

36970

1974
REPORT

STATE PUBLIC DEFENDER
STATE OF WISCONSIN

1974

Report of the Office of the
State Public Defender - *RECEIVED, 1974*
State of Wisconsin

Justice, and only justice, you shall pursue...
Deuteronomy 16:20

NCJRS
OCT 15 1976
ACQUISITIONS

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State Public Defender

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We dedicate our 1974 Annual Report to the memory of E. Harold Hallows, Associate Justice, Wisconsin Supreme Court 1958-1967, Chief Justice, Wisconsin Supreme Court 1967-1974. Chief Justice Hallows retired from the bench on August 1, 1974, and passed away on September 11, 1974.

Chief Justice Hallows was a man of great compassion, steadfast dedication to the principle of equal justice under law, and a supporter and friend of the State Public Defender's Office. We mourn his loss.

Photograph furnished by:
South Carolina Department of Corrections
Columbia, South Carolina
Ken Sturgeon, Special Projects Officer

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of the
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Honorable Justices of the Supreme Court
231 East State Capitol
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Gentlemen:

I am pleased to submit for your consideration the Annual Report of the Office of the State Public Defender for the year 1974. In addition to the statistical information provided herein, the following constitutes a narrative report of the activities of this office which I believe were significant during 1974.

WORKLOAD

Probably the most significant factor affecting the Office of the State Public Defender during the last calendar year was the tremendous increase in our workload without a corresponding increase in staff. As is demonstrated by the statistical analysis found in this report, by any calculation, the workload of this office doubled during 1974, and actually tripled, if one considers the number of cases actually handled. Several interesting trends have developed. For the Supreme Court the most important of these considerations is that while the number of Court appointments has increased, the percentage of cases being actually appealed has declined from approximately 40% in 1973 to approximately 30% in 1974. Our projection for the future is that the percentage of actual appeals from total appointments will remain constant at approximately 25%. Inasmuch as during the year 1974 the Office of the State Public Defender assumed the entire responsibility for indigent criminal appeals in the Supreme Court, the reduction of the percentage of appeals will mean an overall decrease in this Court's workload, and in fact,

the criminal calendar is approximately 10% smaller this year than it was last year, despite the increased number of actual appointments.

There are several reasons the number of appeals has declined. The office obtains relief in the trial courts in approximately 15% of the cases, as compared to obtaining relief in the Supreme Court in only 3% of the total cases [10% of the appealed cases]. Secondly, the office is not pursuing appeals which have no merit. We are in a better position to assess merit than practitioners who do not regularly handle criminal appeals in the Wisconsin Supreme Court. Finally, the office is better able to keep tabs on issues pending before the Supreme Court or recently decided, so that duplicitous litigation is avoided.

It should also be noted that despite the decrease in the number and percentage of appeals, the number of no merit reports filed with the Court has not increased. This results from the same factors as enumerated above, plus the credibility and confidence our clients have in our representation. More often than not, when a client is informed of our conclusion that his case has no merit, he will withdraw his request for counsel. This is done voluntarily by the client.

The greatly increased workload has placed severe strains on this office which will have to be relieved during the next biennium. The only way the office has been able to keep its head above water has been to increase the attorneys' work hours (voluntarily) and sacrifice some of the polishing the appellate litigation requires. It is clear to us that a substantial increase in staff will be in order during the next biennium. The only alternatives we see to this will be shifting back to the counties the expenses of handling our type of representation through the appointment of private counsel. As indicated in our statistical analysis, this is much more expensive than if this office handled the case. The counties might also be billed for a portion of our operating expense.

NATURE OF CASES

We began 1974 handling all of the indigent criminal appeals by Supreme Court appointment except those from Milwaukee County, plus all of the probation, parole, and aftercare revocation cases from outside Milwaukee County. On March 1, 1974, the Milwaukee County Board and Board of Judges requested that the

Supreme Court direct the State Public Defender to handle all the Milwaukee post-conviction cases: appellate and revocation. In response to this request the Court determined that the State Public Defender should assume the representation of all indigent appeals in the State, but should terminate all representation in revocation cases. This change in work was effectuated July 1, 1974.

This brought to a head the problem of who was to appoint and compensate counsel in revocation cases. A probationer incarcerated in Milwaukee began an action in the Wisconsin Supreme Court asking that the Court decide who appoints and compensates counsel. The State Public Defender filed an amicus brief indicating that it would be best if this office were to handle such cases until the Legislature mandates otherwise. In State ex rel. Fitas v. Milwaukee County (1974), 65 Wis. 2d 130, 221 N.W. 2d 902, this Court ordered the State Public Defender to "represent all indigent persons upon notification by the Department of Health and Social Services that representation, under existing standards, is appropriate in a particular case." After reviewing the past number of appointments, the State Public Defender requested that the Court appoint two new Assistant State Public Defenders and one investigator to handle this representation. While the Court approved this request, the problem has been that the number of appointments has increased from 50% to 100% since representation by this office has been available, thus compounding the workload problem.

Thus, at the end of 1974, the Office of the State Public Defender was handling all of the indigent criminal appeals in the Supreme Court and all of the indigent revocation cases where counsel is required.

