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THE AMERICAN UNIVERSITY
 CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
 INSTITUTE FOR ADVANCED STUDIES IN JUSTICE
 THE AMERICAN UNIVERSITY LAW SCHOOL
 WASHINGTON, D.C.



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



ISSUES BEARING ON THE
DEVELOPMENT OF A LEGAL INFORMATION
CENTER FOR THE STATE OF NORTH DAKOTA

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July 1976

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* Prepared in response to technical assistance requested in April 1976 by Montana Board of Crime Control.

I. SUMMARY OF SITE VISIT

A. Introduction

In June 1976, technical assistance was requested of LEAA's Criminal Courts Technical Assistance Project by the Executive and Assistant Directors of the North Dakota Combined Law Enforcement (NDCLEC), the State Planning Agency, to explore the feasibility of developing a state legal information center for North Dakota. The consultant requested was Geoffrey Peters, Director of the Creighton Legal Information Center, Omaha, Nebraska, who made two brief prior trips to the state to provide preliminary information in this regard. During the first trip, a presentation was made at a Rural Courts Workshop sponsored by the National Center for State Courts. This presentation attracted the interest of North Dakota criminal justice officials and resulted in a second trip one week later to further present to the North Dakota Combined Law Enforcement Council's Committee on Courts and Corrections, the concepts related to centralized legal information services for rural areas.

The purpose of this technical assistance was to provide a more comprehensive presentation of the above-mentioned concepts to various potential user groups and officials, to discuss their concerns and to stimulate a better understanding of various legal information dissemination approaches.

B. Description of Site Work

On June 15-16, 1976, the consultant met with a selected group of officials representing all relevant user groups and other officials whose clearance would be needed for a legal information project. (A list of those officials is attached.) Most of these officials had been briefed previously on the general nature of the project.

During the presentation and question-and-answer period, the officials were acquainted with the alternative approaches to legal information

dissemination and the costs and benefits associated with each approach. The presence of officials representing the University of North Dakota Law School (a possible site for such a program), states' attorneys and district courts (potential users), the bar association (representing defense counsel users and lawyers in general), the Court Administrator (whose office would have to coordinate the support given the concept by the Supreme Court), and a legislator (who also sits on the NDCLEC, both of which would review any grant proposal), helped bring immediate focus to the problems of legal information needs in rural states and their possible solution.

The consultant and the staff of the NDCLEC developed a potential budget for a project modeled after the CLIC program which was reproduced and distributed during the second day of meetings. (See Budget, Appendix A)

During these meetings, the program concepts were presented to the Executive Committee of the North Dakota State Bar Association, the annual training session and business meeting of the North Dakota States' Attorneys Association, and the Judicial Council of North Dakota (which contains representatives of County Justice Courts, Municipal Courts and regular county courts as well as the judges of the increased jurisdiction county courts, district courts and supreme courts). Special guests for the Judicial Council meeting were the Dean of the School of Law, the Attorney General, the President of the Bar Association, and the Supreme Court Administrator. These meetings helped provide a clear view of North Dakota's needs for centralized legal information services and the problems which were seen in the CLIC approach.

C. Conclusions

The involved officials reacted quickly and affirmatively concerning the project. The Executive Committee of the Bar Association agreed to look

further at establishing such a program and to seek the full endorsement of the Bar Association. The States Attorneys' Executive Board endorsed the establishment of a program and the general membership reacted favorably. The Judicial Council voted unanimously to utilize the CLIC model for a North Dakota program and to encourage the law school to establish such a program.

The primary difficulty in creating a legal information center program in North Dakota was acquiring approximately \$6,500 to be used as match funds for a Combined Law Enforcement Council grant. This problem was partially alleviated as support was solicited and received for the concept (and possible matching funds) from the Bar Association, the Attorney General, the Judicial Council, the States' Attorneys, and the Combined Law Enforcement Council itself.

A full grant will be prepared by the staffs of the Combined Law Enforcement Council and the University of North Dakota School of Law. Such application will have the endorsement of the above mentioned organizations or agencies which are providing matching funds. Technical assistance will only be needed for the process of implementing these plans. The planning model which was utilized by the NDCLEC staff in securing the cooperation of all relevant bench and bar groups was most helpful and insured a productive and rewarding effort for all involved.

II. RELEVANT ISSUES BEARING ON DEVELOPMENT
OF LEGAL INFORMATION CENTER IN RURAL STATES

A. Determining Eligible Users

Rural criminal justice officials are required to conduct legal research in order to perform their jobs even though many of them have no staff available to help. CLIC users in Nebraska report that the main reasons they use the service are a lack of library facilities in the outstate areas and a lack of time to do research, including the time necessary to travel to a comprehensive library. "Dropping in at the law library," prior to trial to "check out a few things," is a luxury available only to the urban criminal justice practitioner and would frequently require a one-to-two-day commitment of time on the part of his rural counterpart. [In order to fully demonstrate that there is a need for legal information services in rural areas, it may be noted that over 60% of Nebraska's county judges and county attorneys (prosecutors) had used the services of the Creighton Legal Information Center by the close of its first fifteen months of operation.]

In the criminal justice system throughout the United States, there are many more misdemeanor cases than felonies; this is true in rural areas as well as urban ones. Thus the pattern of use of CLIC legal research services indicates heavier use in the misdemeanor area, although this perhaps is overstated since it is understood that users request CLIC services to a greater extent in the occasional felony cases than in the more typical misdemeanor cases.

It is equally clear that if criminal justice practitioners need legal research services, their civil law counterparts have a similar need. Nevertheless, it may well be argued that while a need certainly exists, the need is not as strong on the civil side. It is generally accepted that for

lawyers, at least, criminal cases do not pay as well as civil cases. If the rural practitioner has developed a library, other facilities, or expertise, these resources are more likely, for economic reasons if none other, to be for civil practice. It is also a well recognized fact, perhaps more true in rural areas without full-time public defender offices, that younger practitioners, frequently with marginal income, tend to engage in more criminal practice than their older (and wealthier) colleagues. This being the case, the younger practitioner might not be expected to have either the financial resources or experience to draw upon when encountering the occasional criminal case. For these reasons (and because funding was sought from the Law Enforcement Assistance Administration which is concerned with the criminal justice system), the services of this technical assistance effort have focussed on criminal (felony, misdemeanor, traffic ordinance, and juvenile) cases since it is in this area that the most significant legal information needs arise.

Clearly, within the criminal justice system, the obvious users are judges, prosecutors, and defense counsel. In most rural areas, while judges are full-time, the prosecutor is a part-time county attorney who receives part of his salary from the private practice of civil law and part from representing the county in both its civil and criminal business. Similarly, defense counsel are less frequently full-time defenders than court-appointed counsel. These persons form the user group primarily served by the Creighton Legal Information Center. Occasionally, requests are received from police chiefs or sheriffs, but these individuals are served only when they have general requests for information (such as, "What is the law of hot pursuit?"), and are referred to the prosecuting attorney when the matter concerns a particular case.

Criminal defense lawyers who are on private retainers from clients are not eligible to receive the services of the Creighton Legal Information Center. It was the opinion of the Project Director that since public funds were being used to support the Center's operation, the eligible users of this free service should be those who themselves were consumers of those funds. This decision is certainly subject to question since the marginal income client who can afford to retain his own counsel may not have sufficient funds to allow that counsel to spend an extra day or two traveling to and doing research in a major law library. Each state, therefore, has to make its own decision on the extent of services which it wishes to provide to non-publicly supported counsel.

The need for a legal research program is more obvious in rural areas, and for that reason, criminal justice officials located in the urban counties have been excluded as eligible users. While, for political reasons, as well as to encourage uniformity in the approach to criminal justice issues, copies of memoranda are made available to users in the two urban counties, this is a decision which each program director would have to make for him or herself. Several other legal information centers which operate differently than CLIC include private citizens in their user groups. While these services were desirable they were not nearly as necessary in the case of private citizens as they were in the case of practising attorneys handling criminal litigation.

It also seems clear that by providing legal information to users over a period of time, the users gain confidence in the service. They utilize both its services, (in terms of original requests and copies of previous original requests) as well as ancillary library facilities. They identify more closely with the Center, and are more likely to continue utilizing its

resources, especially when they are free. This differentiates the CLIC from the commercial or non-profit student center approach. It also becomes clear that the raison d'etre for the CLIC project is not to provide a more efficient mechanism of providing legal information services than was previously available, but to provide legal information where none was previously available. Nevertheless, the approach which was adopted and refined by the CLIC project is believed to be the most cost-effective approach to solving this particular problem.

B. Alternative Methods for Responding to Rural Legal Information Needs

1. Multi-state legal information center

In developing the Creighton program, the possibility of multiple state utilization of centralized legal information resources was considered but rejected. While it would seem that several economies of scale could be achieved by regionalizing these services (perhaps on a pattern after the federal circuits), such a program is inherently unsatisfactory because of the loss of specialization in the law of a particular jurisdiction which is present in a state-by-state approach. If centralized legal information services were made available to four or five states from one center, students would have to split into various teams to retain specialization in a particular state's law. This need for state specialization is less of a problem in criminal procedural law, which is primarily constitutional, than in substantive criminal law, which varies from state to state.

It is the experience of the consultant that the expertise which students acquire over a period of time and training is very useful to the consumers of legal information services. This value would be lost if the program's scope were expanded. In addition, permanent funding problems would occur if regionalization were adopted. It is unlikely that the legislature of one state would fund a law school based in another to provide legal information

services to its criminal justice officials. More likely, the legislature would use an equal amount of funds to establish a center based at a law school in their own state. One of the major services of the legal information center is to produce copies of previous written memoranda. These are based on the law of the jurisdiction of the using party who originally requested the research. The utility of these memoranda would be reduced in a regional approach because the laws in the jurisdictions involved might well vary.

2. County law libraries

Providing a law library for each county is another solution. Experts in the field estimate the initial acquisition cost to establish a minimally adequate law library are currently \$60,000 exclusive of space and personnel. Permanent acquisition budgets per annum would then run at a level of \$20,000 to \$30,000 a year with a full budget including space and personnel approximating \$50,000 a year.

