it appears that an individual can be penalized anywhere from one(1) year for possession (misdemeanor) up to a second degree felony for selling, delivering or disposing of such a drug to another person of less than 18 years. There is nothing inherently wrong with this concept, except that there are drugs that can be legally bought, possessed and sold without a prescription that in fact contain derivatives of barbituric acid, the most common of which is known by the trade name Federal which contains 1/8 gr. of phenobarbital in each tablet. This fact not only makes it uncomfortable for the people who

suffer from asthma and hay fever who regularly purchase and use this drug, but it also has proved to be embarrassing to local narcotics police officers since any drug that does contain a barbiturate will give a positive reaction to the Zwikker test (field test for narcotic agents to test for barbiturates - furnished by the Bureau of Narcotics and Dangerous Drugs) and there already have been instances where people have been arrested for their illegal possession of a drug that can be legally obtained. There seems to be an apparently easy remedy to this problem. Under N.M.S.A. 54-6-38-E, we have:

"The Board (of Pharmacy) may by regulation exempt any depressant or stimulant drug from the application of all or part of this section when the Board finds that regulation of its manufacture, compounding, processing, possession, and disposition, as provided in this section, is not necessary for the protection of the public health; provided that any depressant or stimulant drugs exempted under Section 511(F) of the Federal Act are exempted from application of this Section.

The logical remedy would be for the Board of Pharmacy to exempt the drug even though it is exempt under Federal Law. This procedure is necessary since under the new statutes' definitions the "Federal Act" means the Federal Food, Drug and Cosmetic Act 21 U.S.C. sec. 301, et. seq.⁹ and sec. 511 of that act was repealed in October 1970. Even if it were not repealed, that would still not help since there never was a subsection F, and as a matter of fact sec. 511 deals with "Records and Reports by Manufacturers of Narcotic

Predecessors; Report to the Congress" and has nothing to do with depressant or stimulant drugs.

Also in this definition of depressant drugs we see that it also includes "any derivative of barbituric acid which has been designated by the Federal Act under sec. 502 (d) as habit forming". It should be pointed out here that sec. 502 of the Federal Act was also repealed in October of 1970 but even if it were not, sec. 502 (d) reads: "The term 'person' includes an individual, partnership, corporation, association, trust, or other institution or entity." It is obvious that section 502 (d) does not designate any drugs as habit forming.

Also included in their definition of depressant, stimulant or hallucinogenic drugs are all amphetamines, salts and derivatives of amphetamines¹⁰ plus LSD (lysergic acid diethylamide) and DMT (n-n-dimethyltryptamine)¹¹. LSD and DMT are new additions to this list, having been previously covered by their own statutes,¹² which were repealed by this new act.

The final paragraph of their subsection¹³ also provides that "any drug which the Board may designate..." be included in the definition of depressant, stimulant or hallucinogenic drug. Although the Board of Pharmacy has not yet designated any other drugs, the problem immediately comes to mind of the situation where they do designate such a new outlaw drug without adequate publication or specific inclusion in the statute.

The question to be then answered is whether or not prosecution for possession or sale of such a drug would be a violation of the due process clause of the 14th Amendment of the United States Constitution. The United States Supreme Court has held that a criminal statute must be definite as to the persons within the scope of the statute and the acts which are penalized.¹⁴ Another interesting facet of this section dealing with definitions are those definitions which eventually determine the crime of "misbranding", which is unlawful,¹⁵ and punishable as a misdemeanor (one year imprisonment and fine for the first offense and increased to up to three years imprisonment for subsequent offenses)¹⁶.

The definitions in question here are those for label, immediate container, labeling and misbranded. "Label" is defined as "a display of written, printed or graphic matter upon the immediate container of any article..."¹⁷ Under the new statutes, the term "immediate container" does not include package liners;¹⁸ it should be pointed out to the layman that a package liner or insert is the information sheet that drug companies inclose inside the box or bottle that drugs are packed in. These package liners point out all information on the drug regarding indications, contraindications, addiction, side effects, etc.

The term "labeling" is defined as "all labels and

other written, printed or graphic matter...¹⁹; this definition would seem to include package liners. The crime of "misbranding" is defined as:

"Misbranded" means a label (emphasis added) to an article which is misleading. In determining whether the label (emphasis added) is misleading, there shall be taken into account, among other things... The extent to which the label fails to reveal facts material in the light of such representations or material with respect to consequence which may result from the use of the article to which the label relates under the conditions of use prescribed in the label or under such conditions of use as are customary or usual.²⁰

The result of these definitions is that all drug companies are misbranding since they put consequences etc. of the drug use on the package liner which could be equivalent to as long as 20 typed pages, which would be obviously difficult to put on the immediate container of the drug. The Federal Law dealing with misbranding²¹ is identical except it provides that an article is misbranded when its labeling (emphasis added) is misleading. Here again we see New Mexico Law in derogation of the Federal Law.

The second amended section of the Drug and Cosmetic Act reads:

"As used in the New Mexico Drug and Cosmetic Act, 'dangerous drug', 'counterfeit drug' and 'depressant, stimulant or hallucinogenic drug' do not include cannabis sativa L."²²

This act is different from the prior act in that it removed the phrase "other than hashish or THC (Tetra-

hydrocannabinol)" from after "...cannabis sativa L...". the purpose of this is to include all forms of marijuana in the provisions of the newly enacted "Marijuana Act".²³

The third and final section of the New Mexico Drug and Cosmetic Act that was amended is that section dealing with penalties²⁴ (see Appendix I for the new probable penalties for specific acts). Although most of the penalties are straight-forward, there are a few inconsistencies that could develop into problems.

Subsection A provides that any person who knowingly violates sec. 54-6-38-B (3) N.M.S.A. 1953 shall be guilty of a misdemeanor; sec. 54-6-38-B (3) specifically makes it unlawful to possess any depressant, stimulant or hallucinogenic drug; sec. 54-6-27-F (3) includes LSD and DMT within depressant, stimulant or hallucinogenic drugs. From this line of reasoning, it would appear on first blush that it would be a misdemeanor to possess LSD, except that newly enacted subsection F of 54-6-51 N.M.S.A. makes possession of LSD a fourth degree felony for the first offense, and a third degree felony for subsequent offenses. This is in my opinion a glaring inconsistency with two penalties for the same offense which will probably be resolved by holding that 54-6-51-F N.M.S.A. is specific while 54-6-51-A is a general provision, therefore making the more specific subsection holding. Although this may be the final resolution, a good argument could still be made that there are two

penalties for possession of LSD and an alleged defendant should only be charged with a misdemeanor.

Subsection B of the new penalty section of the Drug and Cosmetic Act provides for penalties for sale or delivery of any depressant, stimulant or hallucinogenic drug to a person under 18 years of age. Subsection C provides for penalties for sale or delivery of any depressant, stimulant or hallucinogenic drug except LSD or DMT to a person over 18 years. (Emphasis added) Subsection D reads as follows:

Except as provided for in Subsection A, B and C of of this section (emphasis added), any person violating any of the provisions of the New Mexico Drug and Cosmetic Act is guilty of a petty misdemeanor for the first offense and for each subsequent offense is guilty of a fourth degree felony.

This would lead one to believe that if he committed any other prohibited acts than those specified in Subsection A, B and C, he would be committing a misdemeanor except that Subsection E and F make it a felony to compound, sell, process, deliver, manufacture, possess or use LSD or DMT. Even though this involves a potential inconsistency, it again will probably be resolved that Subsection E and F are more specific and therefore controlling. Although this explanation will probably be valid in most cases, it could be lacking as to the penalty for selling or delivering LSD or DMT to a person over 18 years of age. A definite argument as to an inconsistency in the penalty for sale of LSD or DMT can be made in this manner: Subsection C provides penalties for sale of any depressant, stimulant or

hallucinogenic except LSD and DMT; Subsection D specifically says "Except as provided in Subsections A, B, and C..."; since Subsection C specifically "excepts" LSD and DMT, and Subsection D deals specifically with exceptions to Subsections A, B, and C, it could be argued that the penalty for sale of LSD and DMT is specifically laid out in Subsection D as a misdemeanor, which would be clearly inconsistent with the provisions of Subsection E of the penalties section.²⁵

II. NARCOTICS

One of the changes in the Narcotic Drug Act 27 is the removal of all forms of marijuana from its perview by changing the definition of "narcotics drugs" to exclude marijuana from that definition.²⁸ The section on penalties also has been substantially revamped (see Appendix I for specific changes).

