

CITIZENS LEAGUE REPORT

No. 173

**Recommendations of the County  
Courts Review Committee**

**January 1965**

Citizens League of Minneapolis  
and Hennepin County  
545 Mobil Oil Building  
Minneapolis, Minnesota 55402

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APPROVED  
BOARD OF DIRECTORS  
DATE JAN 13 1965

TO: Board of Directors

FROM: County Courts Review Committee, James L. Hetland, Jr., Chairman

SUBJECT: Findings and recommendations on consolidation of courtroom functions and on services provided Hennepin County courts by the Sheriff of Hennepin County and other officials.

### RECOMMENDATIONS

The increased importance, volume of business and number of court-related personnel in the District and County Municipal Courts in Hennepin County make it imperative that the Hennepin County Delegation and the Legislature in 1965 review in depth all of the auxiliary services being provided to both our District and County Municipal Courts. The startup of the new County Municipal Court, coinciding with the convening of the Legislature, offers a particularly opportune time for consideration of these matters.

Specifically, this report makes recommendations to the Legislature, the judges of both courts and other county officials in two areas: (1) Consolidation of in-court courtroom functions, and (2) services to the courts in connection with service of process. The recommendations in this report, while not irretrievably tied together, should be considered as a whole, as each recommendation supplements the other to give the most efficient administration of justice.

#### I. On Consolidation of Courtroom Functions -- District & County Municipal Courts:

1. Responsibility. All functions being performed in courtrooms are interrelated and should be viewed together. Yet, the persons performing these functions are often responsible to different independent public officials, not only to the courts. It is imperative, we believe, that the courts should have complete discretion and responsibility with respect to utilization of all personnel servicing court and hearing rooms in Hennepin County. We recommend, therefore, that legislation be enacted placing in the courts sole responsibility for utilization of all courtroom personnel.
2. Bailiff Pooling. The committee believes that fulltime courtroom bailiffs are not needed in most court and hearing rooms of the two courts and that the necessary functions now being performed by bailiffs can be performed by a materially reduced number of bailiffs, some continuing to serve full time in certain specialized courtrooms, but most serving in a pool from which the judges can summon them to the courtrooms to perform certain specified part-time duties. One pool should serve both the District and County court and hearing rooms in downtown Minneapolis.

The committee recommends immediate implementation of bailiff pooling and enactment of whatever legislation is deemed necessary to carry out such arrangements.

The committee believes that this reform can and should be carried out regardless of whatever other reform or consolidation of in-court courtroom functions suggested in this report may be implemented by the courts or the Legislature.

3. The Functions of Deputy Clerks of Court, Law Clerks to the Judges, Court Reporters. In most courtrooms in both District and County Municipal Court there are currently three fulltime persons serving the courts -- the court reporter, a bailiff and a deputy clerk of court. The committee believes that only one of these three functions -- the court reporter -- requires a fulltime person in most court or hearing rooms.

The committee believes that consolidation of existing courtroom functions is highly desirable and overdue. This consolidation should be accomplished under the direction of the courts.

In addition, the committee believes that introduction of a system of law clerks and secretaries would materially improve the administration of justice in Hennepin County.

The new position of law clerk would mainly involve aiding the judges in connection with legal research and related matters. Law clerks could and should legally be empowered to perform courtroom duties now performed by the bailiff, as well as swearing witnesses and other courtroom functions now performed by the deputy clerk of court.

The committee recommends that provision be made by the Legislature for the gradual changeover during the next two years to an arrangement under which courtrooms engaged in civil and eminent domain matters may be serviced by court reporters, by a bailiff pool, and by other persons as determined by the judges.

The courts should be given wide discretion in implementing consolidation of existing courtroom functions.

The Legislature should provide authorization for a sufficient number of law clerks legally empowered to perform the functions suggested above.

4. Courts Administrative Assistant. The committee believes that the highest priority must be given to efficient utilization of all personnel connected with the courts. To this end, we have suggested that the courts must have complete authority over the operations of the deputy clerks of court, over the deputy sheriffs, and other personnel serving in the court.

It is unreasonable to believe that one judge, or even a committee of judges, over a long period of time can be expected to devote the time and effort necessary to handle administrative and personnel matters related to the courts, and to implementation of reforms and consolidation of existing courtroom functions being performed by personnel currently under the control of, not only the court, but of independent elected officials.

With the new County Municipal Court there are many areas in which desirable consolidation or coordination of service functions of the District and County Courts can now be achieved.

Considering these factors, the courts should have the general authority to create a post of Administrative Assistant to serve both courts, if they deem it desirable.

5. Implementation of Reforms. While the committee has confined its most intensive study to courtroom functions, it believes that all services of the clerks of court and of the Sheriff must be considered in connection with the recommended reforms. For example, when courtroom functions are shifted or consolidated, this affects non-courtroom (and, in the case of the Sheriff, non-court-related) functions and staffing requirements. In considering the recommendations in this report, the Legislature will therefore have to consider together the overall requirements of the County Municipal and District Courts, as well as the requirements of the independently elected Clerk of District Court and Sheriff of Hennepin County.

It is implicit in the recommendations we have made that there must be, not only the overall control of court-related personnel in the courts, but also a means by which, as reforms and consolidations of courtroom functions are achieved, funds can be shifted between the currently separate budgets affected by these changes. For example, if bailiffs are pooled, barring other legitimate and demonstrable needs by the Sheriff, his budget should be adjusted. Or, if law clerks are hired under the District Court budget and these law clerks will partially relieve personnel of the Clerks of Court, the Clerks' budgets should reflect the change.

The committee believes that bailiff pooling and consolidation of existing courtroom functions, together with providing law clerks to the courts, will result in more efficient judicial services and may result in lower costs.

We believe that reassignment of existing personnel and reduction of total positions through attrition and through adoption of improved personnel policies, rather than laying off the existing personnel, is the proper means of effecting reforms.

Because of the need for flexibility in instituting the recommended reforms, provision should be made by the Legislature for the Board of County Commissioners in consultation with the courts to adjust budgets between the courts and departments affected by bailiff pooling and consolidation of courtroom functions.

