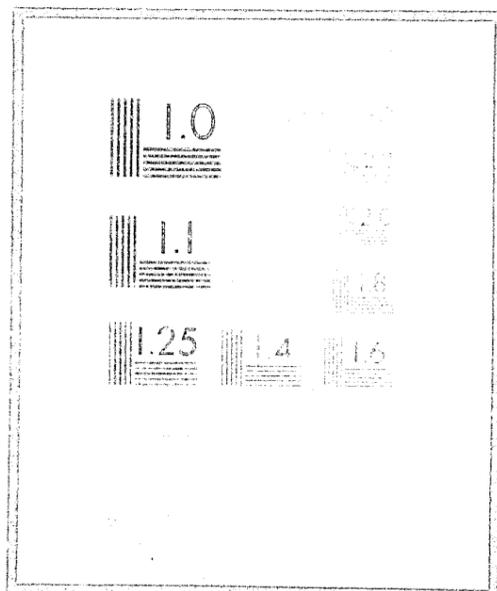


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REVIEW OF THE POLICE PROCEDURES
OF THE METROPOLITAN POLICE, DELAWARE
PUBLIC DEFENDER OFFICE



THE AMERICAN UNIVERSITY

Criminal Courts Technical Assistance Project
Institute for Advanced Studies in Justice
The American University Law School
Washington, D.C.

REVIEW OF THE ROLE AND OPERATIONS
OF THE MCDONNOUGH COUNTY, ILLINOIS
PUBLIC DEFENDER OFFICE

NCJRS

MAR 8 1977

ACQUISITIONS

February, 1974

Consultant(s):

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I. INTRODUCTION

In response to a request from John D. Gorby, Public Defender of McDonough County, Illinois, the American University Criminal Courts Technical Assistance Project secured the services of the National Legal Aid and Defender Association to conduct a general management review of the recently established defender office. Mr. Gorby is the first public defender serving McDonough County and has been in office since April 1, 1973.

The creation of a new governmental activity, such as a public defender program, often produces natural minor inconveniences for a community. Many of these problems had been already adjusted before the consultant arrived for his on-site review, and he therefore focused on those areas that had not yet been resolved, such as inadequate office accommodations, staff, equipment and library resources, budget matters, and the public defender's role in and relationship to the community.

On November 6 and 7, 1973, John J. Cleary, Executive Director of the Federal Defenders of San Diego, Inc., on behalf of NLADA, made an on-site visit to Macomb, Illinois, to observe the operation of the public defender's office and to confer with local judges, officials and lawyers who had contact with it. The recommendations set forth in this report are directed toward improvement of the public defender's constitutionally mandated and statutorily required legal service.

II. ANALYSIS OF EXISTING SITUATION

A. General Background

Macomb, Illinois is located approximately 60 miles southwest of Peoria, and is the county seat and the largest city in McDonough County. It has a population of 19,643--a 62% increase over the 1960 population of 12,135. McDonough County has a total population of 36,653 and covers 582 square miles. Agriculture is the principal industry, but Western Illinois University, with approximately 14,000 students, makes it an education center as well.

McDonough County, one of six counties¹ that comprise the Ninth Judicial Circuit, was second only to Knox County in its criminal caseload for 1972, and terminated 76 felony cases and 358 misdemeanor cases.

²Of the 80 criminal cases charged with a felony or misdemeanor punishable by imprisonment in the penitentiary, 47 (59%) were not convicted, and 33 (14%) were convicted. Of the 47 not convicted, 43 were dismissals on motion of the state and 2 were dismissals on motion of the defendant. Of the 33 convicted only six defendants were sentenced to the penitentiary. In this classification there were only two jury trials--one acquittal and one conviction.

For the period January through August 1973, 35 felony cases and 225 misdemeanor cases were terminated in McDonough County. The felony caseload appears to remain constant, but there seems to be a noticeable increase in misdemeanors projected for the year.

¹ The other counties are Fulton, Hancock, Henderson, Knox, and Warren.

² Statistics furnished by the Administrative Office of the Illinois Courts.

B. Establishment of The Public Defender

In 1970 McDonough County population exceeded 35,000 which under Illinois law, required that the county establish a public defender office.³ In early 1973 the need for a full-time defender was recognized, and the circuit judges⁴ appointed John D. Gorby⁵ to that position effective April 1, 1973. The County Board set his salary at \$17,500, with no authorization for other law practice.