DIRECT CONTACT POST-CONVICTION CASES

The State Public Defender Statute, Sec. 257.23(5)(b), Stats., requires that the State Public Defender represent indigent persons in post-conviction matters, if requested by the inmate himself, and "if the state public defender is first satisfied that there is arguable merit to the proceeding." Compliance with this statutory mandate is extremely difficult.

During the year 1974 the office received 499 requests for this type of assistance. The State Public Defender determined there to be merit in 134 such cases. The determination of whether there is merit, however, is a very time-consuming proposition in many cases.

We have considered at length whether this open-ended statutory mandate is a good thing or whether a statutory change should be sought. It is our considered judgment that this office acts as a safety-valve for reviewing cases to determine where there is merit and whether an injustice has occurred. As demonstrated above, the large majority of such requests are rejected. While the procedure and duties are time-consuming, it is felt that without such authority the courts will be even more backlogged with pro se inmate petitions and more and more court time would be required to wade through the prolixities filed by criminal defendants without counsel. The real problem, of course, is that this statutory duty also increases our overall workload.

REFERRALS FROM TRIAL JUDGES

By order dated November 3, 1973, this Court directed the State Public Defender to accept from courts in counties wherein there are correctional institutions complaints relating to the nature of confinement received by the court from prison inmates. With only one exception, the trial judges have exercised their discretion in sending material to us and no difficulty has been found.

INMATE RIGHTS CONTACTS

The Supreme Court also directed the State Public Defender to receive such complaints directly from inmates. This has caused the same type of problems as direct contacts in post-conviction matters. In fact, since inmates' rights cases are so broadly based and difficult to investigate, this type of direct contact is considerably more difficult to deal with than post-conviction cases. We have been attempting to do our best on these cases. The official office policy has been to utilize the institution complaint system as much as possible.

OFFICE ADMINISTRATION

In March, 1974, we moved to our new offices on the main floor of the Loraine Hotel. This alleviated the very serious problems we had in make-shift offices from September, 1973, until March, 1974. The new office is quite adequate for our present staff.

Subsequent to the Fitas decision, it became apparent that an office in Milwaukee would be required simply to handle the revocation cases. With the assistance of Milwaukee County officials, we were given space in the Milwaukee County Safety Building. The office opened during the first week of 1975.

The assumption by the Supreme Court of the fiscal operations of this office has alleviated the need for our office manager, and thus I have recommended that such a position be replaced by a paralegal person. The increase in our workload has increased the responsibilities of the State Public Defender in the areas of supervision and administration. It is felt that eventually the State Public Defender will have to phase out his personal caseload and devote his full time to office administration and supervision of legal work. It is presently the intent of the State Public Defender to ask the Court to designate two Deputy State Public Defenders (one in Madison, one in Milwaukee) to assist in this substantial administrative burden. Such a request will be made of the Court in June, when salaries are reviewed by the Court.

SIGNIFICANT LITIGATION

Inasmuch as the Office of the State Public Defender appeared as counsel for the criminal defendant in over 75 cases in the Wisconsin Supreme Court this past year, delineating significant cases is rather difficult. It also is made difficult by the fact that in the vast majority of cases, the Office of the State Public Defender did not prevail, and the judgment of conviction was ultimately affirmed by the Supreme Court. The following cases represent the most significant decisions in cases in which the State Public Defender was involved.

Willie Byrd v. State (In Wisconsin Supreme Court, Ruth S. Downs, Assistant State Public Defender). The Byrd decision was probably the single most significant case handled by the Office of the State Public Defender during 1974. The decision of the Wisconsin Supreme Court mandated that in cases in which an individual receives a maximum sentence, he must be given credit for the time he spent in county jail as a pretrial detainee, unable to post bail. The Wisconsin Supreme Court further held that in cases in which less than the maximum sentence was imposed, the trial court must "consider" pretrial detention when imposing sentence. This case materially changes the law in Wisconsin in regards to the necessity of considering pretrial detention at the time of sentencing.

State v. Karl Casberg (In Circuit Court, Milwaukee County, Branch 12, Robert J. Paul, Assistant State Public Defender). In this case a motion for post-conviction relief was granted by Judge John L. Coffey in the Circuit Court of Milwaukee County, based upon our claim that our clients' rights were violated by virtue of the prosecution refusing to follow a plea bargain. This is the first Wisconsin case to our knowledge in which a conviction was vacated for failure to comply with the plea bargain.

State v. Chatman (In Circuit Court, Milwaukee County, Branch 12, Richard M. Sals, Assistant State Public Defender). In this case, the Honorable Patrick Madden, Acting Circuit Judge, vacated a conviction for the sale of heroin, based upon the restrictions placed upon cross-examination by defense counsel of the State's primary witness at trial.