## II. On Other Services Provided the Courts by the Sheriff of Hennepin County.

6. Service of Criminal and Traffic Warrants. The committee notes with disappointment the refusal on the part of the Sheriff to continue the pre-1965 pattern, under which most criminal and traffic warrants requiring service in the various communities of the County have been handled by local municipal police. This could have been accomplished through assent by the Sheriff to a plan worked out and agreed upon by the various municipalities and their respective police officials, agreed to by the new County Court Judges, and declared legal by the County Attorney.

In the committee's view, those duties can and should continue to be carried out by the local police in Hennepin County wherever possible. Requests by the Sheriff now or in the future for personnel to perform the function of service of traffic or criminal warrants in those areas where local police can perform this service would represent unnecessary duplication, the committee believes.

We urge the 1965 Legislature as early as possible in the session to enact legislation permitting the County Board to contract with the various municipalities of the County for service by local police department personnel of all traffic and criminal warrants of the Hennepin County Courts requiring personal service, with a central followup procedure.

7. Service of Civil Process. In connection with service of civil process of the new County Municipal Court, the committee commends the arrangements which have been made to integrate services in this area into the existing Sheriff's Civil Division, which is already providing these services. We urge that more detailed records of these activities and the procedures used in their execution be kept so that standards and norms may be developed with which to judge future personnel, salary and operational needs in connection with this activity, so that it may be carried out in the most efficient manner and so as to determine if the existing fee schedule is adequate and proper.

We further recommend that the Legislature authorize the County Board of Commissioners to analyze and, if necessary, readjust the fee schedule.

8. Record Center. The establishment of a countywide traffic and criminal warrants record and information center is a significant step forward in the efficient administration of justice in Hennepin County. This service provides a vitally needed tool to the various law enforcement agencies throughout the county. We urge the Legislature to provide for its continuance.

SUMMARY OF FINDINGS AND CONCLUSIONS

I. On Consolidation of Courtroom Functions, District & County Municipal Courts.

1. Commencing January 1, 1965, under present plans there are approximately 80-89 bailiffs and deputy clerks of court serving full time in courtrooms in Hennepin County. This is in addition to 31 court reporters. These personnel will serve 30 judges, 5 referees, and retired and visiting judges serving temporarily on the District Court (Exhibit I).

2. Bailiff Pooling. There has been agreement by all judges and officials who have addressed the committee, and the committee concurs, that bailiffs are not needed full time in courtrooms in which civil (jury and non-jury) and eminent domain matters are being heard. Considering both courts, as many as 20 of the 30-35 courtrooms which will be active in the County on any given day will be occupied with civil and eminent domain matters. Other courtrooms will be so occupied part of the day.

Bailiffs are needed full time while court is in session only in connection with the following functions of the courts:

Municipal: Traffic court, criminal court, criminal jury trials.

District: Criminal court; criminal jury trials; family court and, in the discretion of the court, in juvenile court and in family and juvenile court referee hearings.

3. Courtroom bailiffs for both courts should be placed in a pool and utilized in courtrooms in which civil or eminent domain matters are being heard on call from the judge to perform the following duties:

- a. To escort jury panels to courtrooms.
- b. To escort and guard juries during their deliberations and until the rendering of the verdict.
- c. On call to keep order in the court in the event unusual conditions or disturbances in the opinion of the judge require the presence of a bailiff.

The bailiff pooling arrangement should apply to the Probate Court, where the committee believes a bailiff seldom is needed.

4. At County Court suburban locations, for those court functions where a full-time bailiff is not otherwise provided, local police officers are available to provide peace-keeping functions on call of the court.

5. There appears to the committee to be sufficient power under existing law for the courts, in cooperation with the Sheriff, to implement the bailiff pooling arrangement now; however, legislation should be enacted early in the 1965 session vesting in the County Municipal and District Courts sole authority to determine the need for and use of bailiffs, including determination of the sources from which such bailiffs should be drawn. The courts would be empowered under this suggested legislation to procure bailiffs from the County government or from the local units of government.

6. Deputy Clerks of Court. Deputy clerks of court currently serve full time in all court and hearing rooms in both courts while court or hearings are in session.

The committee believes they are needed full time in connection with the following functions of the courts:

Municipal: Traffic court, criminal court, conciliation court, motions calendar or special term.

District: Criminal court, special term, family court, juvenile court.

In connection with the above-listed activities of the courts, deputy clerks of court are substantially fully occupied with their courtroom duties. In connection with other activities, notably civil and eminent domain matters, deputy clerks are not fully occupied with courtroom duties. However, especially in Municipal Court, deputy clerks in such courtrooms, rather than being idle, are occupied with office work. The office work could, however, be performed more efficiently in the offices of the respective clerks of court.

7. In the situations in which deputy clerks are not needed full time in court or hearing rooms, the necessary courtroom functions they now perform could be performed by other persons or by law clerks legally empowered to perform those functions as part of their duties.

8. Law Clerks. There is unanimous agreement by the judges of both courts who have addressed or contacted the committee, and the committee concurs, that judges require the aid of law clerks in connection with legal research (especially during the course of trial), keeping abreast of the law, and in connection with correspondence, record keeping, indexing, and other matters.

There are many strong arguments that more expeditious and efficient and, in some instances, equitable administration of justice would result from providing judges with clerks learned in the law. Such plans have proved most successful in other states. In some jurisdictions, each trial judge now has a law clerk (See Exhibit II).

Law clerks should be hired by the judges and customarily serve for at least a period of a year.

During trial, law clerks would be available to the judges at all times, either in the courtrooms or on call. In addition to legal research and other duties performed for the judges, the law clerks could swear in witnesses, keep the log of witnesses and exhibits, and perform the other duties generally performed by deputy clerks of court in connection with civil and eminent domain matters, could call the court to order after recess, assist in the seating of jurors, and perform other duties now performed by bailiffs in the courtroom. Legislation should provide law clerks with the power to perform functions of deputy sheriffs and deputy clerks of court while serving in the courtroom.

9. Court Reporters. Court reporters are needed full time in court and hearing rooms when court is in session and whenever testimony is being taken. They also prepare orders, memos, etc. for the judges. They provide the only stenographic services available to the judges for their correspondence, reports and the like, both official and private.