As public defender, Mr. Gorby is extremely well thought of from the viewpoint of his performance on behalf of clients both in and out of court; the two cases that were determined by a jury resulted in a verdict favorable to his clients. Since he is relatively new to McDonough County, his assimilation into the community in the role of a zealous advocate of persons charged with crime has not been without some difficulties. To the credit of the community and the individual, these difficulties have been resolved or are in the process of being resolved.

3 Ill. Rev. Stat. c.34 sect. 5601

4 Ill. Rev. Stat. c.34 sect. 5602

5 John D. Gorby is an exceptionally well-qualified attorney who has substantial criminal law experience. In 1961 he graduated from Knox College with an A.B. degree (history), and in 1968 he graduated from the University of Michigan School of Law with a J.D. degree. He completed work toward a doctor of laws degree from the University of Heidelberg, Germany, in 1968-1970. Before he was admitted to practice in Illinois, he was employed for the summer of 1970 by the State's Attorney for McHenry County, (pop. 111,555 1972 terminated caseload of 110 felonies and 1,487 misdemeanors) p. 5 fn., and by 1973 he had been promoted to the position of First Assistant State's Attorney. He has taught courses on evidence and criminal procedure at the McHenry County College, Crystal Lake, Illinois. Mr. Gorby spent two years in the United States Army as a First Lieutenant in the Intelligence Corps.

III. PUBLIC DEFENDER OFFICE OPERATIONS

A. Office Staff

Mr. Gorby shares a part-time secretary with the County Civil Defense and Red Cross Director and with the juvenile officer. When the former secretary was promoted to assistant juvenile officer, the present secretary, who had had no previous experience, was hired without substantial consultation with the public defender. Despite her inexperience, she does a creditable job given the division of her services and has adapted to the job requirements of a legal secretary. However, to insure both effectiveness and economy in the public defender's one-attorney office, the county should provide a full-time secretary with some legal experience who can serve as a paraprofessional assisting clients temporarily in the absence of the attorney.

Part-time or on-call investigative assistance is available from the State Appellate Defender's Office, but during the on-site visit no assessment was made of this service.

The public defender has no student internship program, although one has existed in the office of the State's Attorney. Ordinarily internships of law students are encouraged to provide additional service for the legal office. ⁶The public defender should follow the example of the State's Attorney and bring in students from the local university. During the summer months, a law student program might be initiated, and law students might be made available for the State Appellate Defender.

⁶ Illinois Supreme Court Rule 711.

B. Office Accommodations

One of the serious deficiencies noted was the inadequate office accommodations as well as their lack of physical separation from other county functions, thus not assuring essential privacy for the lawyer-client relationship. Although the rented space at 130 1/2 South Lafayette Street, Macomb, is within a reasonable distance of the courthouse, the public defender office is not adequately identified on the outside of the building. A sign should be posted to provide easy recognition, and a similar sign might be posted at the courthouse specifying the location of this office. The suite used by the public defender allocates him a small (approximately 8 ft. x 14 ft.) office adjacent to the offices of the Civil Defense director, juvenile office, state social worker, and assembly or hearing room. No privacy exists for the defender and his client, and any conversation the receptionist-secretary has can be heard in his office.

Confidentiality is of the essence for the lawyer-client relationship, and this consideration should be afforded the public defender. Furthermore, clients may feel intimidated by the presence of the government staff in the adjacent offices. To remedy these problems, the county should immediately give serious consideration

to providing a separate public defender office comparable to a contemporary private law office in Macomb.⁷

C. Library Resources and Other Equipment

The library should be expanded to provide a greater core of texts on Illinois criminal law and procedure and should contain the opinions of the Illinois Supreme and Appellate Courts for the last 20 years. Since the typewriter appears to be the property of the juvenile officer, if a separate secretary is employed for the public defender, an additional typewriter will be necessary. In addition, the county should furnish suitable dictation equipment as well as a transcriber in lieu of the current arrangement between the public defender and the county for the use of the defender's personal dictation equipment.⁸ Additional file cabinets which can be locked will also be necessary to protect and segregate public defender files from other office records.