A point that I consider worth mentioning is what seems an inequity in the penalty section of the Narcotic Act, specifically that subsection 29 that grants the court the discretion to send an addict convicted of a narcotic violation for treatment and then tacitly recommending probation after treatment, while a person who may be a one time user and not an addict must at least serve the minimum of what is usually a severe penalty. Besides what seems like an inequity, that subsection is just so much surplus verbage in that the court already has that power to use according to its discretion.

The final amendment of the Narcotic Act involves the changing of the statute dealing with the unlawful use of narcotics.³⁰ Again we see marijuana completely removed from this section; also a change in the penalty for use (see Appendix I). One of the more intriguing aspects of all of the statutes dealing with drugs can be seen in one of the exceptions to prosecution for use of narcotic drugs. Section 54-7-50-B N.M.S.A. reads as follows:

The use of a narcotic drug as defined in section 54-7-2 N.M.S.A. 1953 is unlawful unless the amount used is used for external use only.

The first surprising aspect about this subsection is its very existence since I know of no therapeutic external use of any narcotic drug. But an even more interesting speculation is that this subsection makes lawful a potential abuse of narcotics just as dangerous as "main-lining" (a direct intravenous injection of narcotics). This lawful abuse is very simply done with the use of the chemical solvent DMSO (Dimethylsulfoxide) which even though its purchase is restricted by the Federal government, it can easily be manufactured by anyone with a lab capable of making LSD. DMSO works by dissolving almost anything to form a solution and on topical application onto the skin it will be immediately absorbed deep into the skin, just as if it were injected. Therefore, under this subsection, an individual can in effect main-line heroin without it being unlawful use simply by dissolving it in DMSO and rubbing it "externally" on his skin.

III. THE MARIJUANA ACT

The newly enacted Marijuana Act³¹ consists of four sections, the first two dealing with the title of the act and the definition of marijuana are rather straight-forward and free of any defects.

Section 3 of the Marijuana Act³² makes it unlawful for a person to plant, manufacture, sell, deliver or have in his possession any marijuana. It is interesting to note that it is not unlawful to use marijuana. I'm not certain whether this is a result of defect or design, but I am sure that New Mexico is one of the few states where it is technically not unlawful to "smoke grass". The immediate reaction to this supposition is that if a person is using marijuana, he is liable under unlawful possession, but it is quite possible that a situation could arise where people could use marijuana without technically be in possession, as the term possession is defined by New Mexico case law dealing with marijuana and narcotics.³³ Also if a person is smoking a joint (using marijuana), the evidence usually ends up either in his lungs or in the air. The result of this is that even if he did it in the presence of the district judge, there would be no more evidence than one word against another. Furthermore, there would be no evidence to run chemical and microscopic assays on in order to prove beyond a reasonable doubt that the substance was in fact marijuana.

Section 4 of the Marijuana Act lays out the specific penalty provisions for violations of the

Marijuana Act. There are specific penalties for: possession of less than an ounce of marijuana; possession of more than an ounce of marijuana or any amount of hashish or THC; and penalties for sale, delivery or disposal of marijuana (see Appendix I). The first thing that strikes one's imagination is that section 59-9-3 makes it unlawful to plant or manufacture any marijuana, but there is no penalty provided for that offense. Without a penalty, I submit that no person could be incarcerated for planting or manufacturing marijuana. Again the argument could be put forth that planting marijuana could be punished under the penalty provision for possession of marijuana. To this I submit that simply the acts of planting and growing marijuana are not sufficient to prove the elements of possession of narcotics as laid out by the New Mexico Supreme Court in the case of State v. Giddings.³⁴ In the Giddings case the court held that in prosecution for possession of narcotics, it is incumbent on the state to prove that the defendant had physical or constructive possession of the object or thing possessed, coupled with knowledge of presence and narcotic character of the object possessed. The court further defined possession to mean the care, control, and management of the marijuana at the time and on occasion in question. Also in the Giddings case, the New Mexico Supreme Court discussed a jury instruction given in the California case of People v. Winston,³⁵ the instruction given in that

case is as follows:

Within the meaning of the law, a person is in possession of a narcotic when it is under his dominion and control and, to his knowledge, either is carried on his person or in his presence and custody, or, if not on his person or in his presence, the possession thereof is immediate, accessible and exclusive to him. (emphasis added)

The Supreme Court cited this as an example of an instruction that would be sufficient if it also included the essential element of knowledge of the narcotic character of the particular object possessed.

From this preceding discussion on what constitutes possession, it can readily be seen that a person could plant marijuana and allow it to grow wild in public parks and in forests or on the law school lawn and it would be extremely difficult to prove exclusive possession or control.

Another not so serious defect in the penalty section, can be found in Subsection A, which provides penalties for possession of less than one ounce of marijuana. The immediate question that comes to mind is what constitutes an ounce? This may sound like a ludicrous thing to ask, but in fact there are two measurements for one ounce, i.e., an apothecary ounce which is equivalent to 28.35 gram and the avoirdupois ounce that is equivalent to 31.1 gram. What if it is determined that a person is in possession of 30 grams of marijuana? It would seem that he must be charged with less than an ounce. The New Mexico Statutes on Weights and Measures³⁶ do not help to clarify this technical point.

If you will recall the hypothetical fact situation

given at the outset of this paper, you will recall that I speculated that a drug pusher might possibly be able to hand out joints without being prosecuted for sale, delivery or disposal. This distinct possibility could arise out of the final paragraph of penalties subsection C which deals with the sale, delivery or disposal of marijuana. That final sentence reads as follows:

Any person who distributes a small amount of marijuana for no remuneration shall not be included within the provision of this subsection.

If this provision is determined to be constitutional (which I strongly doubt), then it is quite conceivable that you could not prosecute a pusher who is giving away a few joints. Sure, you could get such an individual for possession of less than an ounce, but that is only a petty misdemeanor with a maximum penalty of 6 months in jail.

An even more interesting thing to speculate on is the constitutionality of this particular paragraph. It is my contention that it is a statute guilty of gross vagueness and therefore in violation of the due process clause of the 14th amendment of the Federal Constitution. Its vagueness stems from the problem of what constitutes a small amount in order for a person to know whether or not he is liable for prosecution for delivering or giving away marijuana. It is a long settled point of constitutional law that if a statute is so vague and uncertain that a reasonable man would be compelled to

speculate at his peril whether the statute permits or prohibits the act he contemplates committing, the statute is unconstitutional.³⁷

If as I contend this exemption to prosecution is unconstitutional then the question comes to mind as to the status of the rest of subsection C of the penalty section. Since there is no separability clause in the new marijuana statute, it could be argued that since a portion of a subsection is unconstitutional, then the entire subsection could be declared invalid. The net result of this would be that there would be no penalties for:

Any person who has in his possession marijuana with intent unlawfully to sell, deliver, or otherwise dispose of, or who sells, furnishes, gives away or delivers the marijuana to another person.³⁸

Here, it is important to note that an opinion from the attorney general's office would not be sufficient to correct this unconstitutional vagueness. It has been held that the validity of a penal statute depends on its own terms and if it is not sufficiently definite, the deficiency cannot be remedied by police or administrative interpretation.³⁹

The remainder of the penalty subsection just gives the court the power to dismiss first offenders without an adjudication of guilt and for the keeping of a non-public record of such a dismissal. Again some of this is excess verbage since the district courts already had such discretion.

IV. DRUG ABUSE CRIMINAL IMMUNITY ACT

The basic thrust of this act is to offer immunity from prosecution for the use of dangerous drugs,⁴⁰ as defined in this act to include any stimulant, depressant, hallucinogenic drug, marijuana or any narcotic.⁴¹ This immunity is offered to anyone who is charged with the use of dangerous drugs who has no prior criminal or civil commitment for drug abuse⁴² if, and only if such a person "... enters and participates in a drug abuse rehabilitation program for a period of at least one year and completes same."⁴³

On first glance this new act looks as if it is a step forward in drug rehabilitation but on a deeper look there are some problems present. The first major problem is that it only offers the immunity from prosecution for the use of these dangerous drugs, and nowhere in our statutes is it made unlawful to use marijuana or barbiturates or amphetamines. Therefore no person could be charged with use of these drugs and therefore even though these drugs are included in the purview of this act it is useless as far as these three classes of drugs are concerned. Now that we have reduced the scope of this statute to cover the use of narcotics, LSD and DMT, it should be pointed out that almost no one is ever prosecuted for the use of these drugs, most drug arrests are for possession and/or sale, which acts are not included in this statute. Therefore it will be quite a rare occasion when a person has an opportunity to invoke the immunity granted in this act.