3. Law clerks

Another approach to meeting the needs of the rural attorney or judge would be to provide these officials with law clerks. If full-time, paid law clerks were hired, the cost would clearly be prohibitive, and exceed the cost of regionalized law libraries. The cost would be reduced if part-time (perhaps student) law clerks were used but the question of manpower availability would become crucial. It is presently difficult to attract law graduates to rural areas to practice and it seems likely that it would be equally difficult to attract part-time personnel to commute to these rural areas. Hence, only those areas serviced by a law school would be able to employ law students.

The main objection to using law clerks is more obvious. Even the full-time law clerk who found himself in a rural area with legal research needs would be travelling up to five or six hours to a law library, spending four or five

hours doing research in the library, and then spending five or six hours returning. The availability of a central law facility is crucial to doing any legal research and the provision of personnel only solves half of the problem. Moreover, a law clerk can serve only one master, while a centralized facility can serve many. A law clerk who is available to the judge is not available to the prosecutor or defense counsel, while the legal information center is available to all three in different cases (CLIC has a policy of not accepting requests from multiple users on a single case because of the possible conflict of interest).

4. Automated legal information retrieval

The option of adding automated legal information retrieval systems has relevance for North Dakota and other states. Automated legal information retrieval systems (ALIRS) are commercially available from two sources at the present time. The systems vary dramatically in that LEXIS is full text but does not contain the law of most rural states and West-Law contains the law of all United States' jurisdictions since 1967 but has only West headnotes and must be used with a full library. Nevertheless, the systems are similar in at least one major aspect: they are expensive. The major justification for utilizing ALIRS involves the notion of a cost-benefit payoff between the cost of the system and the efficiency of conducting research with such a system. This cost-benefit payoff becomes relevant only when one is conducting a great deal of research and utilizing the device for a substantial amount of the time. Thus, it is only in the context of centralized legal information retrieval that such devices become cost-effective. To place a legal information retrieval capability in a general purpose law library has not proven cost-effective with a full-text system and would be even less useful with a partial text of an abstract system (which requires for effective operation a full law library as a backup).

5. Appropriateness of the CLIC Approach

That CLIC has assured continuous quality is evident from the fact that during its first fifteen months of operation, the project requests came from 71 of 91 eligible Nebraska counties with 91% of the users stating that they were generally pleased with the CLIC project; 95% of the requestors found their CLIC memoranda extremely helpful or of some help; and 100% of the users indicated that they intended to use the service again. The very fact that each user who received an evaluation form to complete, returned their forms filled out and complete, is itself a strong indication of the reaction of the rural practitioners. Alternative approaches which fail to generate this type of user confidence would be failing to meet one of the goals of the program (i.e., to encourage maximum utilization of legal information services and thereby encourage an improved quality of adjudication within the rural criminal justice system.)

C. Service Options

In regard to rural legal information needs, one question which occurs is precisely what services are needed. The service which is most popular with CLIC users is original research. Legal memoranda are made available to users by conducting the necessary research in response to the user's questions. This original research is also made available to all eligible users by publishing an abstract of the topics in a newsletter so that requests for particular memoranda may be made. This capability distinguishes CLIC from other organizations which simply provide copies of cases, statutes, articles, and other secondary material upon request, which comprises the service frequently performed by state law libraries, the Kentucky Legal Information Center, and the Office of the Attorney General in various states. These and additional library services, such as loaned editions of books, etc., are frequently available from other sources besides CLIC and are not a primary stimulus of CLIC requests.

Original research is available through commercial services such as the Research Group, Inc., or through entirely student-operated, law school based research programs. These programs are not the same as CLIC although they are more similar than those which simply provide library services. The major difference between CLIC services and those of commercial organizations is that the latter charge on a profit-making or a break-even basis and provide only original research memorandum upon request of users. This approach has several drawbacks. First, it seems unlikely that the criminal justice practitioner who has only marginal economic involvement in his criminal caseload will utilize any other than a free service if he must pay for the service out of personal income. In short, if the county attorney is paid \$6,000 a year by the county board to handle the county's business, he is unlikely to cut into that very narrow income margin by utilizing the at-cost services of a non-profit legal information center. It is unlikely that judges, who are also on fixed salary and have only marginal county appropriated resources, will pay for the services even when they may occasionally feel in need of them. Another deficiency with commercial services, aside from financing, is that once a memorandum is produced, it is not made available to other potential users. The desirability for such dissemination has been demonstrated in the CLIC experience where over 600 requests have been received from criminal justice officials for memoranda previously prepared.

While some repetitive use is to be encouraged, it is also possible that centralized legal research services can be abused. For example, CLIC has had cases where a trial counsel would forward his entire case file to the project with the request, "Tell me what to do." The Center's uniform response in these instances has been to indicate that it provides research service

and does not directly represent clients. The attorney's function must be performed by counsel, with the Legal Information Center merely providing backup services. By limiting the demands on its resources, the program is better able to effectively serve judges and attorneys who have real needs for its services. A common saying among the staff of the project is that they provide neither briefs for attorneys nor opinions for judges, although it is clear that memoranda are used by attorneys and judges as a basis for these official documents in many cases. In other words, the program views itself as providing law clerk services and not direct legal representation.

D. Rationale for Location

Location of a central legal information service is limited to those places which have a major law library facility. These are frequently law schools, state supreme courts, state attorney's general offices, or major city law libraries. Each of these sites is acceptable in general, although a university-based approach is preferable because law students can effectively be utilized by the program as a source of inexpensive (less than market cost) labor and at the same time receive great educational benefits from their involvement.

Law schools frequently try or should attempt to establish relationships within the community in which they exist. This is useful in terms of student employment and placement, continuing education of the bar and bench, and improving the teaching of law students. Thus, by basing such a program in a university setting, many side benefits, in addition to the primary services provided, are achieved. Basing the program in a private or public city law library would probably require the staffing of full-time attorneys

and, even if students were available, a full-time non-faculty attorney might be required to supervise the program. Utilization of faculty members has some additional benefits both in terms of the education of the students and the formal recognition within the university of the needs of the bar and bench.

Placing the program in the office of a supreme court administrator or attorney general creates potential problems regarding the primary duties or functions of those offices. Usually the attorney general is identified as the chief prosecuting officer of a state and this identification might result in reluctance on the part of defense attorneys and judges to utilize services based in such an office. While the state supreme court is normally viewed as a neutral body, counsel appealing a case to that court might hesitate before using legal research services based at the court.

The most logical approach is therefore to base such a program in a university law school setting. This, of course, has implications for the way in which the program is governed. While nominally under the control of the university administration, it should be the function of the program to serve the needs of the users and therefore, the users should control the program's operations. To achieve that goal, it is frequently advisable to have a board of advisers for the program composed of representatives from the various user groups.

In the operation of a centralized program staffed by students, such issues as whether or not to pay the students or utilize academic credit from the law school will arise. It is a difficult question because the use of academic credit would further conserve meager dollar resources. However, attracting the best students to the program is essential to its success.

Since top law students find acquiring academic credit relatively easy by registering for courses, they frequently seek outside experience such as clerking for pay when not involved in classroom work. Therefore, it is suggested that either pay alone, or pay with academic credit; (possibly by tuition remission) be the method of reimbursing students for their time.

As discussed above, the involvement of a law professor in the program has side benefits insofar as the program is concerned. Efficient utilization of student resources during slack periods, when memoranda requests were not sufficient to keep the student staff busy, could produce special projects such as legislative analyses, bibliographies of prior memos, deskbooks or other kinds of user related materials. This approach tends to even the flow of work and thus allows for easier management of the program.

E. Conclusion

As demonstrated through extrapolation of the data contained in the CLIC project's six quarterly reports and original first-phase final report, the concept of a legal information center is a solid one, built upon the needs of rural criminal justice officials. In developing the CLIC program, a methodology was worked out to meet those needs in other states. The groundwork which was laid in the CLIC program makes the program replicable in a variety of jurisdictions. In addition, there is a common incentive among the law schools of the nation to provide both employment in an educationally relevant context, and service to the local bench and bar. This program qualifies in both regards and is a prime candidate for replication in rural states throughout the nation.

The CLIC program has been extensively evaluated and documented with information on projected user loads, types of cases in which requests are to be expected, needs of the law libraries for supporting materials for the project, estimates

for the number of students needed and types and styles of equipment. The program has a detailed instruction manual, illustrating the program's methods in such a way that it can be replicated both operationally and in terms of the extensive internal evaluation system which it has developed. Substantial thought has been given to developing even the most minor of the program's procedures and the project staff is still exploring alternative modes of operation to determine whether or not the approach which has been adopted can be still further refined.