⁷ Ill. Rev. Stat. c.34 sect. 5607: "The County Board shall provide suitable office quarters for the use of the public defender and shall pay out of the county treasury for necessary office travel and other expenses incurred in the defense of the cases."

ABA Standards Relating to Providing Defender Services (approved Draft 1968), sec. 3.3: "Every defender office should be located in a place convenient to the courts and be furnished in a manner appropriate to the dignity of the legal profession. A library of sufficient size, considering the needs of the office and accessibility to other libraries, and other necessary facilities and equipment should be provided."

The National Advisory Commission on Criminal Justice Standards and Goals: Task Force on Courts (Jan. 1973) in standard 13.14 states that the budget of the public defender should include: "Sufficient funds to provide quarters, facilities, copy equipment, and communications comparable to those available to private counsel handling a comparable law practice."

⁸ The better practice is for the county to furnish the essential dictation equipment which could be supplemented by the personal equipment of the office holder. The adequacy of the equipment should not depend on the circumstances of the particular office holder.

D. Caseload

At the time of the visit, the public defender had 70 cases, which is consistent with tabulation of 32 felony cases and 37 misdemeanor cases for the period April 1, 1973, through October 30, 1973 (seven months.)⁹ Based on first six months of defender operations, this would give a projection for the year of 54 felony cases and 72 misdemeanors, a manageable caseload.¹⁰ In providing effective representation, the annual maximum defender caseload of 75 felonies and 250 misdemeanors should not be exceeded.¹¹ During the first seven months, there were two hotly contested jury trials, and, like many criminal cases, it is difficult to equate the man-hours spent by some proposed hour-per-case formula. For future reference, it is suggested that, in addition to a case count, a procedure be developed to record the time spent on each case.

From the 70 cases currently being handled by the defender, three case files were selected at random for review so that some idea of the nature of the defender's activities could be established.

Case A: The defendant was charged with unlawful communication with a witness and aggravated battery, and counsel was formally appointed one month after charges had been filed. The public defender filed a motion which was

⁹ The better practice is to count defendants rather than cases or charges filed.

¹⁰ The use of this six-month period which includes the summer is probably too conservative, but during the initial phase of establishing a defender office it is fortunate that the caseload is within reasonable limits to allow the public defender to attend to administrative responsibilities.

¹¹ For a suggested formula see National Advisory Commission on Criminal Justice Standards and Goals: Task Force on Courts (Jan. 1973) Standard 13.12.

granted, for pretrial discovery. A motion for bond reduction was granted in part. The case was set down for jury trial. [The public defender was also representing him on a prior charge.]

Case B: The defendant was charged with the theft of nine hogs in excess of \$150 in April 1973. A bond reduction was obtained, and the public defender filed a motion to obtain verbatim transcript of the preliminary hearing and all other proceedings as well as a motion for discovery. The evidence revealed that the defendant had made a confession and that his participant in the venture also had made a full confession and would be a State's witness in any trial against the defendant. In October 1973, the defendant pled guilty to the lesser included offense, a misdemeanor (under \$150), with the understanding that the sentence to be imposed would be two years' probation and payment of court costs.

Case C: In December 1972, the petitioner, a state prisoner, filed a poorly framed petition seeking post-conviction relief without the assistance of a lawyer. The public defender was appointed to represent him in April 1973. The correspondence in the file between the prisoner and the public defender indicated that he would be granted parole in November 1973. The prisoner reported a letter

written by the public defender to the parole authorities "was a tremendous help" and that he planned to withdraw his post-conviction petition.

The three cases illustrate the workload of the defender and, in each case, his actions reflect the professional skill that would be a credit to any defender office in the United States. Cases A and B indicate that reasonable and necessary pretrial motions were filed. In Case A, where no disposition appeared likely, he set the case down for trial. In Case B, where the evidence against the defendant was very strong, he achieved both a fair reduction of the charge to a misdemeanor and a fair disposition of probation. In Case C, the defender, through his efforts in presenting the matter to an administrative body, the parole authorities, was able to free the court from the burden of deciding this petition. The defender's actions reflect both reasonable efforts on the part of his clients, as well as his ability to try a case.