The second and probably most glaring error connected

with this act is the chance that it possibly could be ruled unconstitutional in that it could be argued that it violates the equal protection clause of the 14th Amendment. This argument could be made as follows: as of this date the only drug abuse rehabilitation program in the state that meets the standards set out in this statute⁴⁴ is the Quebrar program in Albuquerque. The Quebrar program in Albuquerque is only available to Bernalillo County residents. The only other drug rehabilitation programs are Federal and they will not admit a person with charges pending against them. Therefore, if two people (one in Bernalillo County and one in Chaves County) are arrested for the unlawful use of narcotics, the Bernalillo County resident could avoid criminal prosecution while the Chaves County resident could end up in the state penitentiary at Sante Fe. This result could lead to the argument that there is not equal protection under the law in the state of New Mexico and therefore the immunity statute would be unconstitutional.

The remainder of the immunity act deals with the prohibiting of questioning or surveying people engaged in a drug rehabilitation program. This part of the statute is fairly straight-forward.

CONCLUSION

As I said at the beginning of this effort, I was attempting to interpret the new drug statutes and any time new statutes are being interpreted it could lead to confusion and disagreement, but I did attempt to

analyze these statutes as accurately and critically as possible, and many of my suppositions will not be tested, proven or disproven until the courts decide how these statutes apply. But with all these possible inconsistencies and holes in our drug laws, I do believe that the whole of all the drug acts be looked at in toto with the thought that all the drug laws should be changed at one time so that we get the protection that is apparently intended instead of a continuing shot gun approach to drug legislation that many times will open up more loopholes than it closes.

William C. Madison
 William C. Madison

FOOTNOTES

1. Included among which are those contained in chapters 245 & 296 of the 1971 session laws.
2. N.M.Stat. Ann. sec. 54-6-26 through 54-6-51.
3. N.M.Stat. Ann. sec. 54-6-27.
4. N.M.Stat. Ann. sec. 54-6-27.1.
5. N.M.Stat. Ann. sec. 54-6-51.
6. N.M.Stat. Ann. sec. 54-6-27-F.
7. N.M.Stat. Ann. sec. 54-6-27-F(1).
8. N.M.Stat. Ann. sec. 54-6-51.
9. N.M.Stat. Ann. sec. 54-6-27-V.
10. N.M.Stat. Ann. sec. 54-6-27-F(2).
11. N.M.Stat. Ann. sec. 54-6-27-F(3).
12. N.M.Stat. Ann. sec. 54-5-18 & 54-5-19 (Repealed 1971).
13. N.M.Stat. Ann. sec. 54-6-27-F(4).
14. United States v. Cardiff 344 US. 174, 97L.ed. 200, 73 S.Ct. 189. See also, State v. Evjue 253 Wis. 146, 33N.W. 2d 305, 13 A.L.R. 1201.
15. N.M.Stat. Ann. sec. 54-6-28-B.
16. N.M.Stat. Ann. sec. 54-6-51-A.
17. N.M.Stat. Ann. sec. 54-6-27-L.
18. N.M.Stat. Ann. sec. 54-6-27-M.
19. N.M.Stat. Ann. sec. 54-6-27-N.
20. N.M.Stat. Ann. sec. 54-6-27-O.
21. 21 U.S.C.A. sec. 321-(k), (l), (m), (n).
22. N.M.Stat. Ann. sec. 54-6-21.1.
23. N.M.Stat. Ann. sec. 54-9-1 through 54-9-4.
24. N.M.Stat. Ann. sec. 54-6-51.
25. N.M.Stat. Ann. sec. 54-6-51-C.

FOOTNOTES (con't.)

- 26. N.M.Stat. Ann. sec. 54-6-51-E.
- 27. N.M.Stat. Ann. sec. 54-7-1 through 54-7-51.
- 28. N.M.Stat. Ann. sec. 54-7-2-N.
- 29. N.M.Stat. Ann. sec. 54-7-15-C.
- 30. N.M.Stat. Ann. sec. 54-7-50.
- 31. N.M.Stat. Ann. sec. 54-9-1 through 54-9-4.
- 32. N.M.Stat. Ann. sec. 54-9-3.
- 33. Infra, notes 34 & 35.
- 34. State v. Giddings 67 N.M. 87, 352 P.2d 1003.
- 35. People v. Winston 46 Cal.2d 151, 293 P.2d 40.
- 36. N.M.Stat. Ann. sec. 76-1-29.
- 37. Connally v. General Constr. Co. 269 U.S. 385, 70 L.ed. 322, 46 S.Ct. 126; Lanzetta v. New Jersey 306 U.S. 451, 83 L.ed. 888, 59 S.Ct. 618; Winters v. New York 333 U.S. 507, 92 L.ed. 840, 68 S.Ct. 665; Jaquith v. Commonwealth 331 Mass. 439, 120 N.E.2d. 189.
- 38. N.M.Stat. Ann. sec. 54-9-4-C.
- 39. State v. Caez 81 N.J. Super. 315, 195 A.2d 496.
- 40. Chapter 296 section 1-B, session laws of New Mexico 1971.
- 41. Chapter 296 section 1-A(2), session laws of New Mexico 1971.
- 42. Chapter 296 section 1-C(1), session laws of New Mexico 1971.
- 43. Chapter 296 section 1-B, session laws of New Mexico 1971.
- 44. Chapter 296 section 1-A(1), session laws of New Mexico 1971.

APPENDIX I-1

DANGEROUS DRUGS

KEY

- (V) = N.M.S.A. 1953 (1962 replacement volume)
- (S) = N.M.S.A. 1953 (1969 pocket supplement)
- (L) = Laws of New Mexico 1971 (245)

- NMT = Not more than
- NLT = Not less than
- Off.1 = First offense
- Off.2 = Second offense
- Off.3 = Third and all subsequent offenses

OFFENSE	LAWS AND PENALTY 4/2/1969 - 4/5/1971	LAWS AND PENALTY 4/5/1971 - PRESENT
UNLAWFUL POSSESSION OR USE OF L.S.D. OR D.M.T. *	(S) 54-5-18, 54-5-19 4th degree felony	(L) 54-6-27F, 54-6-51F Off.1- 4th degree felony Off.2 and subsequent - 3rd degree felony
OBTAINING L.S.D OR D.M.T.	No specific law - see possession	(S) 54-6-47, (L) 54-6-27F, and 54-6-51D. Off.1- petty misdemeanor Off.2 and subsequent - 4th degree felony
MANUFACTURE OF L.S.D. OR D.M.T.	(S) 54-5-18 and 54-5-19 4th degree felony	(L) 54-6-27F, 54-6-51E 3rd degree felony
SALE OR DELIVERY OF S.D. OR D.M.T.	No specific law - see possession	(L) 54-6-27F, 54-6-51E 3rd degree felony
SALE OF L.S.D. OR D.M.T. TO A PERSON LESS THAN 18 YEARS OLD	No specific law - see possession	(L) 54-6-27F, 54-6-51B Off.1- 3rd degree felony Off.2 and subsequent - 2nd degree felony
UNLAWFUL POSSESSION OF AMPHETAMINES OR BARBITURATES *	(S) 54-6-27F and 54-6-51A Off.1- NMT \$1000 and/or NMT 1 year Off.2 and subsequent - NMT \$3000 and/or NMT 3 years	(L) 54-6-27F, 54-6-51A Off.1- NMT \$1000 and/or NMT 1 year Off.2 and subsequent - NMT \$3000 and/or NMT 3 years
SALE, DELIVERY OR DISPOSAL OF AMPHETAMINE OR BARBITURATES	(S) 54-6-38B(1&2), 54-6-51B, 54-6-47 Off.1- NMT \$500 Off.2 and subsequent - NMT \$500 and/or NMT 6 months	(L) 54-6-27F, 54-6-51C Off.1- 4th degree felony Off.2 and subsequent - 3rd degree felony
SALE, DELIVERY, OR DISPOSAL OF AMPHETAMINE OR BARBITURATES TO A PERSON UNDER 18 BY A PERSON OVER 18	(S) 54-6-27F(1-3), 54-6-51A Off.1- NMT 2 years and/or NMT \$5000 Off.2 and subsequent - NMT 6 years and/or NMT \$15,000	(L) 54-6-27F, 54-6-51B Off.1- 3rd degree felony Off.2 and subsequent - 2nd degree felony
OBTAINING OF AMPHETAMINES OR BARBITURATES	(S) 54-6-38B(1&2), 54-6-51B and 54-6-47 Off.1- NMT \$500 Off.2 and subsequent - NMT \$500 and/or NMT 6 months	(S) 54-6-47, (L) 54-6-27F, 54-6-51D Off.1- petty misdemeanor Off.2 and subsequent - 4th degree felony

* It is not unlawful to use amphetamines or barbiturates.