State v. Carl and LaVern Day (In Circuit Court, Marquette County, Howard B. Eisenberg, State Public Defender, and Kenneth P. Casey, Assistant State Public Defender). In these two cases the Office of the State Public Defender represented both defendants on appeal to the Wisconsin Supreme Court. Both judgments of conviction were affirmed. Subsequently, a John Doe hearing was held in Marquette County on an unrelated matter. During the course of that John Doe investigation, information was uncovered which tended to demonstrate that during the trials of Carl and LaVern Day a fingerprint was admitted into evidence which was fraudulently obtained by the Chief Deputy Sheriff of Marquette County. Subsequently, the Attorney General of the State of Wisconsin conducted a John Doe investigation on this issue, but was unable to produce sufficient evidence to warrant the arrest of the Chief Deputy. The Attorney General did feel compelled to turn this information over to the State Public Defender, as counsel for the Day brothers, as exculpatory. On the basis of that evidence, motions for post-conviction relief were filed in these cases. Following a three-day evidentiary hearing, and the submission of certain evidence to the Wisconsin Crime Lab for re-examination, the Chief Deputy confessed that he had indeed fabricated the fingerprint. On the basis of this confession, both convictions were vacated.

Edelman v. State (In Wisconsin Supreme Court, Howard B. Eisenberg, State Public Defender). In this case the Wisconsin Supreme Court reviewed the revisions to the parole eligibility statute enacted by the 1973 session of the Wisconsin Legislature. Contrary to the position taken by the Attorney General, and almost everyone else except the State Public Defender, the Wisconsin Supreme Court determined that the amendments to the statutes did not provide for "instant parole eligibility." The Court held that a person sentenced to an indeterminate term in the

state prisons was eligible for parole after one year incarceration. In a related case, State ex rel. Mueller v. Powers (In Wisconsin Supreme Court, Howard B. Eisenberg, State Public Defender), the Wisconsin Supreme Court determined that the changes in parole eligibility which increased the term a person convicted of second-degree murder must serve before being eligible for parole constituted an ex post facto law, contrary to the state and federal constitutions. The Court held that such persons were entitled to the earlier parole eligibility under the law effective at the time they committed the act.

State ex rel. Hugh Edward Flowers v. Gray, Warden (In Circuit Court, Dodge County, Ronald L. Brandt, Assistant State Public Defender). In this case, on habeas corpus, the Circuit Court of Dodge County ruled that an individual who is extradited on a probation or parole revocation is entitled to have the time he spent fighting extradition credited to his ultimate sentence.

State v. Goulette (In Wisconsin Supreme Court, Ronald L. Brandt, Assistant State Public Defender). In another very significant decision the Wisconsin Supreme Court held that there is judicial review of parole deferments. The Court did not reach the other issues which were raised in this case, and on which the State Public Defender's Office had prevailed in the court below, relating to the specific procedures which must be implemented by the Parole Board. This decision marks the first determination by the Wisconsin Supreme Court that parole decisions are judicially reviewable.

State ex rel. Haskins v. County Court (In Wisconsin Supreme Court, Howard B. Eisenberg, State Public Defender). This was a declaratory judgment action brought against virtually every court in the State on behalf of a group of persons who were adjudged incompetent to stand trial and who had been committed in excess of one year. The action was designed to allow the Wisconsin Supreme Court to clarify the procedures which must be followed subsequent to the decisions of the United States Supreme Court in Jackson v. Indiana and State ex rel. Matalik v. Schubert. The Court mandated the procedure which should be followed. Subsequently, the State Public Defender handled numerous cases in Milwaukee, Dane, Racine, Rock, Brown, Kenosha, and Lafayette Counties to implement the Haskins decision. The results of this litigation was to make certain that any person committed as incompetent to stand trial has his rights protected. A number of persons were released outright, one was found competent to stand trial, and others were civilly committed.

State ex rel. Kovach v. Schubert (In Wisconsin Supreme Court, Howard B. Eisenberg, State Public Defender). In this case the Wisconsin Supreme Court declared unconstitutional the automatic commitment procedures of a person found not guilty by reason of mental disease and defect without a determination that he is insane at the time of commitment. The Wisconsin Supreme Court thus added a third step in the already bifurcated procedure for determining a person not guilty by reason of mental disease or defect. The Supreme Court further upheld the constitutionality of the statutory rehearing procedures under the statutes. The Attorney General of the State of Wisconsin petitioned the United States Supreme Court for a writ of certiorari, and the State Public Defender appealed on behalf of Mr. Kovach. In January, 1975, the United States Supreme Court denied the petition for writ of certiorari and dismissed the appeal for lack of a substantial federal question.

Prue v. State (In Wisconsin Supreme Court, Howard B. Eisenberg, State Public Defender). In this case the Wisconsin Supreme Court determined that a person who was committed to a county jail as a condition of probation was not "sentenced" to the jail for the purposes of good time. The result of this decision was also to make such persons ineligible to be convicted of escape under the statutes. The State Public Defender's Office had litigated a number of cases raising the question of whether a person is in the county jail as a condition of probation can be convicted of jail escape, and has currently pending on the Court's calendar a state appeal from one such case.

Putnam v. McCauley (In Circuit Court, Dane County, Howard B. Eisenberg, State Public Defender). In this case the Circuit Court determined that a person who has his parole revoked after reaching the mandatory release date must be given a due process determination of how much good time he forfeits. The decision was rendered in this declaratory judgment action brought by the State Public Defender on behalf of an inmate who had reached his mandatory release date prior to the revocation, but was not afforded a good due process determination of how much good time should be forfeited. The State has appealed this decision to the Wisconsin Supreme Court.