E. Financing and Budget

1. Funding Authority

Although any county in Illinois may establish a public defender office,¹² once the county population reaches 35,000 the creation of a public defender office is mandatory.¹³ According to the law, the circuit judges, by majority vote, shall appoint a properly qualified person,¹⁴ but the county must compensate him,

¹² Ill. Rev. Stat. c.34 sect. 5601.1

¹³ Ill. Rev. Stat. c.34 sect. 5601

¹⁴ Ill. Rev. Stat. c.34 sect. 5602

his assistants and employees, provide suitable quarters, and pay his necessary expenses.¹⁵

At first impression, a conflict may appear to exist between the appointing authority (the judges) and the funding authority (the County Board), but in a true sense a careful legislative balance has been achieved to insure the independence of the public defender.¹⁶ The public defender is the adversary of the executive branch of government, which at the local level is the State's Attorney and local enforcement agencies. It would be inappropriate for the executive arm of government to exercise either appointing or funding authority over its opposition. Since the court is aware of the responsibilities inherent in the position of the public defender, it too must avoid undue control resulting from the collective action of the judges in initiating the appointment of the public defender. Thus, the statutory provision that the defender serve at the pleasure of the circuit judges is an improper control by the court, for a public defender should serve for a specified time and should be removed only for good cause.¹⁷ In counties of less than 500,000 population, payment for offices, travel and other necessary expenses shall be made by the county after the presiding judge of the circuit court of the county

¹⁵ Ill. Rev. Stat. c.34 sect. 5605 and 5607

¹⁶ ABA Standards Relating to Providing Defense Services, Standard 1.4

¹⁷ ABA Standards Relating to Providing Defense Services, Approved Draft (1968), Standard 3.1

approves such expenses as being necessary and proper.¹⁸ While this authority can be viewed as a restriction on unnecessary expenses by the public defender, it can also serve as authority for the court to compel the county to pay necessary and proper expenses of this office. Thus, the county is allowed little control over the operation of the office it must finance so that the public defender is free from undue pressures that might otherwise hinder him in his role as independent advocate for his client.¹⁹

It would be unthinkable that government authorities could suggest a reduction in income or a loss of secretarial assistance to an attorney for fearlessly representing a client even if the community felt that that person was guilty (contrary to the fundamental precept of our law that the person is presumed innocent until found guilty by a court or jury). The public defender owes the County Board an adequate explanation for the expenditure of public funds, but the County Board owes a duty to respect the financial needs of the public defender without attempting to direct or control the litigation of the public defender or his relationships with clients. It should be noted, however, that, although the public defender had found lack of adequate funds a problem, his explanation of need satisfied County Board members and the difficulty was resolved prior to the consultant's visit.

¹⁸ Ill. Rev. Stat. c.34 sect. 5607

¹⁹ ABA Standards Relating to the Prosecution Function and The Defense Function (approved Draft 1971), pp. 176-177

2. Current Budget

The budget for this defender office is as follows:

| | 1973 | 1973 | 1974 | 1974 |
|-------------------------------|----------------------|-----------------|------------------------|---------------------------|
| | <u>Appropriation</u> | <u>Expenses</u> | <u>Budget Requests</u> | <u>Revised Allocation</u> |
| <u>Salaries</u> | | | | |
| Public Defender | \$17,500 | \$ 9,390.65 | \$17,500 | \$17,500 |
| Clerk | 3,500 | 2,343.85 | 4,800 | 3,500 |
| <u>Transportation</u> | | | | |
| | | | 300 | 200 |
| <u>Supplies and Equipment</u> | | | | |
| | 2,000 | 1,661.68 | 550 | 600 |
| Stationery | | | 300 | 200 |
| New Equipment | | | 1,000 | |
| Seminar Fees | | | 300 | 75 |
| <u>Miscellaneous</u> | | | | |
| IBM | | | 35 | 35 |
| Expenses for Defending Cases | | | 1,000 | 750 |
| Law Books | | | 742 | 600 |
| | <hr/> | <hr/> | <hr/> | <hr/> |
| Totals | \$23,000 | \$13,396.08 | \$26,527 | \$23,460 |

The salary at \$17,500 is the same compensation previously paid to John Gorby as First Assistant State's Attorney in McHenry County and is reasonable compensation to attract an attorney willing to devote full time to this position. The qualifications of the present incumbent prove, however, that the salary is a bargain for McDonough County.²⁰

The secretarial salary should be adjusted to support a full-time qualified secretary with legal experience. The public defender should have the opportunity to hire this employee,²¹ and she should be responsible to him and should, if at all possible, avoid other duty commitments.