Court reporters could perform, in addition to their own duties, most of the in-court courtroom functions now performed by deputy clerks of court in courtrooms engaged in civil and eminent domain matters.

There exists currently a need for additional stenographic help, perhaps a small pool of stenographers, for the judges. With implementation of consolidation of functions, law clerks as well would require some stenographic assistance.

10. Consolidation of Functions. Consolidation of courtroom functions is desirable and overdue and will lead to more efficient administration of justice. The judges should have broad discretion in determining exactly how functions can best be combined and in what manner and at what pace reforms should proceed. The courts should have complete discretion over the utilization of all personnel in the courtrooms, regardless of whether the personnel are employees of the courts or of independent elected officials (See Exhibit VII).

The committee believes that consolidating functions through providing for law clerks is highly desirable. Court reporters and law clerks, augmented by the bailiff pool, could perform well all of the functions now being performed in courtrooms engaged in civil and eminent domain matters, the committee believes. In addition, there would be significant improvements in the administration of justice in the trial courts with the addition of the new function of law clerk to the judges.

The District Court Judges have acquired necessary temporary funds and are about to embark on an experiment utilizing a law clerk and court reporter, in lieu of a bailiff, deputy clerk and court reporter in two courtrooms. The committee strongly endorses this experiment as a move in the direction of the recommendations contained in this report.

Personnel reduction through consolidation of courtroom functions should result in significant overall cost savings in addition to improving operation of the courts.

11. Implementation of Reforms. The two courts, the clerks of court operations, and the Sheriff's office would be directly affected by the recommended changes. Significant numbers of persons in four separate county departments would be redeployed. Total personnel requirements and, therefore, total budget requirements in these departments would be materially changed.

Currently, appropriations are made each session by the Legislature for the two courts and separate county departments in such a manner that no funds may be transferred between departments. The Legislature should appropriate funds for the courts and departments affected in such a manner that the Board of County Commissioners, in consultation with the Courts and departments affected, would have discretion to make the necessary budgetary adjustments between departments.

The age and tenure of many of the courtroom personnel considered in this report are such that there is significant turnover through retirement, even though there is currently no mandatory retirement age for many of the personnel involved. This factor, the possibility of useful reassignment of personnel in connection with other departmental needs, the time necessary to adjust and change over to new arrangements, plus the possibility of county personnel reform, including institution of a mandatory retirement age, lead the committee to believe that personnel attrition will more than provide the net overall reduction in positions involved, even if all recommendations in this report are fully implemented by January, 1967, when the next Legislature convenes.

However, the action of the Legislature, particularly in vesting overall control and responsibility for carrying out reforms must be such as to insure useful redeployment of all personnel shifted as a result of the plan and that hiring practices in the affected departments be maintained.



## II. On Other Services Provided the Courts by the Sheriff of Hennepin County.

12. Service of Criminal and Traffic Warrants of the New County Court. The procedures involved, volume of activity and other factors connected with this service are discussed in some detail elsewhere in this report. The Sheriff's office has not previously been handling any of these warrants issuing from the Minneapolis or other local county municipal courts; they have been handled exclusively by the Minneapolis and other municipal police departments. The Sheriff's office has merely handled warrants issuing from outside Hennepin County, a relatively small number compared to the large volume handled by local police.

Thirty of the original 87 new men requested by the Sheriff were to take over the service of all criminal and traffic warrants of the new court. This was in addition to a number of clerical positions requested in connection with this proposed new Sheriff's function. The Sheriff's office said that 30 new deputies would not be enough to perform this service and that additional personnel would be requested from the Legislature once there had been some experience under the operation of the new court.

The County Board determined that the municipal police in Minneapolis and in other populous communities could and should continue to serve these warrants, and that for a small fee per warrant handled, Minneapolis and the other municipalities would arrange for their police to serve warrants under contractual arrangements with the County and under the general supervision of the Sheriff. The County Attorney endorsed the legality of the plan (Exhibit V).

The committee believes that the best method of service of traffic and criminal warrants is service by local police, wherever possible.

The committee believes that the Sheriff should not be granted personnel or budget appropriations for service of warrants, and that the Legislature should speedily provide for the implementation by the County Board of permissive contractual arrangements for service of warrants by local police.

13. Service of Civil Process. Approximately 12 Sheriff's deputies have been serving civil process in the past. He originally requested 17 new men to handle the additional work load from the new court. Seven Minneapolis police had been handling all service in Minneapolis for the Minneapolis Municipal Court. The County Board cut the Sheriff's request from 17 to 8. The eight new men will be integrated into the Sheriff's Civil Division which handles these matters. This is important, because it means that all civil process from whatever source to be handled by the Sheriff and to be served in a given area will be handled by a man covering that area.

The Sheriff's records in connection with this activity do not appear to afford a sufficient basis to judge the efficiency of these operations.

14. Record Center. In the past in connection with service of warrants by Minneapolis police, a significant portion of the court officers' time has been taken up in telephoning and record keeping, so that the officers have been in the field attempting to make service during only about two-thirds of their duty hours.

Under the record center plan which will go into effect under the new court, traffic warrants will be processed by computer, and will be handled initially by the record center, to be staffed by female personnel who will attempt to make contact or

locate by phone all persons for whom there are warrants outstanding. This may significantly reduce the percentage of warrants which actually must be sent out for personal service, and will mean less office time for personnel required to make personal service.

In the past, there have been no central records from which law enforcement officers could ascertain whether there is an outstanding warrant for a party. Inquiries would have had to be made of the thirty-odd separate local police departments in the county. The record center will provide such a central record and, when fully operative, will be manned 24 hours a day. Thus, one phone call made any time of day or night by any law enforcement officer will produce the required information on any person with an active record of criminal or serious traffic violations.

The committee believes that establishment of the 24-hour record center will represent a significant and needed qualitative improvement in law enforcement facilities in Hennepin County.