APPENDICES

APPENDIX A

Estimated North Dakota Budget
For Centralized Legal Research Capability

| | |
|---------------|---------------------|
| PERSONNEL | \$ 43,170.00 |
| TRAVEL | 1,440.00 |
| OTHER | 19,900.00 |
| | <hr/> |
| TOTAL | <u>\$ 64,510.00</u> |
| | |
| Federal (90%) | \$ 58,059.00 |
| State (10%) | \$ 6,451.00 |

APPENDIX A

PERSONNEL

| | | | |
|--------------------------------|-------------|-------------|--------------------|
| Director | | | |
| 50% x \$26,000 | \$13,000.00 | | |
| Secretary | | | |
| 12 months x \$650 | \$ 7,800.00 | | |
| | | | |
| SUBTOTAL | \$20,800.00 | \$20,800.00 | |
| Fringe Benefits @15% | | \$ 3,120.00 | |
| | | | |
| SUBTOTAL | | \$23,920.00 | \$23,920.00 |
| 5 students x \$4.00 per hour | | | |
| x 15 hours per week x 50 weeks | | \$15,000.00 | |
| 1 student x \$4.25 per hour | | | |
| x 20 hours per week x 50 weeks | | \$ 4,250.00 | |
| | | | |
| SUBTOTAL | | \$19,250.00 | \$19,250.00 |
| TOTAL PERSONNEL | | | <u>\$43,170.00</u> |

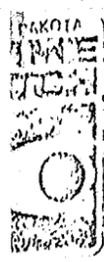
APPENDIX A

TRAVEL

| | |
|---|-------------|
| Committee - 10 members - three meetings | |
| 9000 miles x 15¢ per mile | \$ 1,350.00 |
| 30 days x \$3.00 per day | 90.00 |
| | <hr/> |
| TOTAL TRAVEL | \$ 1,440.00 |

OTHER

| | |
|-------------------------|-------------|
| Printing and Stationery | \$ 5,600.00 |
| Phone | 4,500.00 |
| Supplies | 1,200.00 |
| Postage | 800.00 |
| Xerox | 3,000.00 |
| Mag Card II Rental | 3,600.00 |
| Computer Support | 1,200.00 |
| | <hr/> |
| TOTAL OTHER | \$19,900.00 |



APPENDIX B
North Dakota
Combined Law Enforcement Council

Box B
Bismarck, North Dakota 58505
Area Code (701) 224-2594

ARTHUR A. LINK
Governor

ALLEN I. OLSON
Attorney General
Chairman

OLIVER N. THOMAS
Executive Director

Proposal

Central Legal Research

The year 1975 saw a dramatic increase in the criminal caseload of the judiciary. The total filings of all criminal and juvenile cases in district courts, county justice courts, and county courts with increased jurisdiction rose from 12,204 in 1974 to 14,606 in 1975. This represents an increase of over 19 percent in one year. The total number of cases completed rose from 11,677 in 1974 to 14,324 in 1975. This represents an increase of over 22 percent during the period.

Although no accurate records of state's attorneys' caseload is kept in North Dakota, it can be assumed that their workload has increased in proportion to that of the judiciary.

Each of the 53 counties of North Dakota have, in the past, been required to furnish reference materials for the state's 53 state's attorneys, 19 district judges, 38 county justices, and 15 county judges with increased jurisdiction. Cities have supplied reference materials for city prosecutors and municipal judges. Our counties and larger cities have expended large sums of money annually to update the various reference services and yet very few county or city libraries would be considered adequate by national standards.

Both the North Dakota Combined Law Enforcement Council and the North Dakota Criminal Justice Commission have recognized the need for adequate library facilities for judges, prosecutors, and court appointed defense attorneys. In 1974, the North Dakota Combined Law Enforcement Council budgeted \$61,000 for court equipment and reference materials. To date, \$54,825 has been granted. In 1976 the Council recognized a similar need for prosecutors and budgeted \$10,000 for equipment and reference materials.

The Judiciary and Corrections Committee of the North Dakota Law Enforcement Council, realizing the expense of attempting to provide adequate reference materials for judges, state's attorneys and court appointed defense attorneys, directed its staff to look into alternate methods of legal research.

The staff of the Council has been in contact with Professor Geoffrey Peters of Creighton University, Director of the Creighton Legal Information Center. Professor Peters has met with Chief Justice Erickstad, as well as members of the Judiciary and Corrections Committee of the Law Enforcement Council. Both the Chief Justice and the Committee have expressed an interest in establishing a central legal research capability in North Dakota.

Because the Creighton Legal Information Center is geared to research problems in rural areas, this proposal has been patterned after the project at Creighton.

Ideally, the Center would be located at the University of North Dakota School of Law utilizing a professor as the project director and several students as researchers. Any district judge, county justice, county judge with increased jurisdiction, state's attorney, court appointed defense attorney, city attorney, or municipal judge involved in a criminal case would be eligible for the services.

The eligible user would simply write or call the legal information center and request information regarding a specific issue. The request would be assigned to a supervised student researcher (see attachment I) who would develop and write original memoranda (see attachment II). Each memoranda would be reviewed by the supervisor and mailed to the individual requesting the information. Each memoranda would be evaluated by sending a questionnaire to the user to get his opinion of the research. In addition, a release form would be sent to the requester to allow him to indicate when the memorandum may be made available for general release (see attachment III).

A quarterly newsletter with a synopsis of available memorandum would be published. This would allow potential users the opportunity of reviewing and requesting existing memorandum (see attachment IV).

In addition to the increase in criminal caseload, the criminal law has become a highly technical and rapidly changing field. It is incumbent upon all those involved in the court system to keep abreast of those changes which affect a particular case in their jurisdiction. In order to accomplish this, a judge, prosecutor, or defense attorney must have ready access to extensive legal reference materials.

A program such as the one offered here is geared toward rural areas. It would provide research services to judges and prosecutors who, in some cases, serve in a part time capacity. Those serving part time may be affected most by caseload increases in their jurisdictions as they are required to spend more and more time on their county responsibilities. A legal research service may help alleviate these problems.

The research facility would also relieve smaller counties of some of their budget problems by enabling their judges and prosecutors to use the reference materials at the state's largest library rather than continually enlarging their own libraries. In addition, the memorandum bank would provide both the bench and the bar useful information from cases arising in other jurisdictions.

Finally, many counties do not have the criminal caseloads to justify large reference centers, yet when those counties have a technical criminal case, thorough research is needed. A research facility such as the one envisioned here would allow judges, state's attorneys, and court appointed defense attorneys to do the necessary research without traveling great distances to a larger law library.

APPENDIX C

Creighton Legal Information Center

SUMMARY OF CONTACT DATA

CLIC I FINAL
(July, 1974 through August, 1975)

| | |
|---|-----------|
| TOTAL CALLS RECEIVED | 659 |
| REQUESTS FOR INFORMATION: | Total 191 |
| A. Add to Mailing List | 4 |
| B. Program Description | 4 |
| C. Abstract Judge's Opinion for Newsletter | 1 |
| D. Other | 19 |
| E. Copy of Newsletter | 8 |
| F. Number of Requests for Copies | 155 |

(471 copies of 218 separate memos were sent. Six or more of the following memos were sent:

| | |
|---------------------|-----------------------|
| 6 copies of No. 013 | 7 copies of No. 361 |
| 6 copies of No. 045 | 7 copies of No. 401 |
| 6 copies of No. 078 | 9 copies of No. 004 |
| 6 copies of No. 181 | 9 copies of No. 010 |
| 6 copies of No. 202 | 9 copies of No. 011 |
| 6 copies of No. 509 | 12 copies of No. 288 |
| 7 copies of No. 016 | 13 copies of No. 079 |
| 7 copies of No. 052 | 14 copies of No. 003 |
| 7 copies of No. 150 | 16 copies of No. 007) |
| 7 copies of No. 353 | |

To Whom Sent:

| | |
|-------------------------|-----|
| County Judge | 28 |
| Assoc. County Judge | 15 |
| Court Appointed Counsel | 221 |
| County Attorney | 153 |
| City Attorney | 25 |
| District Judge | 13 |
| Police | 16 |

| | |
|----------------------------|-----------|
| REQUESTS FOR SERVICES: | Total 468 |
| A. Research Memoranda | 345 |
| 1. Projects Completed | 313 |
| 2. Supplemental Memos Sent | 9 |
| B. Case Copies | 26 |
| C. Special Projects | 4 |
| D. Library Assistance | 14 |

Appendix C

| | | |
|--------------------------|----|----------|
| E. Requests Denied | | Total 89 |
| 1. Civil | 30 | |
| 2. Lancaster/Douglas | 11 | |
| 3. Conflict of Interest | 7 | |
| 4. Private Attorney | 13 | |
| 5. Outside Nebraska | 2 | |
| 6. Private Citizen | 15 | |
| 7. Other | 6 | |
| 8. Unreasonable Due Date | 5 | |

COUNTIES FOR WHICH REQUESTS WERE FILLED: Total 71

10 or more calls have been received from the following counties:
 Box Butte (12), Buffalo (15), Cheyenne (13), Cuming (11), Custer (16),
 Dawes (18), Dawson (10), Gage (12), Holt (12), Lincoln (19), Madison (26),
 Merrick (10), Nance (17), Otoe (10), Pawnee (11), Platte (30), Red
 Willow (24), Sarpy (24), Scotts Bluff (29), Valley (12), Washington (16),
 Multi-County (12).

POSITIONS FOR WHICH REQUESTS WERE FILLED:

| | |
|---|-----|
| County Attorneys; Deputy County Attorneys | 189 |
| District Judges | 20 |
| County Judges | 67 |
| Associate County Judges | 11 |
| Court Appt. Counsel/Public Defenders | 193 |
| City Attorneys | 36 |
| Police | 18 |
| Other | 3 |

TIME ALLOCATION Total 7,163.41 Hours

| | |
|-----------------------------|----------|
| Research Aides/Assistants | |
| 1. Research/Memos | |
| Total Hours | 4,299.55 |
| Average Per Memo (28 memos) | 13.73 |
| 2. Administrative | 2,570.96 |
| Average Per Request | 3.90 |
| 3. Special Projects | 292.90 |
| 4. Travel (Miles) | 433.00 |

ADMINISTRATIVE INFORMATION

| | |
|--|-------|
| Miles Travelled (Administrative Personnel) | 3,328 |
| Evaluations | |
| 1. Number Sent | 306 |
| 2. Number Received | 297 |
| Initial Questionnaire | |
| 1. Number Sent | 726 |
| 2. Number Received | 387 |

Appendix C

| | |
|--|--------|
| Follow-Up Letters on Initial Questionnaire | 255 |
| Bibliographies (Selected List of holdings in Klutznick Law Library on Criminal Justice and all supplements thereto) | 2,890 |
| Newsletter | 39,800 |
| Telephone Survey Persons Contacted | 405 |