APENDIX I-2

NARCOTIC DRUGS

KEY

(V) = N.M.S.A. 1953 (1962 replacement volume)
 (S) = N.M.S.A. 1953 (1969 pocket supplement)
 (L) = Laws of New Mexico 1971 (245)
 NARCOTIC DRUGS = COCAINE AND ITS DERIVATIVES,
 OPIUM, MORPHINE, CODINE, AND HEROIN.

NMT = Not more than
 NLT = Not less than
 Off.1 = First offense
 Off.2 = Second offense
 Off.3 = Third and all
 subsequent offenses

OFFENSE	LAWS AND PENALTY 4/2/1969 - 4/5/1971	LAWS AND PENALTY 4/5/1971 - PRESENT
UNLAWFUL USE OF NARCOTIC DRUGS	(V)54-7-2, 54-7-50, and (S)54-7-51A,C NMT \$1000 and NMT 1 year	(L)54-7-2L-N, 54-7-50 4th degree felony
UNLAWFUL POSSESSION OF NARCOTIC DRUGS	(S) 54-7-2M-0, 54-7-13 Off.1- NMT \$2000 and 2-10 Off.2- NMT \$2000 and 5-20 Off.3- NLT \$2000 and 10-40	(L)54-7-2L-N, 54-7-13, and 54-7-15B Off.1- 4th degree felony Off.2- 3rd degree felony Off.3- 2nd degree felony
UNLAWFUL SALE OF NARCOTIC DRUGS	(S)54-7-2M-0, 54-7-15(5), (V)54-7-14 Off.1- NMT \$5000 and 10-20 Off.2- NMT \$10000 and 20-40 Off.3- NMT \$20000 and life	(S)54-7-14, (L)54-7-2L-N, and 54-7-15A Off.1- 2nd degree felony Off.2 and subsequent - 1st degree felony
DISPOSAL OR POSSESSION WITH THE INTENT TO SELL NARCOTIC DRUGS	No specific law - see sale and possession	(S)54-7-14, (L)54-7-2L-N, and 54-7-15A Off.1- 2nd degree felony Off.2 and subsequent - 1st degree felony
UNLAWFUL SALE OF NARCOTIC DRUGS BY ONE OVER 21 TO ONE UNDER 21	(V)54-7-14, (S)54-7-2M-0, 54-7-15(4) NMT \$10,000 and 20-Life	No specific statute - see sale and sale to one under 18 by one over 18
UNLAWFUL SALE, DISPOSAL, OR POSSESSION WITH THE INTENT TO SELL OF NARCOTIC DRUGS TO ONE UNDER 18 BY ONE OVER 18	(V)54-7-14, 54-7-15.1, and S54-7-2-M-0 NMT \$20,000 and 10 to life	(V)54-7-14, 54-7-15.1, and (L)54-7-2L-N, 54-7-15A NMT \$20,000 and 10-life

APENDIX I-3

MARIJUANA

KEY

(V) = N.M.S.A. 1953 (1962 replacement volume)
 (S) = N.M.S.A. 1953 (1969 pocket supplement)
 (L) = Laws of New Mexico 1971 (245)

NMT = Not more than
 NLT = Not less than
 Off. 1 = First offense
 Off. 2 = Second offense
 Off. 3 = Third and all
 subsequent offenses

OFFENSE	LAWS AND PENALTY 4/2/1969 - 4/5/1971	LAWS AND PENALTY 4/5/1971 - PRESENT
IMPORTATION OF CANABIS INDICA	(V) 54-5-12, 54-5-13 \$100-500 and/or 1-3	No specific law - see possession, sale, etc.
POSSESSION OF MORE THAN 1 OUNCE OF CANABIS SATIVA L.	(V) 54-5-14 (S) 54-5-15A Off. 1 - NMT \$2000 and 2-5 Off. 2 - NMT \$2000 and 5-10 Off. 3 -NMT \$2000 and 10-20	(L)54-9-2, 54-9-3, 54-9-4B Off. 1- 4th deg. felony Off. 2 and subsequent - 3rd degree felony.
POSSESSION OF T.H.C. OR HASHISH	(S) 54-7-2M-0, 54-7-13 Off.1- NMT \$2000 and 2-10 Off.2- NMT \$2000 and 5-20 Off.3- NLT \$2000 and 10-40	(L)54-9-2, 54-9-3, 54-9-4B Off.1- 4th deg. felony Off.2 and subsequent - 3rd degree felony
SALE, DELIVERY, OR DISPOSAL OF CANABIS SATIVA L.	(V)54-5-14, (S)54-5-15A Off.1- NMT \$2000 and 2-5 Off.2- NMT \$2000 and 2-10 Off.3- NMT \$2000 and 10-20	(L)54-9-2, 54-9-3, 54-9-4C Off.1- 3rd degree felony Off.2- 2nd degree felony Off.3- 1st degree felony
PLANTING OR PRODUCTION OF CANABIS SATIVA L.	(V)54-5-14, (S)54-5-15A Off.1- NMT \$2000 and 2-5 Off.2- NMT \$2000 and 2-10 Off.3- NMT \$2000 and 10-20	No specific law - see possession.
POSSESSION WITH THE INTENT TO SELL OF CANABIS SATIVA L., T.H.C., OR HASHISH	No specific law, see possession, sale, etc.	(L)54-9-2, 54-9-3, 54-9-4C Off.1- 3rd degree felony Off.2- 2nd degree felony Off.3- 1st degree felony
POSSESSION OF ONE OUNCE OR LESS OF CANABIS SATIVA L.	(V)54-5-14, (S)54-5-15B Off.1- NMT \$1000 and/or LT 1 year. Off.2- 4th degree felony Off.3- 3rd degree felony - NMT \$5000 and/or 2/10	(L)54-9-2, 54-9-3, 54-9-4A Off.1- petty misdemeanor Off.2 and subsequent - 4th degree felony
UNLAWFUL USE OF MARIJUANA *	(V)54-7-2, 54-7-50, and (S)54-7-51B NMT \$1000 and/or LT 1 yr.	No specific law - see possession, etc. *
POSSESSION OR DISPOSAL OF PEYOTE	(V) 54-5-16 NLT \$200 and/or 90 days.	(V) 54-5-16 NLT \$200 and/or 90 days
SALE OR DISPOSAL OF T.H.C. OR HASHISH	(V) 54-7-14, (S)54-7-2M-0, and 54-7-15(5) Off.1- NMT \$5000 and 10-20 Off.2- NMT \$10000 and 20-40 Off.3- NMT \$20000 and life	(L)54-9-2, 54-9-3, 54-9-4C Off.1- 3rd degree felony Off.2- 2nd degree felony Off.3- 1st degree felony

* It is no longer unlawful to use marijuana, hashish or T.H.C.

