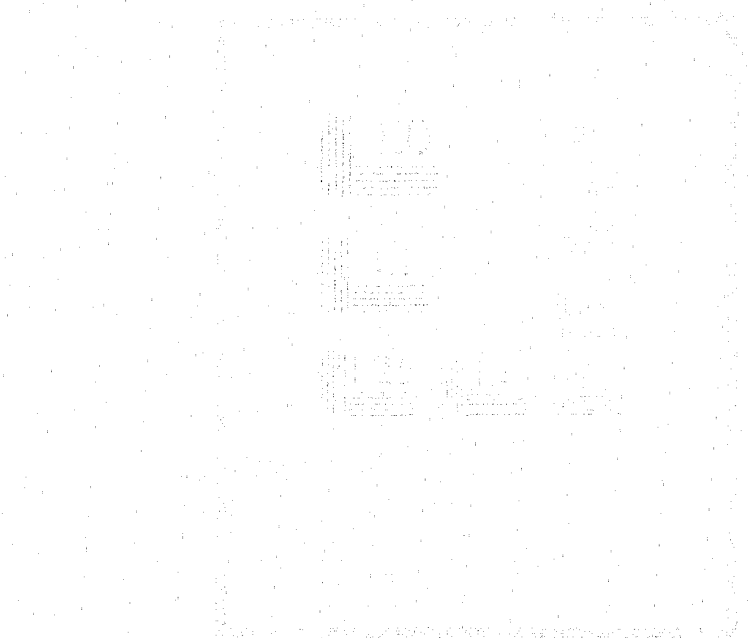


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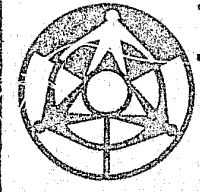


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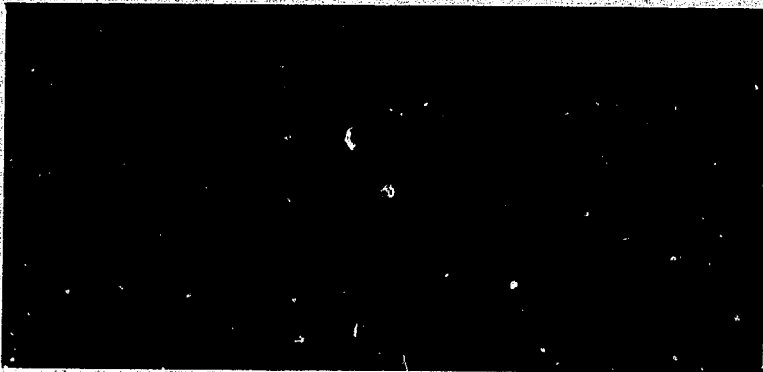
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SACRAMENTO



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



IDENTIFICATION OF PLANNING PRIORITIES
REGARDING DEVELOPMENT OF A
STATEWIDE COURT ADMINISTRATION CAPABILITY
IN MONTANA

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Nicholas N. Kittrie, Institute Director
Joseph A. Trotter, Jr., Associate Director
David J. Saari, Associate Director
B. J. Tennery, Associate Director

David E. Aaronson & C. Thomas Dienes, Co-principal Investigators
The Impact of Decriminalization on the Intake Process for Public Inebriates

H. H. A. Cooper, Staff Director
National Advisory Committee Task Force on Disorders and Terrorism

Jerry V. Wilson, Project Director
War on Crime in the District of Columbia, 1955-1975

Criminal Courts Technical Assistance Project

Joseph A. Trotter, Jr., Project Director
Caroline S. Cooper, Deputy Director
Bert H. Hoff, Technical Assistance Specialist
Johanna S. Kramer, Evaluation Specialist
Linda C. Sweeney, Research Analyst
Mark D. Cherry, Administrative Assistant

Project Advisory Board

Nicholas N. Kittrie, Institute for Advanced Studies in Justice
David J. Saari, Center for the Administration of Justice
College of Public Affairs

THE AMERICAN UNIVERSITY

Robert E. Cleary, Provost and Acting President
Gordon A. Christenson, Dean, Law School

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ACQUISITIONS

Consultant:

Thomas Napton

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
The American University Law Institute
4900 Massachusetts Avenue, N.W.
Washington, D.C. 20016
(202) 686-3803

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I. INTRODUCTION

In March 1976, the Administrator of the Montana Board of Crime Control (State Planning Agency) requested technical assistance from the Law Enforcement Assistance Administration's (LEAA) Criminal Courts Technical Assistance Project for the purpose of developing a systematic and long-term approach to statewide judicial administration activities. The recent appointments of a Courts Coordinator, Raymond Stewart, and State Planning Agency (SPA) Courts Specialist, Virginia Griffing, had made particularly apparent the state's concerns for development in this area and the potential capability for significant planning to take place.