Funds should be provided for needed equipment. Also, the sum for seminars should be increased, for the allocated amount is inadequate. A lawyer who operates alone particularly needs to participate in professional training programs.

²⁰ The National Advisory Commission on Criminal Justice Standards and Goals: Task Force on Courts (1973) in Standard 13.7 states: "The public defender should be compensated at the rate of not less than that of a presiding judge of the trial court of general jurisdiction." In view of the relatively low salary of McDonough County's public defender when compared with national standards, as well as his outstanding performance, brief absences such as occurred when he tried a criminal case for the State in McHenry County for three weeks or when he attended to personal litigation in Detroit should be considered of no consequence.

²¹ Ill. Rev. Stat. c.34 sect. 5606: "He [the public defender] shall also, in like manner, appoint such number of clerks and other employees as may be necessary for the due transaction of the business of the office." (Emphasis added)

3. Operational Independence

An example of the balancing necessary between the appointing authority and the funding authority is present in the recently enacted State Appellate Defender Act.²² The Supreme Court appoints the State Appellate Defender,²³ but thereafter he assumes control over the operation of his office²⁴ subject to the advice and policy recommendations of the State Appellate Defender Commission.²⁵ The county public defender is somewhat of a "middle man," for he is between the circuit judges who appoint, and at whose pleasure he serves, and the County Board which provides the funds for his office. Balancing these interests, he must serve as an advocate for his client's cause. The ABA Code of Professional Responsibility in Ethical Consideration 7-4 states: "The advocate may urge any permissible construction of the law favorable to his client, without regard to his professional opinion as to the likelihood that the construction will ultimately prevail." In fact, in a criminal case an attorney may be deemed derelict as an advocate if he were to publicly express an opinion that the action or cause of his client was without merit.²⁶ To

22 Ill. Rev. Stat. c.38 sect. 208-1 through 208-11, approved 18 August 1972.

23 Ill. Rev. Stat. c.38 sect. 208-5

24 Ill. Rev. Stat. c.38 sect. 208-10

25 Ill. Rev. Stat: c.38 sect. 208-4 and 208-6

26 In Anders v. California, 386 U.S. 738 (1967), a lawyer was criticized for writing to the court that his client's appeal had no merit.

achieve credibility with his clients, he must, both in word and action, demonstrate that he is their advocate notwithstanding his connections with the government that is prosecuting the client.

An attorney in a public defender position is permitted to assist clients as an exception to the general rule of rendering such service through an organization, but ethical requirements make it clear "that his independent professional judgment is exercised on behalf of his client without interference or control by any organization or other person."²⁷

The public defender has taken initial steps to advise, inform and educate the County Board, as well as the community, that his professional responsibility is consistent with the best interests of the community in the implementation of the adversary system. Such an effort is essential for in a small, closely knit community such as McDonough County, where a 21-member board directs county government, professional independence must be afforded the public defender. Although the public defender is under a responsibility to account for the expenditure of county funds, the power of the purse should not be so wielded as to direct or inhibit his professional relations with his clients.²⁸

²⁷ ABA Code of Professional Responsibility, Disciplinary Rule 2-103(D)

²⁸ ABA Code of Professional Responsibility, Disciplinary Rule 5-107(B) states: "A lawyer shall not permit a person who recommends, employs, or pays him to render legal services for another to direct or regulate his professional judgment in rendering such legal services."

The court, in a similar fashion, must respect the operational and professional independence of the public defender; the court is fully aware of the defender's responsibilities and has judiciously avoided direct or indirect efforts to restrict his professional duty to his clients.

F. Appeals

Although the public defender may be appointed to handle appeals pursuant to Supreme Court Rule,²⁹ the circuit court should allow the public defender the discretion to secure the services of the State Appellate Defender³⁰ for pursuing handling appeals of criminal convictions of indigent defendants. Ordinarily the best course is to have the trial lawyer follow the appeal.³¹ However, when there is a single public defender who would be substantially deterred from his trial responsibilities by the time required for preparing an appeal, the fairer course of action would be to permit the specially oriented appellate defender to substitute for the county defender on appeal. In certain cases, the public defender will undoubtedly want to pursue the appeal, and he should be able to do so. However, appeals should not be forced upon him when a state agency has been created to handle this workload.