Judicial District	No. of Cases Sampled	Contested Divorce	Uncontested Divorce	Family	Debt	Damage	W. Comp.	Real Estate	Prc
#1	1675	22.0	5.7	15.8	19.9	12.6	1.7	6.4	0.
#2	1077	5.4	18.0	13.0	15.7	12.3	2.5	5.6	3.
#3	299	4.7	38.1	11.4	14.7	8.4	2.7	10.0	2.
#4	190	3.2	17.4	13.7	8.9	7.4	0.5	15.8	10.
#5	327	4.0	29.7	15.6	18.0	5.2	5.5	15.3	0.
#6	194	2.6	29.9	13.9	24.2	6.7	2.1	2.1	3.
#7	266	3.4	32.3	10.9	6.4	6.8	1.1	13.2	6.
#8	189	2.6	14.3	13.2	15.3	9.5	1.1	15.3	8.
#9	139	6.5	35.3	5.8	15.8	8.6	3.6	11.5	1.
#10	148	5.4	23.6	7.4	16.9	4.1	0.7	12.2	3.
#11	139	9.4	25.2	10.1	20.1	9.4	5.8	5.8	0.
Total	4643	10.9	17.7	13.6	17.0	10.3	2.3	8.4	2.

TO: Members of the Judicial Council

MEMORANDUM: #4

FROM: Executive Secretary

DATE: September 9, 1971

RE: Summer Intern Program

1. The Council co-sponsored with UNM School of Law a summer intern program which assigned law students to the tutorship of district Judges and attorneys. A two day critique was held in late August with these students and each is writing a paper on a topic covering an aspect of law which interested them. It is planned to submit these so each council member may be informed of what was written and, if warranted, included as part of our annual report. The critique brought the following observations concerning our court systems and practices in New Mexico but which do not necessarily apply to all courts in the state.
2. All students were most critical of the ability of local police officers to gather evidence of a crime that is admissible in court. Their experience dictates the need of more and better training for law enforcement personnel at all levels. It was agreed that State Police were best with the city police officers next in ability to secure evidence of crime that was admissible in court. Local Sheriffs and deputies, in the opinion of these students, are so incompetent that the office should be abolished. District Attorneys are dependent upon these various peace officers to secure evidence to prosecute law violators. Many DA's have instituted training courses to help them in this area. Some Chiefs of Police and Sheriffs will not cooperate and the DA's have no authority to make their officers and their personnel attend such sessions. A great weakness in search warrant procedure was also noted. It was felt a compulsory statewide training of all persons engaged in law enforcement and the gathering of evidence would be better cases to court and make their business more palatable to the public, the accused, the prosecutors, and the courts. The State Police and the Albuquerque Police have their training academies which makes their personnel much more effective and perhaps a sharing arrangement could be inaugurated.
3. Many of the students felt some system must be found to discover and discharge the few sadists in the law enforcement business. They recognize civilian review boards have not been effective in a military type organization but it was asserted too often the police are reluctant to identify and discharge incompetents and sadists in their ranks.
4. Experiences with indictments and the preliminary hearing indicated to the students more uniform system would tend toward reducing the use of court time. Indictments ranged from the simple recitation of a violation to elaborate inclusion of much evidence they felt was unneeded. Many pointed out that the preliminary hearing often became an expedition into the prosecution's case and in many cases the trial was merely a repeat performance of the preliminary hearing. Recognizing safeguards of the innocent must be maintained, it was felt too much time is currently used and methods are not sufficiently business like to warrant the continuation of the right to a preliminary hearing. It was suggested that a discovery procedure available to the defense counsel in criminal cases might eliminate the need of preliminary hearings.

In Bernalillo County everyone is indicted and the District Attorney can use the grand jury to suppress testimony the defendants would like to get at public expense. It was suggested defense and district attorneys might by

court rule exchange information contained in their respective files even in cases where the defendant's attorney-file contained incriminating evidence. This would eliminate long hearings on motions to suppress evidence in the DA's file which many times are exploratory since defense attorney doesn't know what is in the DA's file. Some DA's now make available all information in his file to court appointed attorneys and other DA's to all defense attorneys.

5. Much Judge time is expended in domestic relation cases. Some Students suggested separation of these matters from the court's handling of other cases while others felt a traveling domestic relations court might be best. It was agreed judges should not be referees in handling property settlements between spouses. Perhaps a rule to provide no court would be involved in the action until the property settlement was signed might be tried. A referee might be a referee, to be paid by the parties, who would decide property questions thereby eliminating this time consuming non-legal matter from using Judge-time.
6. The use of public defenders in the Second J.D. (Bernalillo County) is necessary. Currently the expertise of the large staff of the DA's office places court appointed attorneys at a disadvantage. Such attorneys are sometimes not worthy advocates for their clients and it was asserted by having regularly assigned public defenders it would tend to make the trial an event more fair to the accused.
7. The use, or rather the misuse, of drugs and alcohol creates the greatest problems for the courts today. The student group observing our courts in action this summer were unanimous in the belief these are not legal problems belonging in court but are essentially social problems. The group declared 90% of the cases handled by the DA's office today are drug or drug related, i.e. burglary, robbery, etc. These cases create an overload on the court system--no solution was suggested by these young men however.
8. In cases involving liability and damages it was suggested the case be first tried as to liability and if that element is found then evidence as to amount of damages would be submitted. Now, it was contended, evidence as to liability and damages is confusing to the jury and the inclusion of both may mean justice may not be rendered to the litigants.
9. All the students were somewhat surprised to learn that judges are not omnipotent. They were most impressed by district judges' open-mindedness about cases tried before them and in several instances actually observed a capable attorney's well reasoned arguments changing the judges mind. They agree a merit selection system is badly needed to give the judges more independence particularly in the occasional failure of some attorney to properly prepare a case and the consequent poor representation of their clients. The students felt the removal of the pressure of partisan politics to remain on the bench would give judges better control of their Court and the attorney's.
10. The sentencing of the convicted criminal by a judge brought much comment but no solution. It appears most approved of the parole system in sentencing but felt the securing of information about reasonable rehabilitation possibilities of the convicted person is very poor. Some felt the sentencing should be removed from the judge since they are not by training equipped to do what is best for the convicted person. Placing the serving of a prison sentence, parole and related matters would become more consistent if placed in the hands of trained professionals such as psychiatrists, psychologists, penologists, etc. It was recognized local opinion should have some bearing on the punishment

to be meted out. At minimum a prompt and automatic review of the person sentenced by the courts should be undertaken and, where necessary, the sentence made to best fit the convicted person. Pre-sentence reports in all cases including magistrate courts should be undertaken.

11. The recidivism rate indicates the use of prison terms as a crime deterrent has failed.

12. Appearance bonds for accused is misunderstood by the public. Many persons seem to think the 10% premium charged by the bondsmen is the penalty and fail to appear whereupon the bondsman treats them like other "skips". It was the feeling of the students some better system is possible but no suggestions were forthcoming except for the greater use of release on own recognizance. The many alleged violations of civil rights by bondsmen in bringing skips back to the court was cited as the need for remedial action.

13. Court reporters were given very poor marks by these young students. Some stated they served no useful purpose and felt a mechanical capturing of testimony or the recapitulation by the judges would be better. One example was cited where one court reporter was on vacation and another court reporter could not read the other's stenotyped notes.

14. Opinions about the local libraries ran the gamut from adequate to non-existent. It must be recognized these students are spoiled by having available one of the best law libraries in the state at the university so they were undoubtedly inclined to be more critical of the lack of such facilities. However, it does appear to be a field to warranting investigation. The Council may wish to ascertain the minimum needs of the profession then study methods to fulfill the requirement in all of the counties in the state. Also the very poor lay-out of the library space met with criticism and appears to need the attention of the local bar and concerned citizens.



State of New Mexico

Ninth Judicial District

February 16, 1972

CHAMBERS OF
DEE C. BLYTHE
DISTRICT JUDGE

CURRY COUNTY COURTHOUSE
CLOVIS, NEW MEXICO 88101
PHONE (505) 763-9529

The Honorable Hunter L. Geer
Assistant Dean
The University of New Mexico
School of Law
Albuquerque, NM 87106

Dear Dean Geer:

I hope this reply to your questionnaire is not too late. In any event, I hope the intern program can be continued. I think it is worthwhile from the court's standpoint.

Very truly yours,


DEE C. BLYTHE
District Judge

DCB/kdh

Encl.

APPENDIX M

SCHOOL OF LAW
UNIV. OF NEW MEXICO

Please return to:
Hunter L. Geer, Assistant Dean
University of New Mexico Law School
1117 Stanford N.E.
Albuquerque, New Mexico 87106

UNM LAW SCHOOL
SUMMER INTERN PROGRAM

Name of person having the most contact with or supervision of our intern:

DEE C. BLYTHE

Title District Judge

(1) Do you feel your office was able to accomplish more during the summer because of the intern's assistance?