The original request called for general advisory assistance over a five-month period with specific attention to the following areas:

- (1) coordination of judicial legislative proposals currently being prepared by various executive agencies, the courts administrator, a judges' organization and the Legislative Council;
- (2) planning and development of an application for LEAA discretionary funds to establish a courts planning unit;
- (3) initial planning for development of a judicial information system responsive to the data requirements of the SPA, Courts Coordinator and Legislative Council;
- (4) contingency planning for possible lower court reorganization;
- (5) initial planning for in-state and out-of-state judicial training programs; and
- (6) development of a planning proposal for legal research assistance to the state's judges, prosecutors and defenders.

Subsequent discussions with Larry Backus, Courts Specialist in the Denver LEAA Regional Office, resulted in a refinement of the requested areas of assistance to permit the consultant to begin the planning effort with the existing staff of the Courts Coordinator and to develop a design for subsequent efforts which could then be pursued systematically, with resources provided either through the Technical Assistance Project or other sources. It was also determined to address the planning proposal for legal research assistance in a separate request for technical assistance which was provided by the project in June 1976.

The narrowed focus of assistance which emerged consisted of reviewing the planning priorities already established by the Board and identifying other areas of court operations which might warrant further study. These planning priorities addressed three general areas: proposed legislation for the establishment of a state court administrator's office; judicial training and education programs; and development of a proposed criminal justice information system.

The consultant assigned to this effort was Thomas Napton, former Clerk of the Emergency Court of Appeals for the District of Columbia, who had considerable experience in dealing with the planning and practical issues involved in court administration and particular knowledge of Montana court operations. Mr. Napton met with Ms. Griffing, Mr. Stewart, and other local officials (see Appendix A) in Helena on June 7 and 8, during which time the three principal areas of concern listed above were discussed as well as several additional issues raised during the course of these sessions.

This report documents Mr. Napton's analysis of court planning needs and efforts to date and provides recommendations for further action and

consideration. In view of the broad scope of these recommendations and the potential changes in composition of the Montana Supreme Court and Legislature which may occur after the November election, the Board of Crime Control deemed further technical assistance premature at this time.

II. Analysis of Existing Situation

A. Proposed Legislation to Create the Office of State Court Administrator

1. Background

Presently, Montana has a "Courts Coordinator", Mr. Raymond Stewart. For at least three legislative sessions, monies were set aside to fund a court administrator position but no action was taken until 1975 when concern was expressed, both within and outside the judiciary, for the development of a management capability for the state's courts. A particular stimulus in this regard was a Resolution from the Montana District Court judges calling for the creation of the position of State Court Administrator. In establishing this position, the title "Courts Coordinator" was selected and the principal responsibilities of the office were focussed at the District Court level, the initial area of concern in this regard being the travel and per diem provisions for District Court judges.

The individual chosen for this position, Mr. Stewart, is by training a budget specialist with no previous court or law training or experience. Despite this initial lack of substantive knowledge in the courts area, his familiarity with the internal operations of state government have enabled him to perform his duties satisfactorily. However, he is understaffed and, for the most part, his efforts are uneventful because of the lack of unified support from the various groups and individuals who play a key role in court operations in the state.

Montana is one of the last states to begin development of a centralized statewide judicial administrative program. Until recently, the Montana Supreme Court and most of the District Court judges have opposed institutionalizing a court administrative capability. Even with the decision to begin development in this area, there are still a majority at all levels of courts in the state who distrust the use of consultants

from outside the state and the potential benefits of drawing upon the experiences of other jurisdictions in this regard. The process of developing a centralized court administrative structure will--and must-- be a slow and careful one. With the election in November, the current membership composition of the Supreme Court and Legislature will likely change and the time is, therefore, ripe to begin the design of the framework for a court administrative program which will be efficient and workable for Montana.

Although the role of the Crime Control Commission in orchestrating this model is viewed ambivalently in the state, the present court specialist has recently been more openly received by the judiciary. The potentially good relationship which might develop may, in part, be a response to the political realities which the judiciary recognize as reflected in the recent primary election which demonstrated the public's desire for increased effectiveness of the state's courts.

2. Current Draft Legislation

The proposed draft bill of "An Act to Establish the Office of the State Court Administrator and Such Other Administrative Offices as Shall Be Needed" is included in Appendix B. The working model for this draft had been designed by a legislative subcommittee. It was poorly drafted and did no more than to institutionalize the presently established system.

During the course of this consultancy, Mr. Napton redrafted the bill, incorporating his perceptions of the needs and concerns which the office of court administrator should address as reflected in technical assistance site meetings. This revised draft expands the Montana model as follows:

- establishes a state court administrator,

- establishes trial court administrators,
- establishes Youth Court administrators,
- permits the hiring of necessary assistants, staff and clerical support, and
- details the duties of the State Court Administrator.