29 Rule 607 (last amendment, July 1971)

30 Ill. Rev. Stat. c. 38 sect. 208-10(a) (approved August 1972 and effective October 1972)

31 ABA Standards Relating to Criminal Appeals (Approved Draft 1970)

G. Juvenile Representation

Although the statute³² permits the appointment of the public defender in juvenile cases, the public defender had not been appointed in a single juvenile case in McDonough County. This might be explained by the fact that only one juvenile case was terminated in 1972 and one in the first eight months of 1973.³³ Russell G. Reed who serves as the combined juvenile officer (police function) and probation officer (court function), advised that almost all juvenile matters were resolved prior to court. For example, he indicated that during the period from January through March 1973, 57 juveniles were charged with criminal acts, but only 4 or 5 went to court. Most of the cases resulted in the juveniles being released to their parents. Although this informal handling of juvenile cases may have merit, the juvenile adversary system, in keeping with the principles of In re Gault, should offer all alleged juvenile offenders who are financially unable to employ counsel the benefit of the professional advice and assistance of the public defender.

H. Attitudes of the Community

The public defender is held in high regard by the client community and the Bar, although attitudes differ on the part of prosecution and court officials.

Associate Circuit Judge U.S. Collins commented that the public defender had won both of his recent jury trials and had otherwise performed his duties in a competent and professional manner; it was alleged, however,

³² Ill. Rev. Stat. c. 34 sect. 5604

³³ However, 12 juvenile cases were begun in 1972, and six were initiated in the first eight months of 1973.

that Circuit Judge Francis P. Murphy would not favorably comment on the performance of the defender during the two jury trials.³⁴ The president of the McDonough County Bar Association,³⁵ John Simshauser, reported that the Bar was dissatisfied with the previous method of appointing attorneys for indigent criminal defendants and advised that generally the Bar was pleased with John Gorby's performance as public defender. On the other hand, State's Attorney, Henry D. Sintzenich was critical of the public defender who has lengthened the processing time for appointed cases. In that the public defender might have been late in filing motions, his criticisms appear to be valid; in that he preserved the due process rights of his clients, his complaints were not well founded. The full-time State's Attorney and his assistant have now encountered a worthy opponent, and an adjustment must be made to have a more mutual and professional assessment of cases.

A question was raised concerning the eligibility of some defendants, but in most cases the defendant was found to be eligible for the services of the public defender, even though parents or other relatives may have been able to pay an attorney's fee. The public defender consciously avoids fee-generating cases, although appointment of counsel should never be precluded because of the assets of parents or other relatives.³⁶

34 Unsuccessful efforts were made to contact Judge Murphy by telephone. An observer to the jury trials commented that the defender strenuously presented his points during trial and may have "over-argued" the points.

35 There were 26 attorneys in the county, of which 15 were active in the Bar Association.

36 ABA Standards Relating to Providing Defense Services (Approved Draft 1968) sect. 6.1 provides: "Counsel should not be denied to any person merely because his friends or relatives have resources adequate to retain counsel or because he has posted or is capable of posting bond."

The public defender had brought to the attention of the State's Attorney improper practices on the part of law enforcement officers who had contacted the defender's clients and conversed with them about the plea they intended to enter.³⁷ When these defendants, who had initially indicated that they would enter pleas of guilty, later decided with the assistance of counsel to plead not guilty, the law enforcement officers pursued the issue of this information acquired in the absence of their attorney and complained to members of the County Board and this situation should not occur. Local law enforcement officers need to become more familiar with the nature of the adversary system in which the attorney-client relationship must be protected. It appears that a letter written by the public defender to the State's Attorney has been reviewed with law enforcement officers and such conduct will not be repeated. The public defender should continue to take steps in conjunction with the State's Attorney to educate the law enforcement officers of the constitutional and legal limitations on conversations with defendants about their case after counsel has appeared on their behalf. The public defender should also continue a community relations program he has initiated whereby he speaks to various community groups on the work of his office.

³⁷ After counsel has been appointed to represent a defendant, such such conversations by law enforcement officers are clearly improper. Cf., Massiah v. United States, 377 U.S. 201 (1964).