### SCOPE OF COMMITTEE ACTIVITY TO DATE

The County Court Review Committee, comprised primarily of lawyers, has been under the chairmanship of James L. Hetland, Jr. Members who have participated actively in committee deliberations and in the formulation of this report include: Peter Anson, State Senator Jerome Blatz, Mrs. Ralph Bruce, Charles Clay, State Senator Jack Davies, Richard Fitzgerald, State Representative William Frenzel, State Representative Edward J. Gearty, David Graven, Bernard Heinzen, Robert Holtze, C. Paul Jones, Raeder Larson, C. D. Mahoney, Jr., Clay R. Moore, Philip Neville, State Senator Harmon T. Ogdahl, State Senator Wayne Popham, Norman E. Stewart, Lynn Truesdell III, Paul Van Valkenberg, State Representative John Yngve, and William Lahr. The committee has been staffed by League Associate Director Arne L. Schoeller.

The committee was formed by action of the Citizens League's Board of Directors at its October 1964 meeting.

The committee has held 11 meetings. It has heard from the following judges and officials: District Court Judge Theodore Knudson, District Court Judge Luther Sletten, District Court Chief Judge John Weeks, Municipal Court Chief Judge Elmer Anderson, Municipal Court Judge Edward Parker, Sheriff Ed Ryan, Inspector Eugene Arnold, Clerk of District Court Philip Schmidt, Deputy Clerk of District Court Del Smith, Clerk of Municipal Court Arthur Anderson, County Purchasing Agent and Budget Director Stanley Cowle, County Budget Examiner Roger Newstrum, and retired district court reporter Ray Lerchen.

In addition, staff and committee members have held numerous discussions on the matters under study with several of the above-listed officials and judges and with other judges of district and municipal court. The committee has also learned of and has received information on reforms similar to those recommended in this report which have been implemented or are being implemented in other states (See Exhibit II).

### Guidelines

The committee determined at an early date that consideration of the courtroom functions of bailiff, deputy clerk of court, court reporter and of the proposed function of law clerk to the judges are applicable to both the County Municipal Court and the District Court, even though the scope and type of activities of the two courts differ markedly in some respects.

Despite the strong inclination of many of the committee members to recommend possible changes in the structure or personnel practices of county government, the committee determined that such recommendations would be beyond the scope of the charge to the committee, and that our recommendations should not depend on such possible changes, desirable though they may be. Nevertheless, throughout our deliberations we were impressed with the formidable obstacles to achievement of the type of reforms discussed in this report represented by many aspects of the existing county governmental structure and existing personnel practices (or lack of them).

The committee, at its first meeting, agreed to disregard considerations of short-run political expediency and to endeavor to formulate recommendations which would result in the most equitable justice for residents of Hennepin County. This approach persisted throughout the entire deliberations of the committee, and the recommendations which have been formulated adhere to this basic principle.

The recommendations contained in this report represent the best thinking of the members of the County Court Review Committee. The recommendations have not been molded to fit what we might guess are the most politically feasible solutions to the problems; however, the recommendations are, we believe, the best possible solutions based on our study of the problems.

#### BACKGROUND AND RECENT DEVELOPMENTS

In the closing days of the 1963 Legislature, legislation establishing the Hennepin County Municipal Court, as of January 1, 1965, was enacted. The Citizens League had urged the creation of a county court in a 26-page report of its Municipal Courts Committee and approved by its Board of Directors on February 13, 1963. Throughout the 1963 session, the League strongly supported legislation similar to that finally enacted.

Creation of the new court means that 17 then existing municipal courts and all justices of the peace (about 36) were replaced January 1, 1965 by the new 14-judge County Court, with fulltime facilities in Minneapolis, Bloomington, Crystal, St. Louis Park and Wayzata, and part-time operations, including traffic violations bureaus, at at least ten other locations in the County.

The changeover to the new court was implemented by the Minneapolis Municipal Court Judges and Clerk of Court, by the County Board and by the office of the Sheriff of Hennepin County who, under the law, was charged with providing court officers (bailiffs, warrant service for criminal and traffic matters and deputies for service of civil processes) to the new court.

The County Board in September approved a 1965 budget of \$1,113,678, worked out in collaboration with the judges, for salaries, operating expenses (including rental of court facilities) and capital purchases for the new court.

In addition to the four new judges and four new court reporters added to the existing Minneapolis Municipal Court as of January 1, the budget called for 15 new deputy clerks of court, mainly to serve at the four new permanent suburban court locations. A contingency fund would provide up to four additional deputy clerks, if needed. This budget also covers the Municipal Court Probation Division, increased from 1964's 12 positions to 15 positions in 1965 with the addition of two deputy probation officers and one clerk-stenographer.

#### Sheriff's Budget Request to the County Board

Under the law establishing the new county court, the Sheriff is charged with providing the court with courtroom bailiffs and with deputies to serve all of the various papers of the court requiring service, at the direction of the judges of the court. Because 1963 legislation made no provision for any Sheriff's personnel to service the new court, it became the temporary duty of the Board of County Commissioners to provide funds for new Sheriff's personnel for the carrying out of the services commencing January 1, 1965 and until the current Legislature acts on the Sheriff's 1965 budgetary requests.

Normally, the County Board has nothing to do with the determination of how many employees the Sheriff (an independent elected official responsible to the Legislature) might need to carry on his operations. The Board's traditional function with respect to the operations of the independent elected officials is merely to

levy the taxes necessary to provide for the budgets approved by the Legislature, and to approve non-salary operating expense and capital needs of the elected officials' departments.

The Sheriff's requested 2-year budgetary needs are considered in the Legislature by the Hennepin County House and Senate Delegations, along with the requests of the other independently elected officials, such as the Auditor, Treasurer, Clerk of District Court, Register of Deeds, etc., and along with the requests of the two separate county courts.

Before recommending county budgetary requirements to the full Legislature, the County Delegations generally try to determine for each county office, department or court, separately, the proper number of personnel and proper salary levels for the personnel for the ensuing two years.

On September 2, 1964, the Sheriff submitted his personnel requirements to the County Board. (Exhibit III) The County Board returned the request to the Sheriff's office with directions that the request should be greatly reduced. No definite figures or dollar amounts had been submitted by the Sheriff, but the County Board's Budget & Purchasing Department estimated the cost of the Sheriff's request at \$667,864, including a cost for 87 new positions requested by the Sheriff of \$555,864 (Exhibit IV).