The Montana Legislature will meet for its Biennial Session in 1977. As will be discussed in the following section on Recommendations, the submission and passage of this legislation, or a semblance thereof, will be critical to the passage and implementation of the other substantive suggestions submitted in this report. The draft bill should be circulated among the appropriate individuals who will be in positions during the legislative session to affect its passage. Assistance from knowledgeable persons outside of Montana--although potentially valuable--will most likely defeat any chance this bill has of passage because of the lack of local receptivity to such assistance.

An additional factor which bears upon the development of an effective strategy for achieving successful passage of the court administrator legislation is the need to overcome the political fragmentation now existing among the various groups involved in state judicial operations and planning. A unified approach to this bill should be developed and should be a prerequisite to further planning efforts.

B. Judicial Training and Education

The immediate need in this area is to gather adequate information which will provide a composite picture of judicial training and education efforts to date in Montana. Specific data should be sought on such factors as the background of the trainees, the subjects covered, the frequency of sessions and attendance, the impact of these efforts--along with some assessment of present and future needs. Until this information is

gathered and analyzed, the presently funded program should continue with a view toward modification once the statistical information is obtained.

The improvement of training and education in Montana should occur after the Office of State Court Administrator is established. As detailed in the Draft Bill, that office--rather than the Crime Control Commission or other agencies--should be responsible for handling training and education.

C. Proposed Justice Information System

Through the efforts of the Crime Control Commission, the Montana Bar, the Montana Legislature and several knowledgeable lawyers, law school professors and lay persons, Montana appears to be making dramatic strides in the area of justice information system development. The total systems approach adopted, which includes both civil and criminal needs, will be of great benefit to the entire state judicial system. Accomplishments to date include:

- computerization of the Montana Code and case law,
- development of a proposed grant to establish a legal research center,
- development of on-line capacity with regard to computerized legal research, and
- discussions regarding a potential tie-in with the Criminal Justice Information Center.

The principal issues raised in this development involve timing and funding. If the Office of State Court Administrator is established with supporting personnel as recommended, that office should then assume responsibility for developing the information system program. However, if responsibility is lodged elsewhere, subsequent efforts may be fruitless.

III. Recommendations

The recommendations are listed in order of priority.

A. The present "Court Coordinator" must gather data from all courts in the state to substantiate subsequent requests. Because of the urgent need for this information, a very simplified manual method should be devised which will produce a report prior to the Legislature's meeting. An institutionalized information process should then be designed and established. It has been suggested that the courts consider following the Federal Reporting process developed by the Administrative Office of the United States Courts. This process permits the Docket sheet to serve as a docket and a reporting service, thus obviating the need for a multitude of forms. A set of these forms was requested from the Administrative Office for Mr. Stewart and forwarded to him directly.

B. Incidental to the development of a statistical reporting service should be the development of a program to gain the passage of the State Court Administrator legislation. All other recommendations depend on the success of the pending bill which, if passed, would speed change in all areas.

C. The statistical information system and a broad based informational system should be developed for the management of the entire Montana judicial system. Mr. Carl Bianchi, State Court Administrator for the Idaho courts, could be of particular assistance in this effort, and it was suggested that Montana officials discuss this possibility with Mr. Bianchi and his staff during the Five State Judicial Conference in Idaho.

D. A study should be conducted to determine the total range of Montana court informational needs and possible systems should be identified to meet these needs. Additional study should be made of user needs and appropriate planning phases by which these needs might be addressed. Several judges at the District Court level have requested law clerks. Since many judges currently have very small libraries, attention should also be given to the function of these law clerks until a pervasive information system is established.

E. A study should be conducted to assess the full range of training and educational needs of the Montana judiciary. While these needs are being considered, the present system should be continued and documented.

F. A descriptive analysis should be made of the Montana judicial system. Presently, items of information are counted in different ways by each court and no one appears to know, for example, how many courts there are, how much work is conducted in each, how many visiting judge days there are, how many delays occur, nor the causes for these delays, etc. Prior to any informational system, the format and content for needed data elements should be determined.

G. Montana's judiciary must become aware of the wide-ranging resources available to the state from sources in the state, region and nation. Achieving this awareness will involve timing, and will seemingly come about with the establishment of a court administrator who has the resources and abilities to communicate effectively with the judges and the court community.

IV. Summary

There appears to be a good possibility for Montana to make significant strides in improving statewide court planning and administration. Although there has been some antagonism expressed toward out-of-state involvement in this process, recent pressure from outside the judiciary has resulted in some awareness of the value that can be derived from the experiences of other jurisdictions. The approach developed by those working in this improvement effort therefore reflects a keen awareness of the political realities within which they operate, together with a recognition of the potential for change.