State ex rel. R.R. v. Schmidt (In Wisconsin Supreme Court, Kenneth P. Casey, Assistant State Public Defender). In this case the Supreme Court held that the Administrative Procedure Act codified under Chapter 227 of the Statutes does not apply to probation and parole revocation cases. The Supreme Court further held that a juvenile was entitled as a matter of constitutional right to a copy of the hearing examiner's recommendation in his aftercare revocation proceedings.

Scales v. State (In Wisconsin Supreme Court, Richard M. Sals, Assistant State Public Defender). In this case the Wisconsin Supreme Court held that a person who refuses to admit his culpability to an offense cannot be sentenced to a more severe term because of his refusal to admit his culpability. This ended the procedure followed in many courts of attempting to get the defendant to admit his culpability prior to sentencing when he has pleaded not guilty. The Supreme Court further held that under the facts of this case a person who was in the hospital unable to move was "in custody" for the purposes of Miranda. The Court held that the failure to exclude statements given in the hospital was harmless error.

Scott v. State (In Wisconsin Supreme Court, Ronald L. Brandt, Assistant State Public Defender). In this case the Supreme Court said that a judge cannot bring a defendant back for resentencing the day after he was originally sentenced and increase the sentence, because he had reflected upon the sentence originally imposed.

State v. Winner (In Wisconsin Supreme Court, Howard B. Eisenberg, State Public Defender). In this case, decided without opinion, the Wisconsin Supreme Court dismissed a State appeal brought from an order entering a judgment of acquittal, subsequent to a jury conviction. This case raises significant statutory and constitutional questions, but was disposed of by the Supreme Court without decision. Subsequently, the Court decided the same issue in the case of State v. Detco, Inc.

TRAINING AND EDUCATION

The training of staff members continues to be a major concern of the State Public Defender. Due to the relatively small size of the office and the unique work being done, it is difficult to conduct in-house or even in-state training. The Wisconsin State Public Defender, along with the appellate defenders of Illinois and Michigan, was instrumental in the creation of the appellate defenders' conference of the defenders' committee of the National Legal Aid and Defenders Association. The appellate defenders presented a half-day educational program during the N.L.A.D.A.'s national conference in New Orleans in November. State Public Defender, Howard B. Eisenberg, was a moderator of the program and also presented a paper to the forum. The program was very well received.

On the local level, the State Public Defender was the primary founder of the Wisconsin Defender Association; an organization consisting of all defender offices in the State. The Wisconsin

Defender Association and the State Public Defender were instrumental in the establishment of an in-state criminal defense lawyer program administered by the University of Wisconsin Law Extension. This project will provide local training for both public defenders and private practitioners. The program is administered by a full time attorney and is guided by a steering committee representing the Board of Criminal Court Judges (Hon. Edwin C. Dahlberg, Beloit), the Criminal Law Section of the State Bar (Ted Hodan, Milwaukee), and the Wisconsin Defender Association (Howard B. Eisenberg, State Public Defender, Madison). The first program will be presented in the late spring, 1975.

Programs attended:

- JANUARY, 1974 -- Practicing Law Institute
Legal Rights of Mentally Handicapped
Pittsburgh, Pennsylvania (Howard B. Eisenberg and
Garrett N. Kavanagh)
- JUNE, 1974 -- Short Course for Defense Attorneys (One week)
Northwestern University Law School
Chicago, Illinois (Richard M. Sals and Alvin E. Whitaker)
- JUNE-JULY, 1974 -- Summer Session, National College of Criminal
Defense Lawyers and Public Defenders (Three weeks)
University of Houston (Ruth S. Downs and Garrett N. Kavanagh)
- AUGUST, 1974 -- Defense of Criminal Cases in Wisconsin - CLEW
Madison (Robert J. Paul, Kenneth P. Casey, Ronald L. Brandt,
Garrett N. Kavanagh, and Richard M. Sals)
- NOVEMBER, 1974 -- National Legal Aid and Defender Association,
Annual Conference
New Orleans (Howard B. Eisenberg and Ronald L. Brandt)

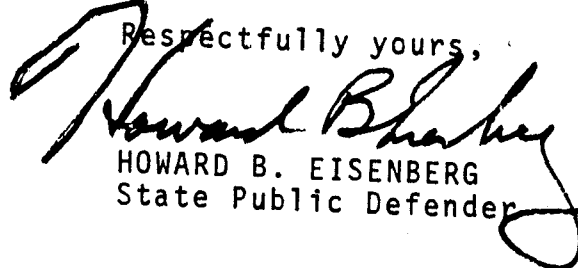
In addition, the State Public Defender's Office has provided faculty members and speakers to several groups. Twice members of our staff (Kenneth P. Casey and Robert J. Paul) spoke to probation officers at the Division of Corrections Academy in Oshkosh. The State Public Defender spoke before several groups of librarians interested in library services to prisons and jails. A number of staff members have spoken to various classes at the University of Wisconsin/Madison.

Finally, during the year 1974 the State Public Defender answered more than 700 inquiries from private counsel regarding questions of practice, procedures, and strategy.

CONCLUSION

By any manner of consideration, the year 1974 was a successful one for the Office of the State Public Defender if, for no other reason, that we were able to stay fairly current despite a three-fold increase in work. It is apparent, however, that staff additions will be needed if the present workload remains constant or increases.