Yes.

(2) Were you able to undertake any special projects because of the intern's assistance?

No.

(3) Do you feel the intern was an actual assistance in your office?
If so, in what way?

Yes. He was particularly helpful in researching legal issues for the Court.

(4) Were there any duties or tasks you felt the intern performed especially well?

See (3) above.

(5) Were there any you would not assign to an intern again?

No.

(6) Were there any problems regarding the work performed by the intern?

No.

(7) Was the intern a great help with your case load?

No statistics were kept, and I could not say whether I disposed of more cases while I had the intern. Also, this was during a normally slack season, during which I was absent during vacation and attending the National Conference of State Trial Judges and a judicial seminar.

(8) Would you want an intern assigned to you again if funding is available?

Yes.

(9) If funding is not available from other sources, could your office afford to hire an intern?

Not without a legislative appropriation.

(10) Do you think there should be funds provided in your budget for a summer intern?

Yes.

(11) Do you have any suggestions for improving the program? Please make any additional comments below or on the back of this page if necessary.

It would be much more beneficial to the Court if the intern could be provided at some time other than during the summer months.

Please return to:
Hunter L. Geer, Assistant Dean
University of New Mexico Law School
1117 Stanford N.E.
Albuquerque, New Mexico 87106

UNM LAW SCHOOL
SUMMER INTERN PROGRAM

Name of person having the most contact with or supervision of our intern:

HARRY E. S TOWERS, JR.

Title PRESIDING JUDGE, SECOND JUDICIAL DISTRICT

(1) Do you feel your office was able to accomplish more during the summer because of the intern's assistance?

Yes.

(2) Were you able to undertake any special projects because of the intern's assistance?

Yes.

(3) Do you feel the intern was an actual assistance in your office? If so, in what way?

Yes. Help the court take care of loose ends and administrative details.

(4) Were there any duties or tasks you felt the intern performed especially well?

Research.

(7) Was the intern a great help with your case load?

No.

(8) Would you want an intern assigned to you again if funding is available?

Yes

(9) If funding is not available from other sources, could your office afford to hire an intern?

No.

(10) Do you think there should be funds provided in your budget for a summer intern?

No.

(11) Do you have any suggestions for improving the program? Please make any additional comments below or on the back of this page if necessary.

Nick Noeding and Lester Taylor , who worked with me this summer, I found to be decent, intelligent young men and felt that they were doing a good job with any problems assigned to them and I would like to take this opportunity to mention this. As far as the improvement of the program is concerned, that would seem to rest within the providence of the court and would depend on how well the Judges utilize the talent that is available. As far as the school is concerned, I think that what they should do is advise the interns they are going to be working with the real life aspect of law wherever they might be.

(5) Were there any you would not assign to an intern again?

This question is too broad to give an intelligent answer and could only be determined after more experience since the possible scope of task is indefinite.

(6) Were there any problems regarding the work performed by the intern?

No, but again this would depend on the individual who would be doing the work and the person he was working for.

Please return to:
Hunter L. Geer, Assistant Dean
University of New Mexico Law School
1117 Stanford N.E.
Albuquerque, New Mexico 87106

UNM LAW SCHOOL
SUMMER INTERN PROGRAM

RECEIVED

DEC 1 1971

Name of person having the most contact with or supervision of our intern:

RICHARD A. STANLEY

Title

DISTRICT JUDGE

SCHOOL OF LAW
UNIV. OF NEW MEXICO

(1) Do you feel your office was able to accomplish more during the summer because of the intern's assistance?

YES

(2) Were you able to undertake any special projects because of the intern's assistance?

DID NOT HAVE TIME TO PLAN ANY SPECIAL PROJECTS

(3) Do you feel the intern was an actual assistance in your office? If so, in what way?

YES - HE ASSISTED IN RESEARCH, COURT PROCEEDINGS, DISTRICT COURT CLERKS OFFICE, DISTRICT ATTORNEYS OFFICE, AND INDIGENT DEFENSE ATTORNEYS.

(4) Were there any duties or tasks you felt the intern performed especially well?

YES - RESEARCH

I THINK THE PROGRAM IS VERY GOOD TRAINING FOR A FUTURE ATTORNEY. THE INTERN BENEFITTED AS MUCH AS THIS OFFICE.

(5) Were there any you would not assign to an intern again?

NO

(6) Were there any problems regarding the work performed by the intern?

NO

(7) Was the intern a great help with your case load?

YES

(8) Would you want an intern assigned to you again if funding is available?

YES

(9) If funding is not available from other sources, could your office afford to hire an intern?

NOT IN 1972

(10) Do you think there should be funds provided in your budget for a summer intern?

YES

(11) Do you have any suggestions for improving the program? Please make any additional comments below or on the back of this page if necessary.

MORE ADVANCE NOTICE THAT WE WILL
HAVE AN INTERN.
I WAS VERY PLEASED WITH MY INTERN.

Please return to:
Hunter L. Geer, Assistant Dean
University of New Mexico Law School
1117 Stanford N.E.
Albuquerque, New Mexico 87106

UNM LAW SCHOOL
SUMMER INTERN PROGRAM

Name of person having the most contact with or supervision of our intern:

Alexander F. Sceresse, District Attorney

Title and Joseph A. Jelso, Assistant District Attorney

(1) Do you feel your office was able to accomplish more during the summer because of the intern's assistance?

Yes, definitely

(2) Were you able to undertake any special projects because of the intern's assistance? Yes. As a result of the internships, we were able to get current on Magistrate Court prosecutions. We were able to bring up to date and keep up to date on all research briefs and develop a system whereby we were able to instantly retrieve answers to legal questions based on most recent*

(3) Do you feel the intern was an actual assistance in your office? If so, in what way? Yes, it relieved the trial attorneys from prosecution of magistrate court cases and research for cases the trial attorneys were handling at that time.

(4) Were there any duties or tasks you felt the intern performed especially well? Yes, they perform all of their duties conscientiously and efficiently.

* appellate court decisions.

APPENDIX P

(5) Were there any you would not assign to an intern again?

No

(6) Were there any problems regarding the work performed by the intern?

No

(7) Was the intern a great help with your case load? Yes, by doing the research necessary for the trials, the interns relieved the attorneys so that they could handle their cases more expeditiously.

Also, the fact that the trial attorney was not burdened with the trial of magistrate court cases gave the trial attorney more time to prepare for felony cases.

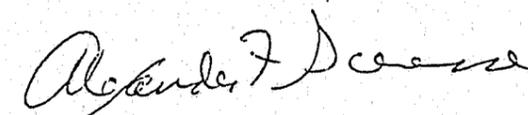
(8) Would you want an intern assigned to you again if funding is available? Yes, I feel this is best program initiated thus far to assist the prosecution.

(9) If funding is not available from other sources, could your office afford to hire an intern? No

(10) Do you think there should be funds provided in your budget for a summer intern? Yes.

(11) Do you have any suggestions for improving the program? Please make any additional comments below or on the back of this page if necessary.

We are very pleased with the intern program. Our only disappointment is in the uncertainty that the program will continue.



District Attorney

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UNIV. OF NEW MEXICO

Please return to:
Hunter L. Geer, Assistant Dean
University of New Mexico Law School
1117 Stanford N.E.
Albuquerque, New Mexico 87106

UNM LAW SCHOOL
SUMMER INTERN PROGRAM

Name of person having the most contact with or supervision of our intern:

HON. PAUL SNEAD

Title DISTRICT JUDGE

(1) Do you feel your office was able to accomplish more during the summer because of the intern's assistance?

No, not necessarily.

(2) Were you able to undertake any special projects because of the intern's assistance? Yes, Because of special qualification in the field of drugs and drug laws we made use of the intern for special studies in the new drug legislation, orientation of police officers, and in assistance to defense and prosecution in this area.

(3) Do you feel the intern was an actual assistance in your office? If so, in what way? I made use of the intern as a law clerk to the Court, and he was of considerable assistance in performing the classic duties of law clerk to the Court.

(4) Were there any duties or tasks you felt the intern performed especially well?