The Sheriff refused to reduce his request for personnel, and took the position that, if the County Board would not approve his request, he would take it to the Legislature. In due course, the Sheriff reduced his request by 20 persons to 67, for a total request of approximately \$500,000 for 1965 in connection with providing services to the new court.

On November 17, on recommendation of the Budget & Purchasing Department, the County Board approved a budget for court officers' services to the new court in the total amount of \$361,016. This budget is based on a personnel estimate of 37 new positions in the Sheriff's office.

At a subsequent County Board meeting, December 29, the County Board approved a contract agreed to by the Sheriff and providing for the temporary (6 months) retention of Minneapolis police employees in 9 of the 16 new County Court bailiff positions authorized by the County Board's November 17 action.

This action followed recommendations of the Citizens League's County Court Review Committee, approved by the League's Board on December 2.

The County Board on December 29 also approved a request of the District Court for temporary (6 months) funds for the hiring of two law clerks to the judges. They will serve with two District Court Judges in a tryout of a courtroom functions consolidation plan.

The Sheriff has continued to oppose implementation of the plan recommended by the County Board for the carrying out of the warrant service function through contractual arrangements with the municipalities, but under the supervision of the Sheriff. He maintains that, despite the County Board's refusal to provide for the 30 new employees he requested to carry out this function, he will attempt to carry it out throughout the County with existing available personnel.

1965 BUDGET SUMMARY  
HENNEPIN COUNTY MUNICIPAL COURT

Municipal Court and Probation Office . . . . .	\$1,113,678
Sheriff's Services to the Court . . . . .	361,016
TOTAL MUNICIPAL COURT . . . . .	\$1,474,694
Less estimated Revenue from Court Fees	\$ 275,000
Net amount required from current real estate and personal property taxes . . . . .	\$1,199,694
1965 estimated assessed valuation, Henn. County . .	\$695,000,000
(One mill tax rate equals . . . . .	\$ 695,000)
At 98% collection one mill tax rate will produce	\$ 681,100
Tax rate required for 1965 County Municipal Court purposes, spread on all Hennepin County . . .	1.77

DISCUSSION OF FINDINGS AND CONCLUSIONS

Court-Related Personnel

Because of the rapid population growth in Hennepin County, the size of our courts and, therefore, of the number of courts-related personnel has expanded rapidly in recent years. Data on numbers of persons now serving courts and hearing room purposes in Hennepin County are contained in Exhibit I.

Despite this rapid growth, there has been little change in the laws and practices related to services and functions performed by persons in the courtroom.

In Hennepin County there are now over 2,400 County employees, and the number of County employees has been rising very rapidly. Nevertheless, County government remains fragmented structurally and administratively, with few changes in the manner of conducting County business having taken place.

The County's personnel systems and practices (or lack of them) were described to the committee by a County official as Hennepin County's "greatest living sin today." There are four different personnel systems in the County - one for welfare board employees; a second for the independent elected officials, such as the Sheriff and the Clerk of District Court, with whose departments this report is partially concerned. The judges and employees of the District Court also come under this second system. There is a third system for County Board employees, and, now with the new County Municipal Court, a fourth personnel system.

It should be noted in this connection that, while the County Municipal Court Judges have under their direction a non-elected Clerk of the County Court, the District Court does not have administrative or budgetary direction over the independently-elected Clerk of District Court. Similarly, with respect to his employees serving either of the two courts in any capacity, the Sheriff of Hennepin County, an independently-elected official, is independent of either of the courts, except to

the extent that the various statutes point out that the Sheriff shall perform various functions for the courts, shall provide the courts with personnel to act as courtroom bailiffs, etc.

#### Currently Existing Courtroom Functions

Bailiffs. Initially, distinction must be made between those functions of the court, involving approximately one-third of the courtrooms generally in operation on a given day in Hennepin County, in which the committee believes that a bailiff is needed full time, and those court functions for which a bailiff is only needed on a part-time basis. There is no doubt that, when persons accused of criminal violations are before the court, one or, in some cases, more bailiffs are needed regularly in the courtroom. In this connection the committee notes that deputy sheriffs serving in the county jail are of some help in connection with transportation of persons between the county jail and the courtrooms of either court.

The committee also believes that there is extensive need for fulltime bailiffs when family and juvenile court matters are being heard. The need here is often for a bailiff to guard the court or hearing room door to keep the idly curious out of the court or hearing rooms.

But, in connection with the majority of the courtrooms in the County in which ordinary civil or eminent domain litigation is being conducted, a bailiff is often largely unoccupied during the hearing of matters which, on the average, occupy a given courtroom for two to three days.

It has been the position of virtually every judge or official to appear before our committee, including representatives from the Sheriff's office, that courtroom bailiffs or "peace keepers" are not needed full time in those courtrooms.

In these courtrooms, the only substantial duty performed by the bailiff is the escorting and guarding of juries once they retire to render their verdict. For this purpose, or to bring the prospective jurors to the courtroom at the beginning of a trial, bailiffs in a pool could be summoned by the court by means of a phone or buzzer system.

The bailiff pool could also be on quick call for those exceedingly rare occasions when special circumstances or disorder might necessitate calling an officer.

In the District Court now the practice is to automatically assign a bailiff to every courtroom when a judge or referee is hearing any matter at all. In the County Municipal Court there is a relatively greater need for bailiffs because of the large volume of criminal and traffic matters heard, not only in Minneapolis, but also at suburban locations as well.

In the Minneapolis Municipal Court there has been a modified pooling arrangement, under which courtrooms engaged in some civil matters and the Conciliation Court send bailiffs to traffic and criminal court, where the judges say two or three men are needed in each courtroom because of the volume of business in these courts and the requirement of accompanying persons to and from the jail.

A representative of the Sheriff's office has told us that one bailiff in a pool could easily handle 3 or 4 courtrooms engaged with civil litigation. The law governing operations of both the District and the new County Court states that

the judges in each case shall determine the number of bailiffs and other Sheriff's personnel required to service the courts. The committee conservatively estimates that, with pooling, the number of existing bailiff positions can be reduced by more than half through reassignment of existing personnel and non-replacement of bailiffs as they retire.