Respectfully yours,


HOWARD B. EISENBERG
State Public Defender

HBE:sab

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TABLE 1

CASES OPENED DURING 1974

SOURCE

SUPREME COURT APPOINTMENTS	349
REVOCATIONS REFERRED FROM DEPT. OF H&SS	156
REFERRALS FROM TRIAL JUDGES	50
REFERRALS FROM SUPREME COURT	17
DIRECT CONTACTS FROM INMATE PURSUANT TO SEC. 257.23(5)(b), STATS.	<u>134</u>
	697

TABLE 2
CASES OPENED DURING 1974
BY COUNTY

ADAMS	3
BARRON	2
BROWN	22
BURNETT	4
COLUMBIA	2
DANE	54
DODGE	29
DOOR	3
DOUGLAS	9
DUNN	2
EAU CLAIRE	5
FOND DU LAC	4
GRANT	5
GREEN LAKE	2
IOWA	1
JACKSON	1
JEFFERSON	3
JUNEAU	2
KENOSHA	19
LA CROSSE	13
LAFAYETTE	1
LANGLADE	1
LINCOLN	3

MANITOWOC	1
MARATHON	7
MARINETTE	5
MARQUETTE	1
MILWAUKEE	289
OCONTO	3
ONEIDA	1
OUTAGAMIE	7
OZAUKEE	4
PEPIN	1
PIERCE	1
POLK	1
PORTAGE	1
PRICE	2
RACINE	22
RICHLAND	1
ROCK	32
RUSK	1
ST. CROIX	4
SAUK	3
SAWYER	1
SHAWANO - MENOMINEE	6
SHEBOYGAN	7
TAYLOR	1
VERNON	1

VILAS	1
WALWORTH	3
WASHBURN	1
WASHINGTON	4
WAUKESHA	28
WAUPACA	7
WINNEBAGO	9
WOOD	3
COUNTY DESIGNATION NOT APPROPRIATE	<u>49</u>
	697

TABLE 3
 CASES OPENED DURING 1974
 BY STATUTE INVOLVED

STATUTES	DESCRIPTION	CASES
52.05	ABANDONMENT	2
161.41	SALE OF CONTROLLED SUBSTANCE	35
256.30	PRACTICING LAW WITHOUT A LICENSE	1
343.44	DRIVING AFTER LICENSE REVOKED OR SUSPENDED	1
346.63	OPERATING UNDER INFLUENCE OF INTOXICANT	1
346.67	DUTY UPON STRIKING PERSON OR ATTENDED OR OCCUPIED VEHICLE	1
440.41	UNAUTHORIZED USE OF NAMES WHEN SOLICITING OR COLLECTING CON- TRIBUTIONS	1
551.41	FRAUDULENT SALE OF SECURITIES	1
940.01	FIRST-DEGREE MURDER	32
940.02	SECOND-DEGREE MURDER	15
940.05	MANSLAUGHTER	5
940.06	HOMICIDE BY RECKLESS CONDUCT	2
940.08	HOMICIDE BY NEGLIGENT USE OF VEHICLE OR WEAPON	1
940.20	BATTERY	1
940.205	BATTERY TO A POLICE OFFICER	6
940.22	AGGRAVATED BATTERY	2
940.23	INJURY BY CONDUCT REGARDLESS OF LIFE	15

STATUTES	DESCRIPTION	CASES
940.30	FALSE IMPRISONMENT	1
940.31	KIDNAPPING	3
940.32	ABDUCTION	1
941.20	RECKLESS USE OF WEAPONS	1
941.23	CARRYING CONCEALED WEAPON	5
941.30	ENDANGERING SAFETY BY CONDUCT REGARDLESS OF LIFE	11
943.01	CRIMINAL DAMAGE TO PROPERTY	2
943.02	ARSON OF BUILDINGS; DAMAGE OF PROPERTY BY EXPLOSIVES	9
943.03	ARSON OF PROPERTY OTHER THAN BUILDING	3
943.10	BURGLARY	88
943.13	CRIMINAL TRESPASS TO LAND	1
943.20	THEFT	27
943.23	OPERATING VEHICLE WITHOUT OWNER'S CONSENT	22
943.24	ISSUANCE OF WORTHLESS CHECKS	6
943.30	THREATS TO INJURE OR ACCUSE OF CRIME	3
943.31	THREATS TO COMMUNICATE DEROGATORY INFORMATION	1
943.32	ROBBERY	76
943.34	RECEIVING STOLEN PROPERTY	8
943.38	FORGERY	30
944.01	RAPE	23
944.10	SEXUAL INTERCOURSE WITH A CHILD	8