As mentioned, the intern had special qualifications in the field of drugs and was of distinct value in this area. He also did a good job of study of New legislation in general. He was of assistance to the police department in reworking both the paper work and field work on search and seizure.

(5) Were there any you would not assign to an intern again?

No.

(6) Were there any problems regarding the work performed by the intern?

No.

(7) Was the intern a great help with your case load?

Not as such - as indicated he was of clerical aid to the court in management of the day-to-day problems of the Court.

(8) Would you want an intern assigned to you again if funding is available? Definitely yes. I think that the program is of two fold value - it gives the intern a look at the practical operation of the courthouse - it gives the practicing bar exposure to the thinking of the law student.

(9) If funding is not available from other sources, could your office afford to hire an intern?

Regrettably, no.

(10) Do you think there should be funds provided in your budget for a summer intern? I doubt this could be done. We are having problems maintaining a budget sufficient to keep the jury in operation.

(11) Do you have any suggestions for improving the program? Please make any additional comments below or on the back of this page if necessary. It would be of help in making use of the intern in the future if I knew what feed-back the Law School received from the program in terms of use made of interns in other courts, and the functions and activities which the students found of most benefit to them. I look at the program as one which is primarily beneficial to the law student, and secondarily an aid to the courts, in terms of short range objectives of the program

Please return to:
Hunter L. Geer, Assistant Dean
University of New Mexico Law School
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Albuquerque, New Mexico 87106

UNM LAW SCHOOL
SUMMER INTERN PROGRAM

Name of person having the most contact with or supervision of our intern:

Frank B. Zinn

Title District Judge

(1) Do you feel your office was able to accomplish more during the summer because of the intern's assistance? yes

(2) Were you able to undertake any special projects because of the intern's assistance? yes Mike Danoff, with the guidance of some of the UNM Law Library staff, worked out a plan for the future expansion and relocation of our District Court Library

(3) Do you feel the intern was an actual assistance in your office? If so, in what way? yes In addition to the work noted in 2 above, Mike briefed some points of law relating to Indian, law and on another matter relating to evidentiary problems, serving as a law clerk for me

(4) Were there any duties or tasks you felt the intern performed especially well? Yes the ones noted in 2 and 3 above.

APPENDIX R

(5) Were there any you would not assign to an intern again?

No. If the interns are as intelligent, and possess the energy and initiative as the one that worked with us, they can be given almost any task, and with some supervision can be of great help.

(6) Were there any problems regarding the work performed by the intern? None, except that we had more things for him to do than were reasonably possible to accomplish in the short period he was with us.

Our purpose was to expose him to as many facets of Court operation as we could. He was made acquainted with the operation of the Clerk's office. He was assigned to assist the district attorney on some preliminary hearings and on prosecution of criminal trials. He was also assigned to counsel appointed for an indigent defendant charged with homicide and aided him in the preparation and trial of the case. He did some briefing for the district attorney on evidentiary problems. He did some law clerking for me to brief some points of law raised in two important cases. He did the work of surveying the law library and making up a plan for its future growth.

What he didn't get to do was work on a civil jury trial from beginning to end. He also had no work with the juvenile court. He missed doing anything with the probate court operation.

(7) Was the intern a great help with your case load?

The question is not answerable for me. What he did directly for me aided me in that had he not done the briefing or the work on the library I would have had to do the work myself but this has nothing to do with "case load".

(8) Would you want an intern assigned to you again if funding is available? Yes

(9) If funding is not available from other sources, could your office afford to hire an intern? No

(10) Do you think there should be funds provided in your budget for a summer intern? No.

(11) Do you have any suggestions for improving the program? Please make any additional comments below or on the back of this page if necessary. Don't assign the interns any extra tasks to do while they are here. The survey of case files you had them do this past summer took up too much of Mike's time. While the results may have been worth-while they taught him nothing.

Please return to:
Hunter L. Geer, Assistant Dean
University of New Mexico Law School
1117 Stanford N.E.
Albuquerque, New Mexico 87106

UNM LAW SCHOOL
SUMMER INTERN PROGRAM

Name of person having the most contact with or supervision of our intern:

James W. Musgrove

Title District Judge

- (1) Do you feel your office was able to accomplish more during the summer because of the intern's assistance?

Yes, very definitely.

- (2) Were you able to undertake any special projects because of the intern's assistance? Yes, Mr. Robinson did some basic research on a future youth court project and supervised updating and realigning the county legal library.

- (3) Do you feel the intern was an actual assistance in your office? If so, in what way? Yes, he did a great deal of legal research on pending cases which gave me time for additional duties.

- (4) Were there any duties or tasks you felt the intern performed especially well? Yes, legal research. Mr. Robinson has a very analytical mind and in doing the legal research went directly to the basic issues in the case. He has respect for precedent, yet, is able to question the logic in any given case. Mr. Robinson also showed a great deal of imagination, ingenuity and actual anticipation of what was needed.

- (5) Were there any you would not assign to an intern again?

No, as a matter of fact, the next time there will be more tasks that will be assigned because of this past experience.

- (6) Were there any problems regarding the work performed by the intern?

None, since this was a brand new program, I probably was somewhat deficient in giving the intern enough to do. I realize now what the potential was.

- (7) Was the intern a great help with your case load?

As far as the case load is concerned, Mr. Robinson was probably the greatest help is disposing of the motion calendar. His research of the legal issues certainly expedited the matters. I can now see other areas where he could have been of help directly effecting the case load that was not utilized last summer.

- (8) Would you want an intern assigned to you again if funding is available?

Very much so.

- (9) If funding is not available from other sources, could your office afford to hire an intern?

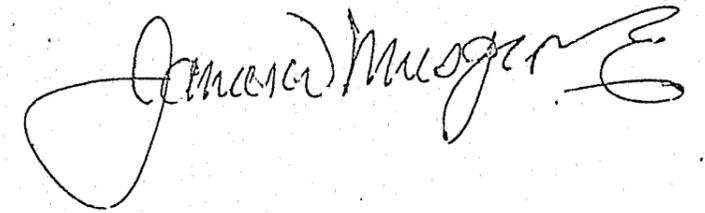
With the present budgetary restrictions, probably not.

- (10) Do you think there should be funds provided in your budget for a summer intern? Yes, as a matter of fact, I think District Judges should have a full time law clerk.

- (11) Do you have any suggestions for improving the program? Please make any additional comments below or on the back of this page if necessary. I believe the program should be a two way street, not just what the intern could do for the Judges, but also what can we do to help make the intern a better practicing attorney. I believe the greatest value of such a program is the practical working aspect of the system. I have no doubt that the students are well trained in theory in the law school; however, I can remember my own situation when I got out of law school filled with theory but couldn't find my way to the Courthouse. I believe the interns are probably the best source of suggesting modernizations of our system. I get the impression that they are not reluctant to use any of the latest technology such as computers and other electronic equipment. I can also foresee the use of interns especially some of the more mature people as special masters in domestic relations cases which would be a valuable experience to them and

(over)

a great time saver to the courts. One area which I think is of mutual benefit is to use the intern as a sounding board for the judges. Usually a Judge and especially those of us out in the boondocks have very little opportunity to bounce ideas around on pending cases. An intern serves this need well. I am sure there are other areas which will become apparent as the program develops. I am also selfish enough to believe that maybe some of the bright, -young minds will be attracted to the bench.





City of Albuquerque

CITY HALL 400 MARQUETTE, N.W. RM. 703
P. O. BOX 1293, ALBUQUERQUE, NEW MEXICO 87103 TELEPHONE (505) 842-7411

December 21, 1971

Mr. Hunter L. Geer
Assistant Dean
University of New Mexico
School of Law
Albuquerque, New Mexico 87106

Dear Mr. Geer:

Replying to your letter dated December 10, 1971, concerning the summer intern program, we will try to be of as much help as possible. In general reply to the questions you asked, we can say that the employment of Mr. Russell and Mr. Myers as summer interns was most helpful. Their employment came at a time when our case load was increased substantially due to the civil disturbance the city experienced during June. The two men were of great assistance in the handling of this increased case load. They aided in collating the arrest records, evidence, and other necessary material to assist police officers in identifying persons whom they had arrested and charged with offenses. In fact, this took a good part of the summer, since the disturbance occurred on June 13, and had we not been so fortunate to have their help, we would certainly have been required to employ someone to do what they did. Obviously, they were of great assistance.