Deputy Clerks of Court. In the courtroom, the deputy clerk of court keeps a log of witnesses and exhibits (See Exhibit VI), is responsible for all exhibits, generally swears in the witnesses, assists in the seating and identification of members of the jury panel, and generally follows the progress of a trial so that the next matter to be heard in the courtroom may be alerted.

There are certain specialized functions of the courts which clearly require the full time presence of a deputy clerk of court in the courtroom. These we have listed in the Findings and Conclusions. For example, in the case of the daily traffic court in Minneapolis, large numbers of persons are before the court and must be called forward in swift succession, and, where fines are imposed, arrangements must be made for payment of the fines.

These specialized functions occupy at most one-third of the court or hearing rooms in the County on any given day, and some of these court or hearing rooms are only so occupied during part of the day. Because of the volume of business in those courtrooms and the specialized nature of those courts, it is desirable that they not only be serviced full time by a deputy clerk of court, but also that the same clerk generally serve those courts on a day-to-day basis.

In the two-thirds of the courtrooms engaged in general civil and eminent domain litigation, the courtroom duties of the deputy clerk require no specialized clerical training or routine. In these courtrooms, all of the duties enumerated above could be performed by persons other than deputy clerks of court.

With respect to general litigation, the Clerk of District Court's practice has been to assign a deputy clerk more or less permanently to a judge. However, when a courtroom is not in session, the deputy clerk of court usually reports to the Clerk of District Court's office to aid in the office workload there. Sometimes the deputy clerk of court will be occupied when his judge is holding court with office work, such as addressing notices, looking up the names and addresses, etc. This is universally the practice in the municipal court, where the deputy clerk of court is not assigned to a judge, but is sent out to a given courtroom every morning.

Both the District and County Municipal Clerks of Court agreed that it is much more efficient, if there is a choice, to have office work performed in their respective offices rather than in courtrooms by the deputy clerks while court is in session.

Court Reporters. In both courts, the court reporter is the "judge's man." Traditionally, there has always been a court reporter for each judge. The judge can hire anyone he chooses to be his court reporter. He depends heavily on the court reporter, inasmuch as the court reporter is the only man working directly for him. The reporter types all of the judge's orders, memos, correspondence or other written material, official or private. The court reporter has his office adjacent to the judge's chambers. He generally travels with the judge in connection with any of the judge's official duties; for example, under the new County Court, when the judge is holding court at a suburban location. The court reporter takes his vacation during the period when the judge takes his vacation.



In the courtroom, the basic job of the court reporter is to keep the record of trial. This is a heavy responsibility and requires the full attention of the court reporter generally while court is in session, and especially, of course, whenever testimony is being taken, stipulations are being entered into, etc.

Court reporters also perform other functions, both court- and non-court-related. When it is necessary that transcripts of a case being heard by his judge be prepared, the court reporter supervises the preparation of transcripts by independent stenographers hired by the court reporter and paid by him out of fees paid to the reporter by lawyers in connection with the preparation of the transcript. The court reporter generally, in these situations, is unable to prepare the transcript himself because of the extensive amount of work involved and the fact that he is usually otherwise occupied in the courtroom.

Court reporters, especially those serving the County Municipal Court, where they have more free time, often make considerable outside income by taking depositions in preparation for trial in lawyers' offices. It was estimated to the committee that, in the lower court at least, a court reporter might make as much as \$4,000 above his normal income from this source. In the District Court, outside income is more apt to accrue to the court reporter from his profit in connection with preparation of transcripts for appeal.

Court reporters require extensive specialized training. In the District Court their salary is \$9,000 a year; in the County Municipal Court the salary runs approximately \$8,400.

#### Reporter is Judge's Secretary Now

The need for the court reporter full time in the courtroom may be compared to the need for the bailiff and deputy clerks of court full time in the courtroom in the following manner -- where the court reporter is generally needed full time, in the case of a courtroom in which civil or eminent domain matters are being heard, the committee has found that the bailiff and deputy clerk of court are not needed full time and, in the specialized courtrooms, such as criminal and traffic, where the committee has found that the bailiff and deputy clerk of court are generally needed full time in the courtroom, the court reporter is generally needed only on a part-time basis.

It should be kept in mind that the average court reporter in either court is occupied for 1-1½ hours per day in connection with general secretarial work of the judge, not related to the court reporter's basic job. Some of the court reporters are often so occupied for a significantly greater period of time. This depends on the volume of the judge's correspondence and the volume of orders, memos, and other work dictated by the judge.

#### Additional Stenographic Help Needed

Many of the judges and court reporters believe that operations of the courts would be materially benefited by provision being made for a limited amount of stenographic help for the judges. A stenographer, of course, can be hired for a fraction of the cost of a professionally-trained court reporter. It is also questionable, the committee believes, that highly-trained and well-paid court reporters should spend significant amounts of their time in connection with typing routine legal memoranda or correspondence.

With the possible hiring of a number of law clerks, as we have suggested, the need for additional stenographic help in the courts would be increased.

The committee believes that the matter of additional stenographic assistance for the courts should be seriously considered by the judges and they should have the general authority to hire secretarial help.

#### The Proposed Function of Law Clerk

The main thrust of judicial reform efforts throughout the country, as well as in Hennepin County, has been to provide for a sufficient number of judges, a court structure and rules and practices geared to an effort to catch up and keep abreast of the terrifically increased volume of court business. Thus, considerable efforts are being made to keep the courtrooms busy at all times, to move a new case into a courtroom as swiftly as possible upon the conclusion of the previous case, and to provide settlement negotiations sufficiently in advance of the trial so the judge, courtroom personnel and, in some cases, juries are not kept waiting while cases are being settled at the beginning of trial.

With this generally increased activity in all the courtrooms in Hennepin County, the judges are all confronted with the necessity of making more and more speedy decisions on matters being heard by them. During the course of trial, the attorneys are making motions requiring the judge's decision, presenting cases, memoranda of law and proposed instructions for the jury to support their positions. The judge is constantly being called upon to make quick decisions. If the judge makes a serious or prejudicial error in connection with ruling on a motion or in his instructions to the jury, the case may be appealed and reversed for a new trial.