STATUTES	DESCRIPTION	CASES
944.11	INDECENT BEHAVIOR WITH A CHILD	15
944.16	ADULTERY	1
944.17	SEXUAL PERVERSION	6
944.20	LEWD AND LASCIVIOUS BEHAVIOR	1
944.22	POSSESSION OF LEWD, OBSCENE OR INDECENT MATTER	1
946.31	PERJURY	1
946.41	RESISTING OR OBSTRUCTING OFFICER	4
946.42	ESCAPE	15
946.43	ASSAULTS BY PRISONERS	2
946.49	BAIL JUMPING	5
947.01	DISORDERLY CONDUCT	4
947.10	CRUELTY TO ANIMALS	1
968.31	INTERCEPTION AND DISCLOSURE OF WIRE OR ORAL COMMUNICATIONS PROHIBITED	2
971.14	EXAMINATION OF DEFENDANT WITH RESPECT TO COMPETENCY TO PROCEED	1
971.17	LEGAL EFFECT OF FINDING OF NOT GUILTY BECAUSE OF MENTAL DISEASE OR DEFECT	1
	AFTERCARE REVOCATION	24
	DIRECT CONTACT	50
	EXTRAORDINARY REMEDY	13
	HABEAS CORPUS	4
	PAROLE REVOCATION	34
	PROBATION REVOCATION	98
	REFERRAL	50

TABLE 4
RESULTS OF CASES CLOSED IN 1974

	EISENBERG	DOWNS	KAVANAGH	SALS	WHITAKER
COMBINED NUMBER OF CLOSED CASES	126	46	48	47	56
AVERAGE NUMBER OF WEEKS CASES OPEN	30	22	28	29	16

	CASEY	PAUL	BRANDT	KEALY	MILLER	TOTAL
COMBINED NUMBER OF CLOSED CASES	19	40	56	4	1	443
AVERAGE NUMBER OF WEEKS CASES OPEN	30	26	31	2	3	27

CASES CLOSED

<u>YEAR</u>	<u>CASES</u>
1966	20
1967	19
1968	26
1969	34
1970	39
1971	81*

CASES CLOSED

<u>YEAR</u>	<u>CASES</u>
1972	46
1973	147
1974	443

* 47 probation revocation cases, all disposed of by the court decision in State ex rel Johnson v. Cady.

TABLE 5

CLOSED CASES APPOINTED BY SUPREME COURT
FOR 1974

	EISENBERG	DOWNS	KAVANAGH	SALS	WHITAKER	CASEY
CASES APPOINTED BY SUPREME COURT	62	29	28	26	30	4
RELIEF OBTAINED IN TRIAL COURT	15	4	2	6	1	1
RELIEF OBTAINED IN SUPREME COURT	4	0	0	2	0	0
CONVICTION UPHELD BY SUPREME COURT	30	2	5	9	2	0
ACCEPTED NO MERIT	6	5	4	7	5	1
CLIENT WITHDREW	6	14	16	2	22	2
CLIENT WITHDREW AFTER DENIAL IN TRIAL COURT	1	4	1	0	0	0

	PAUL	BRANDT	KEALY	MILLER	TOTAL
CASES APPOINTED BY SUPREME COURT	20	26	0	0	225
RELIEF OBTAINED IN TRIAL COURT	2	2	0	0	33
RELIEF OBTAINED IN SUPREME COURT	0	1	0	0	7
CONVICTION UPHELD BY SUPREME COURT	4	13	0	0	65
ACCEPTED NO MERIT	3	3	0	0	34
CLIENT WITHDREW	10	7	0	0	79
CLIENT WITHDREW AFTER DENIAL IN TRIAL COURT	1	7	0	0	7

TABLE 6
CASES DECIDED BY SUPREME COURT
FOR 1974

	CASES	AVERAGE WEEKS OPENED
EISENBERG	37	57
DOWNS	2	45
BRANDT	15	62
WHITAKER	2	25
KAVANAGH	5	58
SALS	11	50
PAUL	4	31
TOTAL	76	AVERAGE 54

TABLE 7
 TYPES OF CLOSED REVOCATION CASES
 FOR 1974

	EISENBERG	DOWNNS	KAVANAGH	SALS	WHITAKER	CASEY
AFTERCARE REVOCATION	4	3	2	5	2	1
PROBATION REVOCATION	5	9	8	6	13	8
PAROLE REVOCATION	2	1	3	2	2	3
PROBATION & PAROLE REVOCATION	0	0	1	0	0	0
	PAUL	BRANDT	KEELY	MILLER		TOTAL
AFTERCARE REVOCATION	2	1	2	0		22
PROBATION REVOCATION	13	6	2	1		71
PAROLE REVOCATION	2	2	0	0		17
PROBATION & PAROLE REVOCATION	0	0	0	0		1

TABLE 8

STATUS OF CLOSED CASES APPOINTED
BY HEALTH AND SOCIAL SERVICES

FOR 1974

	EISENBERG	DOWNES	KAVANAGH	SALS	WHITAKER	CASEY
CASES APPOINTED BY HEALTH AND SOCIAL SERVICES	11	13	14	13	17	12
REVOCATION NO JUDICIAL REVIEW	3	6	6	7	6	6
NO REVOCATION ADMINISTRATIVE LEVEL	6	3	4	1	1	3
REVOCATION OVERTURNED BY REVIEW COURT	0	0	0	0	0	0
REVOCATION UPHELD BY REVIEW COURT	0	0	0	0	0	0
CLIENT WITHDREW	0	1	2	2	2	0
CLIENT WAIVED FINAL HEARING	2	3	2	3	8	3
APPEARED AT SENTENCING	2	3	1	1	3	0