PROJECT SERVICES EVALUATION

CLIC I FINAL
 (July 10, 1974 through August 31, 1975)

| | Total | County Atty. | County Judge | As.Co. Judge | Dist. Judge | Def. Couns. | City Atty. | Police |
|---|-------|-----------------|-----------------|-----------------|----------------|----------------|---------------|--------|
| Total Number of Evaluations Returned | 298 | 110 | 48 | 8 | 17 | 89 | 15 | 11 |
| Overall Satisfaction with Services | | | | | | | | |
| Total Number Responding | 297 | 110 | 48 | 8 | 16 | 89 | 15 | 11 |
| % Completely Satisfied (5) | 46% | 43% | 52% | 13% | 44% | 43% | 67% | 91% |
| % Generally Pleased (4) | 45% | 50% | 42% | 88% | 31% | 45% | 33% | 9% |
| % Good (3) | 6% | 6% | 4% | 0 | 6% | 10% | 0 | 0 |
| % Not Satisfied (2) | 2% | 0 | 2% | 0 | 13% | 2% | 0 | 0 |
| % Completely Dissatisfied (1) | 0 | 0 | 0 | 0 | 6% | 0 | 0 | 0 |
| Average Rating | 4.34 | 4.32 | 4.43 | 4.12 | 3.93 | 4.28 | 4.66 | 4.90 |
| Reasons for Using Services | | | | | | | | |
| Total Number Responding | 292 | 108 | 48 | 8 | 15 | 87 | 15 | 12 |
| Inadequate Library Facilities | 144 | 60 | 22 | 4 | 5 | 42 | 7 | 4 |
| Objective Opinion | 24 | 8 | 3 | 0 | 3 | 4 | 4 | 2 |
| Additional Support | 20 | 7 | 4 | 1 | 2 | 6 | 0 | 0 |
| Learn How to Handle | 3 | 0 | 1 | 0 | 0 | 2 | 0 | 0 |
| Availability of Service | 16 | 6 | 3 | 1 | 0 | 3 | 2 | 1 |
| Lack of Materials From Other Jurisdictions | 23 | 9 | 3 | 0 | 1 | 7 | 1 | 2 |
| Understaffed | 18 | 12 | 0 | 0 | 0 | 5 | 1 | 0 |
| Time | 120 | 44 | 22 | 2 | 7 | 40 | 5 | 0 |
| Travel Distance to Library Facility | 6 | 0 | 2 | 0 | 1 | 3 | 0 | 0 |
| Faster Answer Through Us | 12 | 3 | 6 | 0 | 0 | 2 | 1 | 0 |
| Better Service To County | 3 | 1 | 0 | 0 | 0 | 1 | 0 | 1 |
| More Thorough Research | 27 | 8 | 1 | 2 | 1 | 13 | 1 | 1 |
| Expense | 17 | 2 | 0 | 0 | 3 | 12 | 0 | 0 |
| No Answer | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 |
| Answer of General Interest | 3 | 0 | 1 | 0 | 1 | 0 | 1 | 0 |
| Pending Case of Unusual Importance | 8 | 2 | 3 | 0 | 3 | 0 | 0 | 0 |
| Confidence in or Reputation of CLIC | 32 | 12 | 6 | 1 | 1 | 9 | 1 | 2 |
| Wanted to See How Good We Are | 8 | 2 | 0 | 0 | 1 | 3 | 1 | 1 |
| Nonlawyer Utilizing CLIC | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 2 |

Appendix D

| | Total | County Atty. | County Judge | As. Co. Judge | Dist. Judge | Def. Couns. | City Atty. | Police |
|--|-------|--------------|--------------|---------------|-------------|-------------|------------|--------|
| Percent Having No Problems In Contact | | | | | | | | |
| Total Number Responding | 295 | 109 | 47 | 8 | 17 | 89 | 15 | 10 |
| % Responding No Problems | 99% | 99% | 100% | 88% | 100% | 99% | 93% | 100% |
| % Responding Problems in Contact | 1% | 1% | 0 | 13% | 0 | 1% | 7% | 0 |
| Percent Reporting Delivered on Time | | | | | | | | |
| Total Number Responding | 291 | 108 | 45 | 7 | 16 | 89 | 15 | 11 |
| % Responding Report on Time | 92% | 89% | 96% | 100% | 94% | 93% | 87% | 91% |
| % Responding Report Not on Time | 8% | 11% | 4% | 0 | 6% | 7% | 13% | 9% |
| Percent Responding Report to Point | | | | | | | | |
| Total Number Responding | 289 | 107 | 46 | 8 | 16 | 88 | 15 | 9 |
| % Responding Report to Point | 95% | 98% | 91% | 100% | 81% | 93% | 100% | 100% |
| % Responding Report Not to Point | 5% | 2% | 9% | 0 | 19% | 7% | 0 | 0 |
| Rating of Report Quality | | | | | | | | |
| Total Number Responding | 293 | 109 | 46 | 8 | 17 | 88 | 15 | 10 |
| % Excellent (4) | 51% | 42% | 52% | 25% | 65% | 57% | 60% | 80% |
| % Good (3) | 43% | 54% | 46% | 75% | 18% | 34% | 40% | 20% |
| % Fair (2) | 4% | 4% | 2% | 0 | 0 | 9% | 0 | 0 |
| % Poor (1) | 1% | 0 | 0 | 0 | 18% | 0 | 0 | 0 |
| Average Rating | 3.44 | 3.38 | 3.50 | 3.25 | 3.29 | 3.47 | 3.60 | 3.80 |
| Helpfulness Of Report | | | | | | | | |
| Total Number Responding | 294 | 108 | 46 | 8 | 17 | 89 | 15 | 11 |
| % Extremely Helpful (4) | 57% | 54% | 59% | 50% | 65% | 56% | 60% | 91% |
| % Some Help (3) | 38% | 44% | 37% | 50% | 24% | 36% | 40% | 9% |
| % Little Help (2) | 2% | 2% | 0 | 0 | 0 | 3% | 0 | 0 |
| % No Help at All (1) | 3% | 1% | 4% | 0 | 12% | 5% | 0 | 0 |
| Average Rating | 3.49 | 3.50 | 3.50 | 3.50 | 3.41 | 3.43 | 3.60 | 3.90 |



Creighton Legal Information Center

200 California Street, Omaha, Nebraska 68178

800/642-8446
(TOLL FREE)

402/536-2929

2, No. 5

February/March, 1976

1,000 CLIC Requests

1,000 . . . 1,001 . . . the phone continues to ring at the CLIC offices, as the project's requests recently passed the 1,000 mark. Hon. Allen Wilkins, Associate County Judge of Clay County, Nebraska, was the 1,000th CLIC caller. He was requesting research on sentencing credits in the event a defendant's probation is later revoked. Providing the first of CLIC's second 1,000 calls and request number 1,001 was Paul Korslund, Prairie City Attorney, who requested another search service.

Response to the project, since it received its first request on July 10, 1974, has been "tremendous," according to Project Director Geoffrey W. Peters. "The over 1,000 requests received to date have resulted in production of over 400 original search memoranda and the mailing of over 800 copies of existing memoranda and 50 copies of cases or articles," Peters noted. "In addition, over 3,000 copies of the CLIC Newsletter have been distributed."

Peters also noted that evaluations completed by project users have been "overwhelmingly positive." These have shown that over 90 percent of users are "generally pleased" with the service, and 100 percent have said they would use the service again.



COURT OPINIONS CIRCULATED

What actions are District Courts taking on cases appealed from County Courts? This is a vital question to many CLIC users, we've found. And we'd like to help -- but we need your cooperation to do so. If you'll send copies of written opinions to us, we will make them available upon request. We'll also abstract them and include the brief summary of each such decision in our Student Assistant's Report in the newsletter. You'll find these in the report under the notation "DCO" (District Court Opinion). So please keep us -- and our fellow criminal justice professionals -- informed of these important developments.



Hon. Allen P. Wilkins, Associate County Judge of Clay County, Nebr., recently placed the 1,000th call requesting CLIC services.

"The response continues to be much higher than anticipated," Peters said. "And as each new project, such as the Judges' Deskbook or the Bibliography of Releasable Memoranda, is completed, we find the demand beyond our expectations. All of this has convinced us that we are filling a real need of the state's criminal justice system." □

CLIC Explores Use of Automated Legal Research

Interested attorneys are invited to attend a demonstration of the WESTLAW system of automated legal information retrieval on Thursday, April 1 and Friday, April 2 at Creighton's Ahmanson Law Center. The system features instant, computerized retrieval of case headnotes. The Vice-President for Marketing of West Publishing Company, St. Paul, Minn., will be on hand to answer questions and explain the system.

Demonstrations will be held each day at 8:30 and 10:30 a.m. and 1:30 and 3:30 p.m. Those who have attended a demonstration may also use the system independently from 12:30 until 1:30 p.m. and after 5:30 p.m. on those days. Interested persons may obtain more information by calling the CLIC toll-free WATS number, 800-642-8446.

STUDENT ASSISTANT'S REPORT

Since the beginning of the year, we have made another change in the student assistant staff. When it became clear that writing "National Demonstration Project" materials would require more time and effort than Barb Gaskins could devote, Gary Anderson agreed to work on that project. As a result, Jerry Friedrichsen has joined Luisa Dixon as student assistant for CLIC. Jerry has been a research assistant since July, 1975. In addition to his work at CLIC, Jerry has had an article published in the most recent issue of the Creighton Law Review and is a member of the Court Board.

Hereafter listed, in numerical order, are the new reports now being made available for distribution to CLIC users. Each report has a notation showing the adversary slant utilized in preparing the individual memorandum. (J) = Judge, (P) = Prosecutor, (D) = Appointed Defense Counsel, (L) = Law Enforcement. The designation (D.C.O.) designates District Court Opinions which we abstract and make available upon request.

654A (D) *May the results of a polygraph test be admitted into evidence in a criminal proceeding in Nebraska?* Nebraska has adhered to the majority view excluding polygraphic evidence as incompetent for any purpose in a criminal proceeding.

654B (D) *Is the admissibility into evidence of the results of a lie detector test affected by the fact that there is a pre-trial stipulation agreement whereby the parties themselves agreed that the tests would be admitted into evidence?* Possibly, despite traditional objections to the polygraph tests, a pre-trial stipulation by the parties is recognized by some jurisdictions as an exception to the general prohibition against admission of lie detector tests into evidence.

727 (J) *Is there a right to a jury trial for all criminal offenses?* No, there is no right to a jury trial for "petty" offenses (i.e. where the maximum possible penalty is six months imprisonment and \$500.00 fine.)