The judges, like the lawyers practicing in the courts, find it increasingly difficult to keep up with the fast-changing nature of the law as reflected in court decisions being made all over the country, far-reaching statutory changes in the law being made at the federal and state levels, and by other governmental agencies. A judge must keep abreast of the law. The way he does it is by reading, and often indexing for his own records, new court decisions, law journal articles and other newly published material.

When a difficult decision he has not had a chance to anticipate confronts a judge, his only recourse is to recess the trial so that he can make his decision with the aid of the lawyers and by researching the law. When the trial is recessed, whether for a half hour or a half day, the jurors, courtroom personnel, litigants, witnesses and lawyers are kept waiting.

All of the above-mentioned and other considerations have figured in the decision made in other parts of the country, particularly in large cities where the volume of the courts' business has increased, to hire law clerks for the judges, particularly to aid them in connection with their legal research during the course of trials and in connection with their needs for keeping abreast of the changes in the law. Law clerks are utilized in a variety of ways by the judges in different parts of the country (Exhibit II).

The committee strongly endorses authorizing the courts to hire law clerks.

Judges Should Have Flexibility in Utilization of Personnel

In connection with the courtroom functions now performed by the deputy clerks of court in the courtrooms in which civil and eminent domain matters are being heard, the committee believes that the court reporter could perform many of these functions. The record of witnesses and exhibits, currently kept by the deputy clerk of court as his main courtroom function (see Exhibit VI), is also kept by the court reporter as part of his record of the trial. Most of the judges also keep their own log or record of the various witnesses and exhibits. It would therefore be possible for law clerks, even if they are not in the courtroom, to put together the necessary record from the judges' or reporters' record. Or the judges might direct the court reporter to keep this log or to swear witnesses or perform other functions now performed by the deputy clerk of court, in the absence of a law clerk.

These are merely ways in which existing courtroom functions might be consolidated. The committee does not presume, indeed, would never presume, to recommend to the courts exactly how courtroom personnel should be utilized.

The important thing is that, in consolidating existing courtroom functions, the judges should have absolute discretion to utilize efficiently all courtroom personnel. The judges will wish to, and should have the authority to, experiment in this area. Some judges may wish to utilize available personnel for the courtrooms in a somewhat different manner than other judges, at least until such time as a majority of the judges reach a consensus on a common plan. Experimentation should be authorized and encouraged. Existing archaic governmental structures and practices should not be allowed to stand in the way of progress toward reform in courtroom services (see Exhibit VII).

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Judges Should Have Administrative Assistance in Utilization of Personnel

If, as seems likely, the judges determine that, in connection with these reforms and attendant personnel matters, they would benefit from the services of an Administrative Assistant hired by them and responsible to them, they should have the authority and funds to create and to fill such a position. If this is done, there should be a clear understanding on the part of the judges and of the elected officials with whom such Assistant would be dealing on behalf of the courts as to what the duties and authority of such an Assistant would be. It would therefore be possible for law clerks, even if they are not in the courtroom, to put together the necessary record from the judges' or reporters' record. In this connection, it would appear desirable that such an Assistant serve jointly both the County Municipal and District Courts for the following reasons:

- a) The bailiff pool, over which the Assistant might exercise jurisdiction, would serve both courts.
  - b) If it were determined to hire a number of law clerks to serve in a pool, they would most likely be serving both courts under the direction of the Assistant.
  - c) A secretarial or stenographic pool might serve judges of both courts.
  - d) The Sheriff's office, with which the Assistant would coordinate under the direction of the judges, performs services for both courts in connection with service of warrants and civil process, as well as in providing bailiffs.
- The Administrative Assistant might report to and take direction from the Chief Judges of the two courts, two judges designated by the courts, or a joint committee of judges from both courts.

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### Criminal and Traffic Warrants

Discussion in this area is divided into two categories, traffic warrants and criminal warrants, although all are technically criminal warrants. There are several factors which must be considered in evaluating these services. First, these activities deal with the more elusive or mobile element of the population. Many of the warrants which issue from the judicial process are for all practical purposes unservable, because the named defendant is passing through from out of state, or warrants are sent to Minneapolis from some other locality because of a so-called "hot tip" that the subject is in the vicinity, which may or may not be true.

Thus, when police people talk about "the warrant backlog," the implication is that a certain volume of incoming workload is beyond the capacity of the staff to handle. This contention is questionable. Review should be made of all incoming warrants and an evaluation should be made of the practical possibility of serving the warrant. It is evident that warrant service will absorb about as much manpower as government is willing to devote to the function.

Traffic Warrants. Under the Minneapolis Municipal Court, the workload in traffic warrants has been as follows:

<u>Year</u>	<u>Warrants Received Monthly (Average)</u>	<u>Warrants Served Monthly (Average)</u>
1962	600	423
1963	656	486
1964 (10 mo.)	707	487

This volume was handled by five Minneapolis police attached to the old Minneapolis Municipal Court. Volume of warrants issued in the County outside Minneapolis has been roughly estimated at 250 monthly. The Sheriff's office has maintained that warrants served, which issued from the old suburban municipal courts, ran about 125 per month. Those warrants were all handled by local police in the suburbs in the past.

Criminal Warrants (Non-traffic). In Minneapolis, volume of these warrants has been estimated for the last year at 2700 for the year, or 225 per month. They were all handled by the precinct police closest to the supposed address of the defendant. Minneapolis police allege 85% of these warrants were successfully served. In the suburbs in the past local police also attempted service of criminal as well as traffic warrants of the old suburban courts. However, in the past the Sheriff, not Minneapolis police, has served Minneapolis Municipal Court warrants in the suburbs. In this regard, the Sheriff has guessed that he served about 1000 warrants in suburban and rural Hennepin last year and unsuccessfully tried to serve another 300 criminal warrants.

### Local Police Should Serve Warrants

The arguments in favor of leaving to local police warrant service duties for either type of warrants are compelling:

- 1) The local police know the local situation -- where a defendant is or is likely to be located or who can direct them where to look.
- 2) Warrant service duties are time-consuming and can best be combined with

ordinary police work, especially squad car patrolling. In other words, the local police are out patrolling an area, anyway. They can easily check on addresses in their area periodically until they find a defendant in or ascertain that he has moved elsewhere.