Timing is all important in any change and all the more so in Montana. It appears that the course now set, i.e., statistical gathering, legislative action, and development of subsequent substantive programs, issuing from the state court administrator's office, is appropriate and potentially effective.

The recommendations provided in this report are intentionally fairly broad based. Specifics should come from the recommended studies and the key personnel involved. Should significant turnover occur among those who have been principally responsible for the progress achieved to date, future efforts will be undoubtedly affected.

APPENDICES

APPENDICES

APPENDIX A: Individuals Contacted During Site Visit

APPENDIX B: Proposed Draft Bill: "AN ACT TO ESTABLISH THE OFFICE
OF THE STATE COURT ADMINISTRATOR AND SUCH OTHER
ADMINISTRATIVE OFFICES AND STAFF AS SHALL BE NEEDED"
(with Consultant's Proposed Revisions)

APPENDIX A

Individuals Contacted During Site Visit

Virginia Griffing, Courts Specialist, Board of Crime Control,
Helena, Montana

Raymond Stewart, Court Coordinator, Montana Supreme Court,
Helena, Montana

Lee Heiman, Legal Counsel, Governor's Commission on Local
Government, Helena, Montana

Kenneth Curtiss, ADP Advisor, MBCC, Helena, Montana

Steven Nelsen and Gary Buchanan, Juvenile Justice Planners,
MBCC, Helena, Montana

Joan Uda, Legal Counsel and Researcher, Governor's Office of
Budget and Program Planning

Steven Lemmer, Criminal Justice Statistician, MBCC, Helena
Montana

APPENDIX B

Proposed Draft Bill: "AN ACT TO ESTABLISH THE OFFICE OF
THE STATE COURT ADMINISTRATOR AND SUCH OTHER ADMINISTRATIVE
OFFICES AND STAFF AS SHALL BE NEEDED"

(with Consultant's Proposed Revisions)

A. J. 11, 1976

AN ACT TO ESTABLISH THE OFFICE OF STATE COURT ADMINISTRATOR AND SUCH OTHER ADMINISTRATIVE OFFICES AND STAFF AS SHALL BE NECESSARY

Sec. 1. State Court Administration -- Office Created -- Appointment -- Termination

Compensation. There is established the office of State Court Administrator. The Supreme Court shall appoint a State Court Administrator, and shall fix the salary to be equal to the salary of a District Court Judge. The State Court Administrator shall hold the position at the pleasure of the Supreme Court.

Sec. 2. Assistant, Staff and Clerical Personnel to State Court Administrator --

Hiring and Compensation. With the approval of the Supreme Court, the state court administrator may hire and fix the salaries of assistants, staff and clerical personnel. *(A Youth Court & Trial Court & Courts et al.)*

Sec. 3. District (and Youth Court) Administrators. *district judges* The ~~county~~ *in any judicial*

district with three (3) judges or more may appoint a Trial (Youth) Court Administrator.

Other trial court administrators may be appointed in other districts as he proposes

Sec. 4. Assistant, Staff and Clerical Personnel to Trial (Youth) Court Administrator

rules of the Supreme Court Hiring and Compensation. With the approval of the District Judge, the Trial (Youth) Court Administrator may hire and fix the salaries of assistants, staff and clerical personnel. *(A Youth Court & Trial Court & Courts et al.)*

Sec. 5. Practice of Law. Neither the State Court Administrator nor any assistants, nor any Trial (Youth) Court Administrator nor any assistants may practice law

Qualifications. To be set by Supreme Court 7. Sup. Ct. 2/15/76

~~in any of the courts of this state while holding their position.~~

Sec. 7. Duties. The State Court Administrator is administrative officer of the Montana courts. Under the direction of the Supreme Court, the State Court Administrator shall:

- (1) as fiscal officer for the Court, prepare and present judicial budget requests to the executive and to the legislature;
- (2) collect, compile, and report statistical and other data relating to the business transacted by the courts;
- (3) recommend to the Supreme Court improvements in judicial administration;
- (4) coordinate activity of any Trial (Youth) Court Administrators;
- (5) prepare judicial education and training programs;
- (6) receive and administer such federal funds or other granted monies as may be awarded to the Supreme Court; and
- (7) perform such other duties as the chief justice and the supreme court may assign.

Sec. 7. Prohibition. The State Court Administrator is prohibited from scheduling the calendars of district judges.

Sec. 8. Informational Data. All court officers, including clerks of district courts, shall comply with requests made by the State Court Administrator for information and statistical and financial data bearing on the business transacted by the courts.

Sec. 9. Federal funds (Is this needed?) The Supreme Court may accept federal funds to supplement the funds appropriated to the court for the purpose of carrying out this act.

Sec. 9. Severability

END