	PAUL	BRANDT	KEALY	MILLER	TOTAL
CASES APPOINTED BY HEALTH AND SOCIAL SERVICES	17	9	4	1	111
REVOCAION NO JUDICIAL REVIEW	9	4	0	0	47
NO REVOCAION ADMINISTRATIVE LEVEL	2	3	1	0	24
REVOCAION OVERTURNED BY REVIEW COURT	0	1	0	0	1
REVOCAION UPHELD BY REVIEW COURT	3	1	0	0	4
CLIENT WITHDREW	0	0	2	1	10
CLIENT WAIVED FINAL HEARING	3	0	1	0	25
APPEARED AT SENTENCING	6	0	0	0	16

TABLE 9

CLOSED CASES RECEIVED AS REFERRALS BY TRIAL JUDGES & DIRECT CONTACTS RECEIVED FROM INMATES

FOR 1974

	EISENBERG	DOWNES	KAVANAGH	SALS	WHITAKER	CASEY
REFERRAL	11	3	2	3	4	2
DIRECT CONTACT	42	1	4	5	5	1
RESOLVED WITHOUT LITIGATION	30	4	3	7	8	2
CONVICTION UPHELD IN TRIAL COURT	1	0	0	0	0	0
CLIENT WITHDREW	2	0	2	0	0	1
RELIEF OBTAINED IN TRIAL COURT	17	0	1	1	1	0
RELIEF OBTAINED IN SUPREME COURT	3	0	0	0	0	0

	PAUL	BRANDT	KEALY	MILLER	TOTAL
REFERRAL	1	9	0	0	35
DIRECT CONTACT	2	12	0	0	72
RESOLVED WITHOUT LITIGATION	3	15	0	0	64
CONVICTION UPHELD IN TRIAL COURT	0	0	0	0	1
CLIENT WITHDREW	0	0	0	0	5
RELIEF OBTAINED IN TRIAL COURT	0	5	0	0	25
RELIEF OBTAINED IN SUPREME COURT	0	1	0	0	4

TABLE 10

CASE LOAD AND COST ANALYSIS

OPEN CASES ON JANUARY 1, 1974	248
NEW CASES DURING 1974	697
TOTAL CASES OPEN DURING 1974	945
CASES CLOSED DURING 1974	443
CASES REMAINING OPEN ON DECEMBER 31, 1974	511

EXPENDITURES OF THE OFFICE OF THE STATE PUBLIC DEFENDER FOR YEAR 1974

STATE GENERAL REVENUE	\$198,995
FEDERAL FUNDS -- Law Enforcement Assistance Act	113,418
TOTAL FUNDS EXPENDED	<u>312,413</u>
Less brief printing expense for attorneys outside office	<u>\$ 11,613</u>
TOTAL FUNDS EXPENDED FOR OPERATION OF STATE PUBLIC DEFENDER	\$300,800
COST PER CASE FOR ALL CASES OPEN DURING 1974	\$ 318
COST PER CASE COMPUTED ON THE BASIS OF ONLY CASES CLOSED IN 1974	\$ 679

TABLE 11

COST COMPARISON BETWEEN
PUBLIC DEFENDER AND PRIVATE COUNSEL

Cost per case, Office of the State Public Defender - 1974	\$ 318
NOTE: Cost per case for State Public Defender's Office <u>does</u> include brief printing costs, while private lawyers' fees do not include such costs. Public Defender's cost per case adjusted to omit cost of brief printing is \$297.	
Cost per case, private lawyers appointed by the Supreme Court, actual amount paid 1973-1974*	\$ 853
Cost per case, private lawyers appointed by the Supreme Court, if paid at rate of compensation of \$20/hr (old rate), hours computed by Supreme Court	\$1,140
Cost per case, private lawyers appointed by Supreme Court, if paid at rate of compensation of \$20/hr (old rate), hours as actually billed	\$1,330
Cost per case, private lawyers appointed by the Supreme Court, if paid at present rate** of compensation of \$30/hr, hours computed by Supreme Court	\$1,711
Cost per case, private lawyers appointed by the Supreme Court, if paid at present rate** of compensation of \$30/hr, hours as actually billed	\$1,995

*Statistics for private lawyers appointed by Supreme Court calculated from statistics prepared by Executive Officer of Supreme Court for period of September, 1973, through April, 1974, last figures available.

**As provided in State v. Attwell, St. No. 108, decided February 4, 1975.

TABLE 12
MISCELLANEOUS DATA
FOR 1974

Letters to Prison Inmates who are Neither Present nor Former
Clients.

Number of Letters Received

365

Number of Briefs Filed in Supreme Court for 1974.