737 (D) *Is an arrest by a deputy sheriff outside his jurisdiction, without any elements of hot pursuit involved, a lawful arrest?* The legality of such an arrest would depend on the crime for which the arrest is made. A deputy sheriff outside his jurisdiction probably has arrest authority co-extensive with that of a private citizen.

790A (P) *Is the question of the existence of reasonable grounds for arrest a question of fact for the jury or a question of law to be decided by the court?* The question of existence of reasonable grounds for arrest is generally considered a mixed question of law and fact.

No. 792 (P) *Is a previous juvenile court adjudication for driving while intoxicated sufficient to convict the defendant on a subsequent offense as a second offender?* No. Juvenile courts are not criminal courts and do not subject a juvenile to a criminal conviction. A prior criminal conviction is implicit in all statutes providing for enhanced punishment upon a subsequent offense.

No. 801 (D) *Is the alleged smell of marijuana, without more, probable cause for a warrantless search and seizure?* Depending upon the reason for stopping the vehicle and the reasonableness of the cause and of the search, such action may be appropriate.

No. 818 (D) *Is Neb. Rev. Stat. §28-734.01 (1964), which pertains to loitering and unauthorized conversation in and in the immediate vicinity of a jail, unconstitutional as violative of the first and fourteenth amendments?* Neb. Rev. Stat. §28-734.01 (1964) can be challenged as vague and overbroad, violating due process notice requirements, freedom of speech and freedom of assembly.

No. 828 (P) *Can the county attorney file and prosecute a municipal ordinance violation in absence of an appointment?* No, a county attorney has no authority to prosecute a city ordinance violation, under Neb. Rev. Stat. §23-1201 (1974), where there has been no violation of state law.

No. 833 (P) *Does a purchaser who transfers ownership of a newly purchased motor vehicle, such transfer occurring within the ten day period provided by Neb. Rev. Stat. §60-320.01 (Supp. 1974) incur any liability for failure to comply with the motor vehicle registration requirements?* Probably not, provided such transfer was under a transaction of purchase and proof of the date of transfer, in addition to the other statutory requirements, could be established.

No. 834 (P) *Is the burden of proof for the prosecution of a violation of a city ordinance "preponderance of the evidence" or "beyond a reasonable doubt?"* The burden of proof for the prosecution of a violation of a city ordinance which embraces no offense made criminal by state laws, is a civil proceeding to recover a penalty, though criminal in form, the defendant's guilt must only be established by a preponderance of the evidence.

No. 843 (D) *May the district court rely upon jurisdiction it obtained over a juvenile pursuant to a divorce action to proceed against the juvenile under Neb. Rev. Stat. §43-202 (Supp. 1975)?* No. Jurisdiction for proceedings under Neb. Rev. Stat. §43-202 (Supp. 1975) is expressly vested in the juvenile court. The continuing jurisdiction of the district court can be invoked only as to matters ancillary to the divorce proceeding.

PROJECT
DIRECTOR'S
REPORT

Since the Creighton Legal Information Program received its first request on July 10, 1974, and published its first newsletter containing abstracts of questions and answers compiled from research memoranda in August of 1974, it has provided 813 copies of 364 separate memoranda. In many ways, this service is as important as the original research which was done for individual users at their request, which has resulted in the production of 400 original memos.

By making available current research which has been conducted for one user, to a multitude of users, we feel that the project has been helpful in "getting the word out" on recent legal developments in the criminal justice field. We also hope that by mailing the newsletter to every attorney and judge in Nebraska we have aided in making the administration of criminal justice more even-handed and consistent throughout the state.

Because of the efficiency of distribution of our research product by this method, we have com-

piled a bibliography of all memos which are releaseable and indexed them by subject matter. This spiral-bound bibliography is available free of charge to any user upon request. You need only call the Creighton Legal Information Center offices at 800-642-8446 and request a copy of the bibliography. One will be mailed to you.

Elsewhere in this newsletter you will find a listing of CLIC's ten most popular memos. I hope you will avail yourselves of the opportunity to receive these research products either by using the new bibliography, leafing back through your old CLIC Newsletters to see whether any prior research is now relevant to cases which you are handling, or requesting one of these ten most popular memos.

On another front, the CLIC project continues to operate smoothly as we approach our second full year of operation. Since the current LEAA grant period expires in a few months, a meeting was recently held to discuss refunding possibilities. To date the project has been supported by discretionary grants from LEAA. However, since it was funded as a demonstration project, we feel that this is the year for local funding sources to assume this responsibility. Our preliminary decision has been to apply for funds from the Nebraska Commission on Law Enforcement and Criminal Justice in hopes of eventually finding a permanent sponsor. We will keep readers informed of progress in this direction, and solicit your suggestions.

GEOFF PETERS

STUDENT ASSISTANT'S REPORT

Continued from Page 2

Q. 870A (D) Can a person claiming to be indigent be subjected to a preliminary hearing without the aid and presence of counsel? No, the United States Supreme Court has held that the right to counsel exists at the preliminary hearing if, under the state's criminal justice system, it is a critical stage of the proceedings. A strong argument can be made that the preliminary hearing, as it exists in Nebraska, is a critical stage of the proceedings and therefore comes within the control of the Supreme Court decision.

Q. 870B (D) Can a person be ordered by the court to sell personal assets to obtain funds to hire an attorney? No, since there is a constitutional right to dispense with assistance of counsel and appear pro se, it follows that a defendant cannot be ordered to sell personal assets in order to obtain private counsel.

Q. 878 (P) What is necessary to prove the validity of an arrest for speeding by use of a radar? The state must prove the scientific reliability of the device, that it was manned by a competent operator and that the proper operative procedures were followed, while proper records were kept.

No. 879 (J) What are the ramifications of a no contest plea? The plea of no contest, or nolo contendere, is similar to a guilty plea. Its ramifications do not vary significantly from those of a guilty plea (sentence may be imposed, formal defects are waived, and it cannot be withdrawn without court approval once accepted.) However, in civil cases the defendant is not bound by a prior plea of nolo contendere.

No. 884 (D) Is there any procedure under Nebraska law for obtaining discovery in a juvenile court when the juvenile proceeding is based upon a statutory violation which would allow discovery if a defendant was tried as an adult? Possibly, it is arguable that Neb. Rev. Stat. §29-1912 (Supp. 1974) is applicable, although no Nebraska case law has been found which grants discovery in a juvenile proceeding. In addition, the United States Supreme Court has granted limited discovery and other states have permitted discovery.

No. 885 (P) Assuming probable cause to search a vehicle, what is the permissible scope of the warrantless search in regard to the driver, passenger, and luggage within the car? The permissible scope (reasonableness) of a warrantless search is determined by the fact situation in each case and

Continued on Page 8

The CLIC Student Staff: Foundation For A Successful Program

"As the CLIC project approaches its second anniversary of operation and marks its 1,000th request milestone, congratulations are due one group of individuals in particular -- the students, who carry the burden of upholding the project's continuing high standards. Their talents, their ever-growing expertise, and their long hours of research work have combined to produce the highly successful project which CLIC has become," said Project Director Geoffrey Peters at a recent meeting with LEAA representatives visiting the CLIC project.

Typical of the high quality individuals who have represented the project is the present group of 14 students. The coming months will bring major changes in this staff, as several members will be lost to graduation. Among those departing to begin their professional legal careers are Student Assistants Barbara Gaskins and Gary Anderson.

Barb will graduate in May at the head of her class. Her future plans include one year as clerk for the Hon. Donald P. Lay of the United States Court of Appeals for the Eighth Circuit. Barb has been with the CLIC project since it began in July of 1974, and has served as Student Assistant since September of that year. She is a native of McCook, Nebr., and received her undergraduate degree at the University of Nebraska. In addition to CLIC, her activities as a law student have included the editorial staff of the Creighton Law Review, Alpha Sigma Nu Jesuit Honor Society, and Who's Who in American Colleges and Universities. During the summer of 1975, she clerked for the United States Attorney for the District of Nebraska.

Because of her talents and dedication, Barb has played a major role in the success of the CLIC project. "Barb was very instrumental in the original setup of the program," says Project Director Peters. "In addition, her continuing efforts have provided essential support for the growth of the project. We certainly thank her for these contributions."

Also graduating will be Gary Anderson, Student Assistant who joined the project in June of 1975. Gary, too, will graduate in

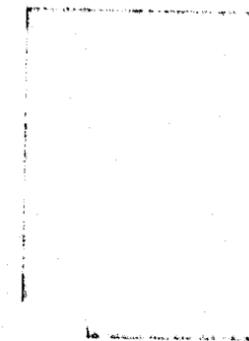
the top 5 percent of his class. A native of Des Moines, Ia., Gary received his B.A. degree from the University of Iowa. He has participated in Moot Court competition at Creighton. Gary's plans after graduation are still uncertain.

Gary Anderson

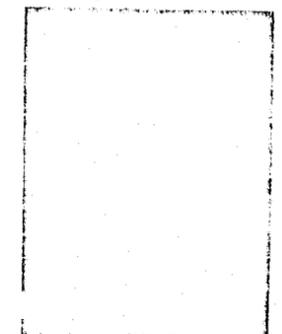
The future plans of two graduating CLIC students include marriage -- to each other! Jeanne Viviano and Terry Conkel will be married on May 15th, and then plan to seek employment in Washington, D.C.

Jeanne has been a member of the CLIC staff since 1974. She is a native of Plainfield, N.J., and attended Seton Hall University. She ranks in the top third of her class at Creighton, and has interned with the U.S. Attorney for the District of Nebraska.

Barbara Gaskins



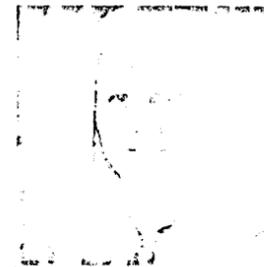
Jeanne Viviano



Terry Conkel

Terry, who joined CLIC in January of this year, will graduate in the top 15 percent of his class. Before joining CLIC, he worked for the Creighton Law Review and the U.S. Attorney for the District of Nebraska. He is originally from Lincoln, Nebr.