IV. SUMMARY OF RECOMMENDATIONS

The recommendations below are listed in order of their significance to the overall operation of the public defender program in McDonough County. Regardless of their relative impact, however, the implementation of each recommendation will contribute significantly to the improvement of defender operation.

1. Allow public defender same professional latitude as private attorney.

The public defender should be given sufficient professional latitude to deal with his clients in a manner similar to that of a retained attorney.

2. Allow public defender discretion in handling appeals

The public defender should be given discretion to determine when he should call upon the State Appellate Defender to handle appeals of criminally convicted indigent defendants he represented in the trial court. Although the public defender's resources are limited, if he prefers to handle the appeal, he should be given the opportunity.

3. Study public defender role vis-a-vis juveniles.

The public defender should develop a program to provide advice and assistance to juveniles charged with criminal offenses, or, in the alternative, should study and report on the non-use of the public defender in juvenile cases.

4. Expand public defender's community educational activities.

In carrying out his responsibility for educating the community concerning the role of the public defender in the criminal justice system, the defender should take affirmative steps to discuss his work with additional groups. In this regard, he should expand his current activities and direct specific attention toward improving relationships with the State's Attorney and local law enforcement officials.

5. Maintain regular contact between public defender and County Board regarding budgetary request.

The public defender should submit with the budget a detailed explanation to the County Board outlining his needs for the present as well as future operation of his office, and he should meet regularly with representatives of the County Board to explain his requests for funds.

6. Institute Law Student Internship Program.

A law student internship program should be instituted with the local university during the school year and during the summer. A law student internship should be instituted, if possible, to supplement the work of this one-attorney public defender office.

7. Expand law office library.

The law office library should be expanded to include the Illinois Supreme Court and Appellate Court Reports for the last 20 years.

8. Circuit judges should also make recommendations to assure adequate resources for public defender.

The circuit judges should assist the public defender by reviewing his office operations to insure that he has minimum adequacy to comply with the state statutes when necessary. The judges should make appropriate recommendations to the County Board to assure this adequacy.

9. Base case reporting on defendant rather than charge or court case.

The system for reporting cases should list cases by the defendant rather than by the charge or court case. If two separate offenses arose out of the same transaction involving the same defendant, or if a related series of events was connected to the same defendant, the series should be counted as one case.

10. Maintain adequate compensation for public defender.

Considering the public defender has no outside law practice, his compensation is currently adequate. However, his salary should be reevaluated annually to assure that the adequacy is maintained.

11. Provide public defender with more private quarters.

The public defender's quarters should provide a more private office to insure the confidentiality of communication with clients. These quarters should be clearly separate from any other county function so as to preserve the necessary attorney-client relationship. They should

be maintained in a fashion similar to a contemporary law office in Macomb, Illinois.

12. Provide full-time secretary.

A full-time secretary, preferably with some legal experience, should be hired by the public defender, and adequate compensation should be provided by the County Board.

13. Provide adequate office equipment.

Office equipment including a typewriter, transcriber, file cabinet with a lock, and other law office furnishings should be provided to the public defender office as soon as possible.

V. SUMMARY

McDonough County is extremely fortunate in having the services of a well-qualified public defender who has demonstrated the skill and ability to provide quality legal representation for those charged with crime in the county and who cannot afford counsel. At most, he and the community are suffering the natural minor inconveniences attendant upon the creation of a new governmental activity in the community. This adjustment is being accomplished. If the recommendations in this report are implemented, McDonough County will have a first-class public defender office.

APPENDICES

- A. Case Diary and Time Sheet
- B. Consultant's Resume

APPENDIX "B"

RESUME

JOHN J. CLEARY

John J. Cleary was admitted to practice in Illinois in 1960. After military service as a judge advocate officer, he served from 1964 through 1969 as the Deputy Director, NLADA National Defender Project which had a \$6.1 million grant from the Ford Foundation to improve and strengthen defender services throughout the United States. In 1970 he served as attorney in residence for the Illinois Law Enforcement Commission in the capacity of an advisor and planner on courts, prosecution services and defender services. From April 1971 he has served as Executive Director of Federal Defenders of San Diego, Inc., the federal community defender organization for one of the largest federal criminal jurisdictions in the United States. This defender office provides legal representation, not only in the trial (district) court but also through appeal. He is a member of the Board of Directors of the California Public Defender Association and the National Legal Aid and Defender Association.

END

7. 10. 1944