Number of Briefs Filed

118

TABLE 13

REPORT OF DECISIONS IN WHICH DEFENDANT WAS REPRESENTED BY
THE OFFICE OF THE STATE PUBLIC DEFENDER - BY ATTORNEY

61 Wisconsin 2nd

State v. Mabra, p. 613, 213 N.W. 2d 545 (AEW)

62 Wisconsin 2nd

State v. Bell, p. 534, 215 N.W. 2d 535 (GNK)

Clark v. State, p. 194, 214 N.W. 2d 450 (HBE)

*Edelman v. State, p. 613, 215 N.W. 2d 386 (HBE)

Hodge v. State, p. 799 (HBE)

Hussong v. State, p. 577, 215 N.W. 2d 390 (HBE)

Jurczyk v. State, p. 796 (HBE)

Kasieta v. State, p. 564, 215 N.W. 2d 412 (HBE)

Peters v. State, p. 797 (HBE)

Simpson v. State, p. 605, 215 N.W. 2d 435 (HBE)

*State ex rel. Haskins v. County Courts of Dodge & Milwaukee Counties,
p. 250, 214 N.W. 2d 575 (HBE)

State ex rel. Hussong v. Froelich, p. 577, 215 N.W. 2d 390 (HBE)

63 Wisconsin 2nd

Berg v. State, p. 228, 216 N.W. 2d 521 (HBE)

Courtney v. State, p. 792 (RLB)

Ducksworth v. State, p. 784 (GNK)

63 Wisconsin 2nd continued

French v. State, p. 790 (GNK)
Gaddis v. State, p. 120, 216 N.W. 2d 527 (HBE)
Holmes v. State, p. 389, 217 N.W. 2d 657 (RLB)
Junior v. State, p. 786 (HBE)
Lester v. State, p. 787 (RMS)
Levesque v. State, p. 412, 217 N.W. 2d 317 (RMS)
Marks v. State, p. 769, 218 N.W. 2d 328 (RLB)
Meunier v. State, p. 787 (RSD)
Prue v. State, p. 109, 216 N.W. 2d 43 (HBE)
Rinehart v. State, p. 760, 218 N.W. 2d 323 (RMS)
Sass v. State, p. 92, 216 N.W. 2d 22 (HBE)
Sturdevant v. State, p. 791 (RMS)
Walberg v. State, p. 791 (HBE)
* State ex rel R.R. v. Schmidt, p. 82, 216 N.W. 2d 18 (KPC)

64 Wisconsin 2nd

Clifton v. State, p.s (HBE)
Graf v. State, p. p (RMS)
Grose v. State, p. k (RLB)
Hayzes v. State, p. 189, 218 N.W. 2d 717 (RLB)
Horneck v. State, p. 1, 218 N.W. 2d 370 (HBE)
Krebs, v. State, p. 407, 219 N.W. 2d 355 (HBE)
Krohn v. State, p. n (RLB)
State v. Madden, p. 639, 219 N.W. 2d 241 (HBE)
Miller v. State, p. n (AEW)

64 Wisconsin 2nd continued

Montes v. State, p. r (HBE)
Mrotek v. State, p. m (HBE)
Parker v. State, p. o (RJP)
Pautz v. State, p. 469, 219 N.W. 2d 327 (GNK)
Phillips v. State, p. 24, 218 N.W. 2d 354 (HBE)
Postel v. State, p. r (RJP)
Randles v. State, p. p (RJP)
Rohl v. State, p. 443, 219 N.W. 2d 385 (RLB)
*Scales v. State, p. 485, 219 N.W. 2d 286 (RMS)
Schramm v. State, p. e (GNK)
Scott v. State, p. 54, 218 N.W. 2d 350 (RLB)
State v. Shears, p. 639, 219 N.W. 2d 241 (RLB)
Stroinski v. State, p. 0 (AEW)
State v. Trimbell, p. 379, 219 N.W. 2d 369 (RMS)
State ex rel. Hanson v. Department of Health & Social Services,
p. 367, 219 N.W. 2d, 267 (HBE)
State ex rel. Hawkins v. Gagnon, p. 394, 219 N.W. 2d 252 (KPC)
*State ex rel. Kovach v. Schubert, p. 612, 219 N.W. 2d 341 (HBE)
*State ex rel. Mueller v. Powers, p. 643, 221 N.W. 2d 692 (HBE)

65 Wisconsin 2nd

Bailey v. State, p. 331, 222 N.W. 2d 871 (HBE)
Burrell v. State, p. h (RSD)
Byrd v. State, p. 415, 222 N.W. 2d 696 (RSD)
De Grave v. State, p. r (RMS)
*State v. Goulette, p. 207, 222 N.W. 2d 622 (RLB)

65 Wisconsin 2nd continued

Johnson v. State, p. g (HBE)

Jones v. State, p. q (RMS)

Loop v. State, p. 499, 222 N.W. 2d 694 (RMS)

Nichols v. State, p. r (RSD)

Rainey v. State, p. 374, 222 N.W. 2d 620 (HBE)

Ruff v. State, p. 713 (HBE)

Sheehan v. State, p. 757 (RJP)

Smith v. State, p. 51, 221 N.W. 2d 687 (GNK)

Spanbauer v. State, p. i (HBE)

State v. Wendland, p. e (RMS)

Wilkes v. State, p. f (RLB)

Ziegler v. State, p. 703 (HBE)

*State ex rel. Fitas v. Milwaukee County, p. 130, 221 N.W. 2d 902 (HBE)

Cases Not Yet Reported

Craker v. State (RLB)

Werner v. State (RLB)

State v. Van Duyse (HBE)

Cases Pending on December 31, 1974

Hadley v. State (RLB)

*Relief obtained for client.

END

7 cases/10/74