Diane Strock Vandenberg joined CLIC in January, and will graduate in May. Diane will be moving to Rhode Island, where she hopes to find work in the areas of school law and juvenile law, although she says she would be happy "working in just about any legal area that involves people and their problems." Diane has been a member of the staff of the Creighton Law Review and the Student Bar Association. She has also been a clerk for judges of the Douglas County District Court. A native of Wooster, Ohio, she is a graduate of the Ohio State University.



Diane Strock Vandenberg

Because of her excellent contributions to the CLIC project, junior law student Louisa Dixon was recently appointed Student Assistant. Louisa has been with CLIC since the summer of 1975. She holds a B.S. in Psychology from the Ohio State University and will retain her supervisory position throughout the summer.



Louisa Dixon

Also a recently appointed Student Assistant is Gerald Friedrichsen. He, too, joined the CLIC project during the summer of 1975. Gerald is a junior at Creighton's law school, and a graduate of the University of Iowa.



Gerald Friedrichsen

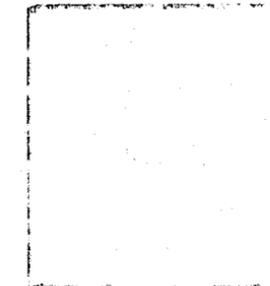
Ferry was recently chosen editor-in-chief of the Creighton Law Review for the 1976-77 year and will resign from his supervisory position with CLIC in May. He will remain on the staff during the summer.

Continuing her fine work for CLIC is Barbara J. Erickson, also a junior law student, and also a CLIC veteran since the summer of 1975. Previously, Barb worked as a Program Developer for the Offender Rehabilitation Division of the Public Defender Service in Washington, D.C.

CLIC staffer Ron Snow is a native of Denver, Colo., and received his B.A. from the University of Colorado. He is currently in his second year of law school at Creighton, where he ranks in the upper 15 percent of his class. As a freshman law student, he was employed at Creighton's Klutznick Law Library.



Barbara J. Erickson



Ron Snow

Studying under a Creighton University School of Law scholarship is CLIC staffer Marcia Bredar. Marcia, too, is a graduate of Creighton, and a native of Omaha. She worked last summer as a research assistant under a National Institute of Mental Health grant to the Creighton Institute for Business, Law and Social Research.



Marcia Bredar

President of the Creighton University student body as an undergraduate, and now a CLIC staff member, is Mark Thornhill. Mark, a native of Kansas City, Mo., spent the past summer working for Legal Aid in that city. He is presently a junior in law school.

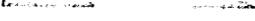


Mark Thornhill

CLIC Student Staff

Continued from Page 5

Second year law student William Larkin, who joined CLIC in January, has been a member of the Creighton Law Review and the Student Bar Association. A native of Ithaca, N.Y., Bill received his B.A. from Marietta College in Marietta, Ohio. His legal experience includes work at the Creighton Law Library, as a research assistant to Congressman Wright Patman with the Joint Economic Committee of the U.S. Congress, as a research assistant for the Paralyzed Veterans of America, and as a clerk in the Probation Department of the Superior Court of the District of Columbia.



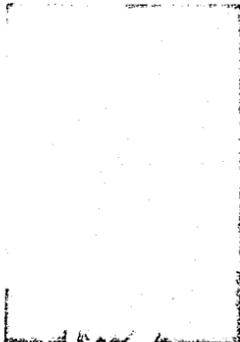
William Larkin

Student staff member James Goldfarb is among the top 5 percent of the junior class at Creighton's law school. He has participated in Moot Court competition and is a member of the Student Bar Association. Jim is a native of Boulder, Colo., and graduated from the University of Colorado. He is especially interested in trial and corporate law.



James Goldfarb

A junior from Horton, Iowa, Richard Gross received his bachelor's degree in business administration from the University of Iowa. At Creighton, Rich has participated in Moot Court, and is a member of the Creighton Student and the American Bar Associations. Rich is interested in returning to Iowa to the general practice of law upon graduation.



Richard Gross

Institute Successful

"Feedback to date has indicated that the program was tremendously successful," said Geoffrey W. Peters of the Criminal Advocacy Institute held recently at Creighton's Ahmanson Law Center. "A great many participants have indicated that the program was a valuable continuing legal education tool for them, and they would attend again if a similar program were held," he continued. Peters is Executive Director of the Creighton Institute for Business, Law and Social Research, which sponsored the program with Creighton's Law School, the Omaha Municipal Court, and the Nebraska Commission on Law Enforcement and Criminal Justice. CLIC was a co-sponsor of the program.

The seminar was attended by over 300 judges, prosecutors and defense counsel from 20 states, who heard a national faculty of 13 speak on a variety of criminal justice topics. Among those faculty members were noted trial attorneys Percy Foreman and Henry Rothblatt, fair trial-free press spokesmen Judge Donald Fretz of Solano, California, and Larry Lee Simms of the Reporters Committee for Freedom of the Press in Washington, D.C., forensic evidence specialist Andre Moenssens, and Tulsa, Oklahoma, prosecutor Patrick Williams, who spoke on trial tactics.

Fretz and Simms agreed that better communication between the courts and the news media is the key to avoiding confrontations such as occurred in the recent Simants case in Nebraska. Fretz referred to that case, which is currently before the U.S. Supreme Court, as "having the potential of being the biggest landmark case of all" in the fair trial-free press issue. The two disagreed about the effect on jurors of pretrial publicity. While Fretz questioned whether a person could enter the jury box and entirely discount information obtained prior to the trial, Simms said he has great faith in the juror's ability to separate himself from prejudice.

Foreman, in a luncheon address, was lavish in his praise of the criminal justice profession. He noted that the profession has gained greatly in prestige in recent years, and exhorted those present to "draw your skirts about you and stay in your civil law practice" if money is the object. "But if you love life and liberty, help us, join us at the criminal bar," he continued.

All sessions of the institute were videotaped, and these tapes will be available on loan to members of the Nebraska bar and bench, at no cost. Persons wishing to borrow these tapes may contact Robert Q. Kelly, Director, Klutznick Law Library, Creighton University, 2500 California Street, Omaha, Nebraska 68178 Phone: (402) 536-2875. ■

CLIC's Top Ten

One of the most popular of CLIC's services has been providing copies of previously-prepared memos to those requesting them for use in another, similar case. Below is a listing of the ten memos which have, to date, received the widest circulation:

No. 003A (J) Is there a constitutional mandate to appoint counsel in indigent misdemeanor cases? Yes.

No. 003B (J) Does Nebraska have a statute or court rule to authorize compensation in indigent misdemeanor cases? There is a statutory procedure available making counties liable to pay for such attorney services.

No. 007 Is a judge required to sign a warrant for an arrest on the basis that the county attorney has filed a formal complaint, or must the judge first determine just cause on the basis of a probable cause affidavit? A probable cause affidavit is required by statute.

No. 010 (D) What constitutes the defense of entrapment and what general problems are encountered in using it? The defense has been severely limited by recent decisions and the election to employ this defense precludes the defendant from alleging many other available defenses.

No. 079A (J) Is Neb. Rev. Stat. §39-669 (1973) unconstitutional on the ground that it fails to prescribe an ascertainable standard of guilt? A definite answer cannot be given, but the case in point suggests that it is unconstitutional.

No. 079B (J) Does the fact that Neb. Rev. Stat. §39-669 no longer carries a possible incarceration punishment somewhat alter the standards of precision with which it must be applied? Arguably yes, but the Nebraska Supreme Court has already answered "no."

No. 288 (P) Does defendant's action of saying "fuck you" to a police officer while being placed under arrest constitute "abuse" of an officer, a violation of §28-729? No. The authority is contra and such a construction might be unconstitutional in view of recent United States Supreme Court decisions.

No. 353A (P) Can auto stop by police officer be justified on grounds for "reasonable suspicion" under Neb. Rev. Stat. §29-829 (Supp. 1974) are based solely on anonymous phone tip? Probably not. Some "indicia of reliability" needed to substantiate an anonymous tip, since reasonable suspicion must be based on objective facts.

No. 353B (P) Would the fact that tipper provided accurate description of suspect's car be sufficient corroboration to justify investigatory stop? No, because no corroborating "suspicious" behavior was observed by officers.

No. 353C (P) If the stop was justified, would zig-zag cigarette papers in plain view constitute probable cause to search the car, including the trunk, without a search warrant? Probably not. Cigarette papers are susceptible to legitimate use and are not unique to the drug world.

No. 353D (P) If the stop cannot be justified, can the plain view doctrine ever come into play? No. *Coolidge v. New Hampshire*, 403 U.S. 443, 91 S.Ct. 2022, 29 L.Ed.2d 564 (1971), mandates two prerequisites to a valid plain view seizure: (1) The officer must have a prior legal justification for being where he was when he perceived the incriminating items, and (2) The viewing must have been inadvertent and not a purposeful search for evidence of crime.

No. 353E (P) Must all evidence flowing from initial illegal stop be subject to suppression? Yes. The exclusionary rule would apply.

No. 401A (P) What authority does the elected County Prosecutor have in determining whether a case will be prosecuted? The prosecutor's decision must be based on the facts and not on the identity of the potential defendant. If the decision is based on the facts, the prosecutor's discretion is very broad.

No. 401B (P) What obligations does the County Attorney have to prosecute violations of the municipal codes of cities within the county if he has also been engaged as City Prosecutor? Neb. Rev. Stat. §16-319 (1943) sets out the duties of a city attorney.

No. 401C (P) In the event that the city or village has employed an attorney other than the County attorney as City Prosecutor, is the City Prosecutor obligated to clear all complaints with the County Attorney before filing in the county court? Probably. According to Neb. Rev. Stat. §29-404 (1972) no complaint can be filed with a magistrate without the County Attorney's approval or the submission of a surety bond to indemnify the person complained against for wrongful or malicious prosecution.

No. 496 (P) Is one urine test a valid indicator of the body fluid alcohol for a driving while intoxicated charge? Probably not, because the process by which alcohol passes to the urine, the dilution which may occur in the bladder, and the length of time the urine has been retained render one test unreliable. The recommended method is for the subject to empty his or her bladder and half an hour later to obtain another specimen.