In addition to their work in relation to the disturbance, the two men were permitted to try cases in the Municipal Court and in this task they did a fine job.

We would be very happy to have two or more summer interns next year. We probably could use no more than three interns if their work would be limited to the criminal field as was this past summer. Although it seems

LEGAL DEPARTMENT

CITY ATTORNEY — Frank L. Horan

APPENDIX T

ASSISTANT CITY ATTORNEYS — Harley A. Lanning - Frank M. Mims - Thomas J. McMahon - Lynn D. Smith, Jr.
Patrick L. McDonald - Edward R. Ziegler - Don J. Svet

Hunter L. Geer

-2-

December 21, 1971

unlikely that the City can fund anything of this kind in view of its present revenue shortage, we would do what we can do in that regard, and if there is a mechanism for doing it through some other agency, we would certainly take the necessary steps to make the application and to give the assurance necessary to authorize the funding. I would like very much to have funds provided for summer interns and would note that we have in the years 1968 and 1969 employed law school students on summer work, which was not course work and found that they were useful in the operation of this office.

General supervision of the two men involved was provided by Mr. Ed Ziegler and to some extent I had some contact with them, and read with considerable interest and benefit the reports that they prepared and submitted to you. I would say in my own behalf that I did all that I could to make them feel that they were actually participating in the work of this office and I found them very interested in all aspects of it, although their work was necessarily limited to what could be learned and done in a period of ten weeks.

Very truly yours,

Frank L. Horan
Frank L. Horan
City Attorney

FLH/mrr

September 18, 1971

And would abolish sheriff offices

Court reporters could be replaced by
tape recorders, law students believeBy RICH HERRON
Tribune Staff Writer

A public defender's office is "necessary" for Bernalillo County, the offices of "local sheriffs and deputies" should be abolished and court reporters serve "no useful purpose," a group of law students believes.

The court reporters would be replaced by tape recorders or other mechanical devices for recording testimony.

Court Reports

The opinions were revealed at a meeting of the New Mexico Judicial Council by Robert H. Deiss of the University of New Mexico Law School.

Mr. Deiss presented the council with a summary of "observations" from 16 law students who took part in a summer intern program under the tutelage of district judges and attorneys statewide.

Defenders Necessary

The students said, "The use of public defenders in Bernalillo County is necessary."

Because of "the expertise" of the district attorney's staff here, the summary shows, many students felt court-appointed attorneys are at a "disadvantage," unable to

properly represent the defendants.

"Such attorneys are sometimes not worthy advocates for their clients," the students said.

Even More Fair

Deiss's summary shows the students felt that "by having regularly-assigned public defenders, it would tend to make the trial an event more fair to the accused."

Dist. Atty. Alexander F. Secresse long has advocated a public defender's office as a time- and money-saving improvement to the district.

Last fiscal year, records show, court-appointed lawyers received \$133,000 in taxpayer monies fees.

Gathering Evidence

"All students were most critical of the ability of police to gather evidence of a crime which is admissible in court," the summary states.

The State Police were considered most competent, with Albuquerque City Police next, the summary says.

"Local sheriffs and deputies, in the opinion of these students, are so incompetent that the office should be abolished," the summary shows.

"Many district attorneys have instituted training courses" for the officers, the summary says, but "some chiefs of police and sheriffs won't cooperate" and district attorneys lack authority to compel the officers to attend.

Get Poor Marks

Court reporters—those silent men and women who sit in each court hearing and record the proceedings word-for-word—"were given very poor marks," the summary reveals.

Some students said the reporters "served no useful purpose and felt a mechanical (tape recording) capturing of testimony or recapitulation by the judges would be better."

The summary cited one instance where a court reporter was on vacation and another reporter couldn't read the stenotyped notes of the first.

Aren't 'Omnipotent'

That judges aren't "omnipotent" came as a surprise to some students, the summary shows.

"They were most impressed by district judges' open-mindedness about cases tried before them," the summary says, "and in several instances, actually observed a capable attorney's well-reasoned arguments changing the judge's mind."

Deiss said the students primarily were first- and second-year students. "By having these young eyes look at our system and make suggestions, we might be able to make some improvements in our court system," he said.

15 in summer program

Law students to help
cut criminal case jam

Fifteen University of New Mexico law students will try to help alleviate the burden of New Mexico's heavy backlog of criminal cases this summer.

The students will work as clerks for district court judges and district attorneys in a \$25,000 program financed by the federal government.

A new law requires that all criminal cases pending be brought to trial within six months from July 1, or be dismissed.

Funds for the program were approved yesterday by the U.S. Department of Justice, Law Enforcement Assistance Administration.

"Our program here was the first to be approved," UNM Assistant Dean Hunter Geer said. He noted similar programs are planned across the nation.

The program is administered by Mr. Geer; William MacPherson, director of the School of Law's clinical program; and Robert Deiss, executive director of the New Mexico Judicial Council.

Eleven Weeks

"The students will act as law clerks for state district court judges, or assist district attorneys for 11 weeks during the summer," Geer said.

"About 33 students applied for the 15 openings," he added. "They were selected by a committee on their past work experience and academic records."

"They also will spend a week under a State Supreme Court justice or state court of appeals judge. The students will be able to study the operations involved in handling a case under appeal," Geer explained.

Temporary

"This summer the program will be only temporary," he said.

"But we'll try to get it again next year," Geer said.

Listed

Students accepted for the program are:

Donald Adams, Lester Taylor, Owen Russell, Graduate Beal, Wayne Jordan, Calvin Iyer, Michael Danoff, Richard Robinson, Gerald Lewis, James Mitchell, Stephen Lawless, Michael Myers, Nicholas Noeding, Thomas Grisham, William Madison, Bryan Desmond and William Goldsmith.

Law Student Assists ADA

Calvin Iyer of Albuquerque, who has completed his second year in the college of law at the University of New Mexico, will be working this summer in the office of Lea County Asst. Dist. Atty. John Humphrey, Humphrey has announced.

Under a federally-funded program, Iyer and about 15 other law students will be scattered throughout New Mexico this summer to gain experience, to help relieve case loads which have accumulated in the offices of district attorneys, and to obtain general information about the court system in the state.

Iyer said that he also is expected to compile statistics about the numbers and dispositions of civil and criminal cases which have been filed in the county.

He plans to be in Lea County until the last part of August, at which time he and others who have been similarly employed this summer will get together for two weeks to compare notes, to discuss their observations, and to suggest any improvements they believe can be made.

The law student said yesterday that there apparently is no backlog of cases in Lea County, and that efforts he will have to make in the direction of relieving a case load will be minimal.

APPENDIX W

Students Organize Jury Instructions

Two University of New Mexico law students spent three weeks organizing criminal jury instructions for the Dist Attorney's office this summer.

Steve Lawless and Tom Grisham organized common jury instructions and updated them with the latest cases.

While New Mexico district courts follow uniform civil jury instructions available in book form, no such manual exists for instructions in criminal cases. Most judges build up their own supply of instructions.

THE TWO second-year law students are serving as summer interns for 12 weeks under the sponsorship of the UNM Law School and the New Mexico Judicial Council.

The last week, all state participants will write a paper

and take part in a seminar on their experiences.

Paying the 17 law students who are working with district attorneys and district judges throughout New Mexico, is a grant from the Law Enforcement Assistance Administration.

THE LAW students work out of a combination file and coffee room in the back of the office.

The internship in Dist. Atty. Alexander Sceresse's office is heavily research-oriented, with Lawless and Grisham currently replying to a point in a defense case, which will soon be argued before the state supreme court.

In addition, the two have prepared questionnaires to send to former jurors, asking when they made up their minds in the case, whether the

judge is fair, how much emphasis they put on closing arguments, if they were offended by questions asked in their selection, and if they believe juries should be moved to political commitment.

THE TWO are planning to work on a search and seizure manual for police officers next, after untangling current drug laws.

But the law students have also gotten into the courtroom.

Besides prosecuting traffic cases in magistrate court, Lawless and Grisham sat in on a murder case, and ended up researching some of the arguments presented in rebuttal to defense motions.

"We're learning the difference between fact and theory," Grisham summed up

APPENDIX X

END