No. 507 (P) Do the police of a second class city have investigatory and arrest powers outside the city, but within the county which is the locus of the city? The applicable statutes and case law can be read to give the police such powers, however the safer procedure would seem to be to have a deputy sheriff accompany the police when entering the county, except in cases involving hot pursuit.

No. 519 (J) Do city police in Nebraska have arrest powers outside the territorial limits of the city, but within the county which is the locus of the city? The general rule is that police have no arrest powers outside of their jurisdictions without express statutory authority. However, in Nebraska, while there is no express statutory authority granting extra-territorial arrest powers to police officers, an argument can be made that certain statutes can be construed together to give them that power. ■

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STUDENT ASSISTANT'S REPORT

Continued from Page 3

Whether there has been an arrest. Generally, if there has been an arrest, the search is limited to the area within the driver's immediate control and includes a pat-down of the driver and his companions. If no arrest has been made, the search is generally limited to the interior of the vehicle or other area that is reasonable under the circumstances.

Q. 902 (D) What possible defenses might be made if the defendant is charged with violation of Neb. Rev. Stat. § 28-4,125(1)(a) (Supp. 1974) which makes it unlawful to manufacture, distribute, deliver, or dispense a controlled substance, or to possess such substance with the intent to accomplish the aforementioned acts, when defendant has placed bags of marijuana between himself and a narcotics agent while the two were seated in an automobile? One might argue that under this factual situation the statute should be given a limited construction, that defendant had no intent to distribute the controlled substance, that no distribution was made, that defendant did not possess the controlled substance and possibly that defendant was entrapped into committing the alleged acts.

No. 934 (L) Are there any Nebraska statutes establishing minimum or maximum ages for police officers? Not directly. Nebraska statutes pertaining to the Nebraska Law Enforcement Training Center and the Nebraska Civil Service Commission indirectly establish a minimum age and a maximum age for newly hired officers. However, these provisions may be subject to allegations of equal protection violations.



CLIC SPEAKERS AVAILABLE

Have a local Bar or other professional meeting coming up? If so, we'd like to send one of our CLIC students to tell you and your fellow professionals about our services. And to listen to what you have to say -- what you like and don't like about the project; how we can improve or expand our services; and just to maintain an important dialogue with you, our users.

If you're interested, just call our toll-free WATS number, 800-642-8446, and let's talk about it!

CLIC Newsletter is published monthly by the Creighton Legal Information Center, Creighton University School of Law, 2500 California Street, Omaha, Nebraska 68178. Communications concerning CLIC Newsletter should be addressed to Geoffrey W. Peters, Director, at the above address.

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APPENDIX F

Creighton Legal Information Center

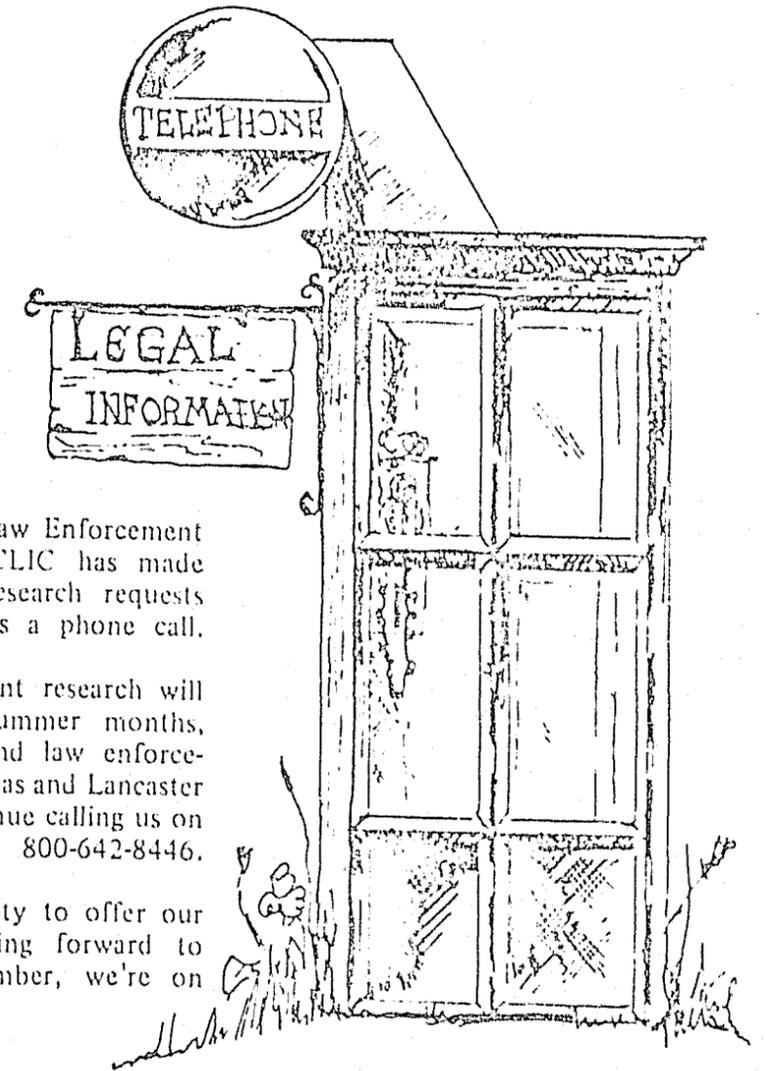
Paid Advertising

The attached advertisements have appeared, throughout both the CLIC I and CLIC II projects, in the following publications:

Nebraska Supreme Court Journal
Creighton University Law Review
University of Nebraska Law Review

C.L.I.C. and L.E.A.A. introduce...

A New Dimension in Legal Research



Thanks to a grant by the Law Enforcement Assistance Administration, CLIC has made over 425 criminal justice research requests from 62 counties as easy as a phone call.

The faculty-supervised, student research will continue throughout the summer months, and all judges, attorneys, and law enforcement officials outside of Douglas and Lancaster Counties are invited to continue calling us on our toll-free WATS line: 800-642-8446.

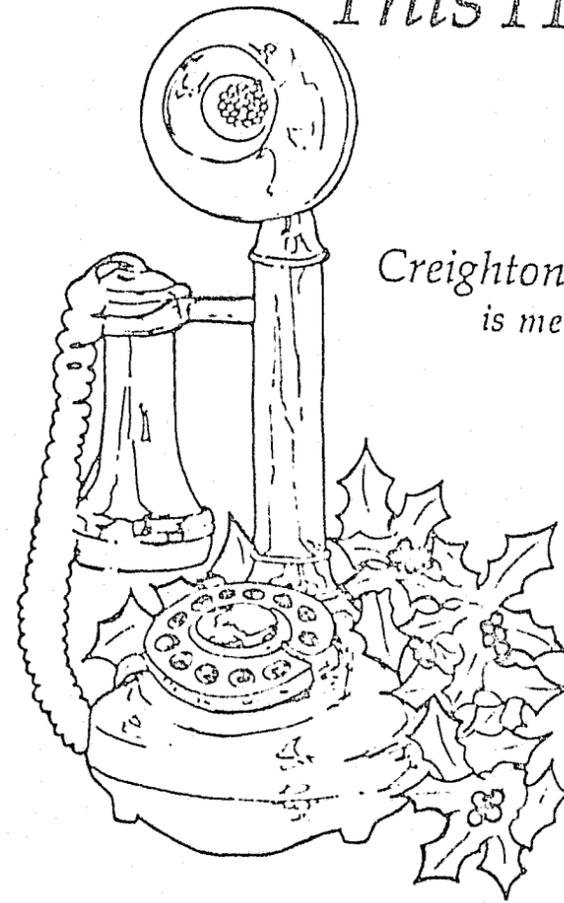
We've enjoyed the opportunity to offer our services, and will be looking forward to hearing from you. Remember, we're on every street corner in town.

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*Bells Are Really Ringing
At the Ahmanson Law Center
This Holiday Season*

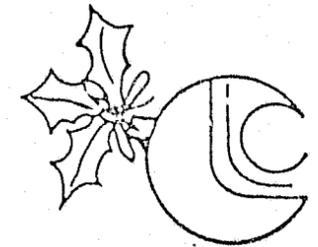


*... And the
Creighton Legal Information Center
is merrily filling requests. We'll be
available to help you when
you ring, every day except
December 25 and January 1.*

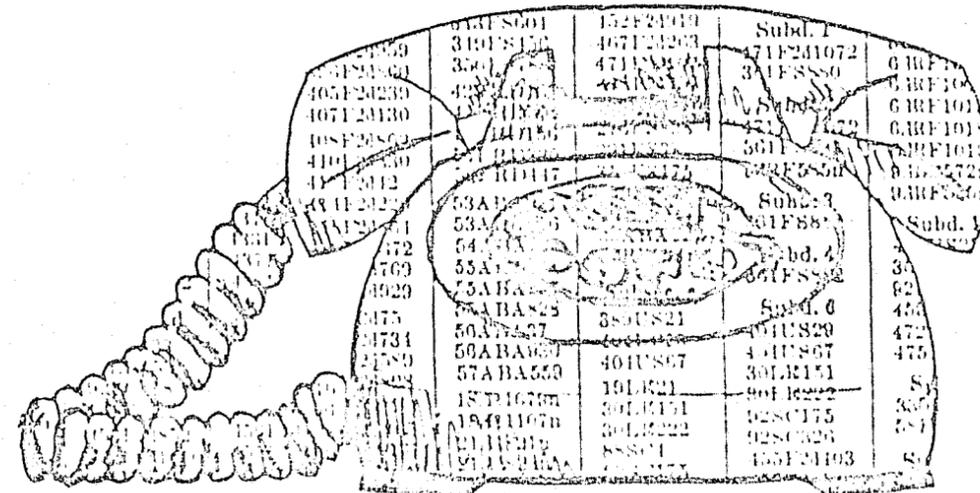
*Our toll free number is
800-642-8446, and you're
invited to call with your
criminal justice request or
just to say 'Happy Holiday.'*

The Creighton Legal Information
Center wants to wish its users,
and all attorneys, judges, and
law enforcement officers
throughout Nebraska, a happy
holiday season.

*Creighton Legal Information Center
Ahmanson Law Center
2131 California St.
Omaha, Nebraska 68178
800-642-8446*



BELLS ARE REALLY RINGING AROUND AHMANSON LAW CENTER



In our first six months of operation,
the **CREIGHTON LEGAL INFORMATION CENTER**
has assisted you with
over 250 criminal justice
research requests.

Through a program financed by the Law Enforcement Assistance Administration, law students provide faculty supervised research upon request, and at no cost to the user. District Judges, County Judges, Associate County Judges, County Attorneys, City Attorneys, Public Defenders, Court Appointed Counsel and Command Police Officers in 54 rural Nebraska counties have used our library research facilities by picking up a phone.

We research criminal justice problems only, for Nebraska attorneys and judges (outside Douglas and Lancaster Counties). Please give us a ring on our toll free WATS line — 800-642-8446 — and let us be your long distance law clerk.



Creighton Legal Information Center
Ahmanson Law Center
2133 California Street
Omaha, Nebraska 68178
800-642-8446

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The Copyright Clearance Center (CCC) is a not-for-profit organization that provides a variety of services to help authors, artists, and other creators protect their rights and ensure that their work is properly compensated.

- Copyright Clearance Center (CCC)

For more information, please contact the Copyright Clearance Center at 222 Rosewood Drive, Danvers, MA 01923, or call 978-750-8400.

Copyright Clearance Center (CCC) is a not-for-profit organization that provides a variety of services to help authors, artists, and other creators protect their rights and ensure that their work is properly compensated.

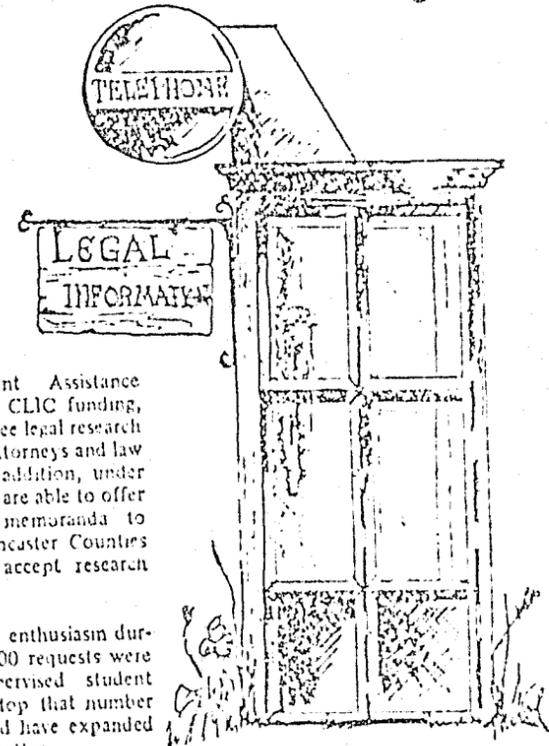
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Copyright Clearance Center (CCC) is a not-for-profit organization that provides a variety of services to help authors, artists, and other creators protect their rights and ensure that their work is properly compensated.

Call 800-645-6400 for more information.

CREIGHTON LEGAL INFORMATION CENTER -

We're still with you



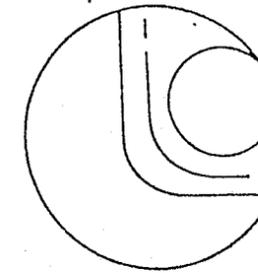
The Law Enforcement Assistance Administration has renewed CLIC funding, enabling us to continue our free legal research services to Nebraska judges, attorneys and law enforcement personnel. In addition, under phase two of the project, we are able to offer copies of existing CLIC memoranda to officials in Douglas and Lancaster Counties (although we still cannot accept research requests from these areas).

CLIC was greeted with enthusiasm during its first year, as over 600 requests were filled by our faculty-supervised student researchers. We'd like to top that number during the coming year, and have expanded the CLIC staff to serve you better.

Why not get your criminal justice information from Nebraska's largest law library - via the telephone! Call our toll-free number, 800-642-8446, and let CLIC go to work for you.

Creighton Legal Information Center
Alumason Law Center
2500 California Street
Omaha, Nebraska 68178

AN LLAA PROJECT



Creighton Legal Information Center

The Creighton Legal Information Center brings the state's most complete criminal justice library to every County in Nebraska.

Through CLIC, every Nebraska

- District Judge
- County Judge
- Associate County Judge
- County Attorney
- City Attorney
- Public Defender
- Command Police Officer

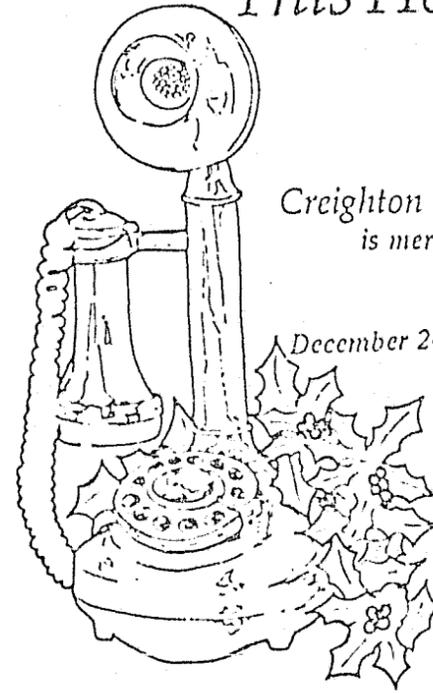
outside of Douglas and Lancaster Counties has free legal research services as close as a phone call. Research is carried out and written or oral memoranda prepared by professionally supervised Creighton law students.

in addition, under phase two of the project, officials in Douglas and Lancaster Counties are eligible to receive free copies of existing CLIC memoranda (although original research requests are still not accepted from these areas).

The Creighton Legal Information Center is a Law Enforcement Assistance Administration project which filled over 600 requests for criminal justice information during its first year of operation. CLIC was recently refunded by L.E.A.A. for a ten-month period, and the staff has been expanded to provide improved service.

Call 800-642-8446 for more information.

*Bells Are Really Ringing
At the Ahmanson Law Center
This Holiday Season*

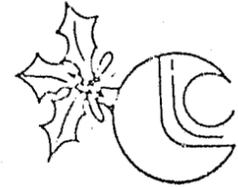


... And the
Creighton Legal Information Center
is merrily filling requests. We'll be
available to help you when
you ring, every day except
December 24-26 & December 31 - January 2.

Our toll free number is
800-642-8446, and you're
invited to call with your
criminal justice request or
just to say 'Happy Holiday.'

The Creighton Legal Information
Center wants to wish its users,
and all attorneys, judges, and
law enforcement officers
throughout Nebraska, a happy
holiday season.

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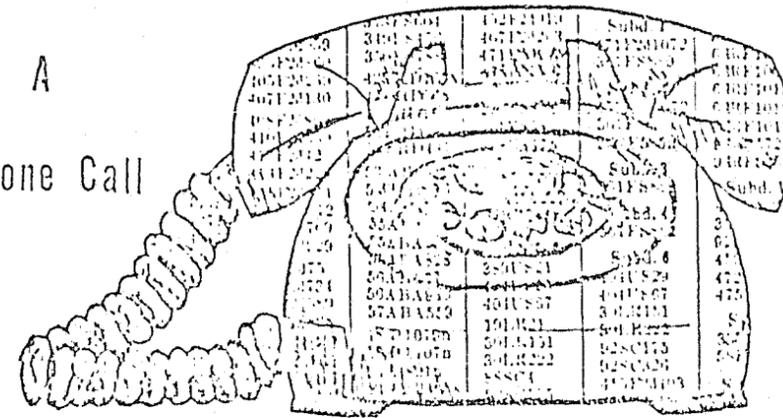


Free Legal Research

Is As Close

As A

Phone Call



for Nebraska criminal justice personnel, through the services of the Creighton Legal Information Center. Now in its second year, the CLIC staff has been increased, and some services are being offered to Douglas and Lancaster County officials who were not eligible during the project's first phase.

Through CLIC, Nebraska Judges, County and City Attorneys, Public Defenders, Court Appointed Counsel and Command Police Officers have access to the facilities of the Ahmanson Law Center. Research is carried out upon request, and written or oral memoranda prepared by professionally supervised Creighton law students.

CALL 800-642-8446 for more information.



Creighton Legal Information Center
Ahmanson Law Center
2500 California Street
Omaha, Nebraska 68178
800-642-8446

An LLSA Project

APPENDIX G

Individuals That Attended Meeting Junu 15, 1976 -
Supreme Court Chambers, Capitol Building, Bismarck, North Dakota

Mr. William Bohn
Court Administrator
Supreme Court Administrator's Office
State Capitol Building
Bismarck, North Dakota 58505

Mr. Armond G. Erickson
President
State Bar Association
216 First National Bank Building
Fargo, North Dakota 58102

Mr. Robert P. Schuller
Executive Director
118 North Third Street
Bismarck, North Dakota 58501

Mr. John Olson
Burleigh County States Attorney
Burleigh County Courthouse
Bismarck, North Dakota 58501

Mr. Cal Rolfson
Deputy Attorney General
Criminal Justice Division
State Capitol Building
Bismarck, North Dakota 58505

Rep. William E. Kretschmar
Box A
Venturia, North Dakota 58489

Mr. Richard L. Schnell
Morton County States Attorney
Morton County Courthouse
Mandan, North Dakota 58554

Dean Robert K. Rushing
North Dakota School of Law
University of North Dakota
Grand Forks, North Dakota 58201

Judge Larry Hatch
Third Judicial District
Courthouse
Linton, North Dakota 58552

Mr. Larry Spears
Assistant Court Administrator
Supreme Court Administrator's Office
Capitol Building
Bismarck, North Dakota 58505

Mr. Oliver N. Thomas
Executive Director
North Dakota Combined Law Enforcement
Council
Box B
Bismarck, North Dakota 58505

END