On the other hand, under the new arrangement, with the Sheriff serving all warrants everywhere in the County, two deputies in a squad car have to go all the way out to south Bloomington, say, to check an address. If the defendant is not there, they must wait or return. Performed in this manner -- and it is the only way the Sheriff is able to perform these duties -- warrant service is a time- and manpower-consuming operation.

The committee believes that warrant service should remain a part of local police work, with provision for prompt return of warrants in the event local police are unable to make contact with a defendant.

#### Description of Proposed Plan Vetoed by the Sheriff

This was the arrangement worked out by the County Board with the Minneapolis and suburban police, but vetoed by the Sheriff. Under this proposed plan, a record center under the direction of the Sheriff would have often effected service by phone, and would have made maximum efforts to locate a defendant by phone prior to any warrants being sent out to police for service. Once a probable address or reasonable lead as to the defendant's whereabouts had been determined, then and only then, would a warrant have been sent out -- to a Minneapolis police precinct station or to suburban police -- for service.

The police were committed to a prompt attempt to effect service. They were to make three "passes" at an address and, if unsuccessful, they would return the warrant to the record center.

The plan also included a fee arrangement -- \$5 paid to a municipality by the County to handle a warrant, and another \$5 if successful service is made.

It should be kept in mind that, making a "pass" at an address is really a part of regular police patrol work, taking little time out of the police routine. But, when successful service is made (when a defendant is located), the police must take the time to bring the defendant in and book him into jail.

#### Plan Self-Regulating

Another factor to consider under the proposed plan is that, because of the potential income to the municipalities represented by successful service of warrants, the plan would have had a self-regulating feature. In other words, if a defendant is picked up in St. Louis Park for careless driving, the chances are that, when he is brought in, he will receive a substantial fine which will be paid to St. Louis Park, if that is where he committed the offense. The authorities in St. Louis Park would therefore exert maximum effort to see that their police accomplish successful service of a warrant on this defendant.

Contrast this with the current arrangement in which Sheriff's personnel will be attempting to make all personal service of warrants throughout the County. The Sheriff's activity in serving warrants will be superimposed on the regular patrol activities of the local police departments. There will be no built-in control factor

as would be the case with local police service of warrants.

Despite the fact that he has now said that he would try to serve warrants with existing Sheriff's personnel and "lots of overtime," the Sheriff has repeatedly said in the past that 30 new men to serve warrants would probably not be enough and that he would likely request from the Legislature the number of new men he feels necessary to perform these new duties he is taking on.

For all these reasons the Committee believes most emphatically that warrant service whenever possible should be left with local police and that, early in the legislative session, the law should be changed to provide for service of criminal and traffic warrants by local police. Along with this, supervision of warrant service operations should be provided for.

There is justification for the Sheriff's serving warrants in outlying sparsely populated parts of the County where local police are unable to perform this service. The County Board authorized the Sheriff four new men for this limited purpose. Four men should be ample to perform it.

#### Fees for Warrant Service?

Because local police have always in the past served warrants without charge, the committee questions the need for fees in this area. However, if fees do prove necessary or desirable, a fee arrangement, estimated by the County Board to cost up to \$80,000 yearly to be paid by the County to the municipalities, would be much preferable, the committee believes, to the duplication of services inherent in the Sheriff's assumption of the function of warrant service throughout the County.

#### Service of Civil Process

These services have always been provided by the Sheriff. The County Board authorized eight new deputies to handle the added work load of papers in connection with the new County Court (see Exhibit IV). Eight should prove ample.

This service should be self-sustaining, on the basis of the fees paid for paper service. Although the Sheriff indicates it is, there are inadequate records upon which to form a judgment in this regard. The Sheriff's records merely indicate the number and types of service and duties performed by each deputy. The committee feels that a review of this activity by the County Board would prove useful, so that the public can be reassured that it is being carried on efficiently and on a self-sustaining basis, as the committee believes it should be. The County Board should have the authority to readjust the rate schedule for these services, the committee believes.

#### Record Center

This center, when fully operational, will utilize a new \$16,000 filing system, the County's IBM computer which will write all warrants, and a clerical staff (see Exhibit IV), to keep the records, answer inquiries from law enforcement officials, and attempt telephone contact with defendants listed on warrants.

When phone contact can be made, many defendants, especially those charged with traffic offenses, will voluntarily surrender themselves, and there will be need for less man hours expended in attempts to make personal service than there would be if there were no center.

Currently, and unless the Legislature acts to allow local police to serve warrants under contract with the County, the center will merely service the Sheriff's countywide warrant service operation. Under the plan the committee strongly endorses for return to service of process to the local police, the center would be the control factor over the warrant service operation.

#### LEGISLATIVE ACTION

It is essential in considering the possible reforms considered in this report that the Legislature bear in mind:

- 1) The need to vest in the judges overall direction and control of courts-related personnel.
- 2) The need of the judges for maximum discretion and the chance to experiment in implementing reforms.
- 3) The need for power in the County Board, in consultation with the courts, to make budgetary adjustments between the budgets of the District Court, the County Municipal Court, the Clerk of District Court and the Sheriff of Hennepin County.
- 4) The interrelation of matters involving reform in county governmental structure and personnel practices to the findings and recommendations made in this report.

EXHIBIT I

1965 COURTROOM PERSONNEL, DISTRICT AND COUNTY MUNICIPAL COURTS  
(From 1965 Budgets and other information presented to the Committee)

I.. Courtroom Bailiffs (Salary \$505-573 per month sheriff's scale)

County Municipal Court (14 judges, 14 court reporters)

The budget authorized by the County Board November 17, 1964 provides for 16 positions. Nine positions will be temporarily filled by the Minneapolis police under contract arrangement . . . . . 16

District Court (16 judges, 5 referees, 5 retired judges,  
17 court reporters)

In the 1965 budget for positions and salaries approved by the 1963 Legislature, there are a total of 121 positions in the sheriff's department, including 12 in his radio operation and 15 for the county jail. Of these 121, 76 are "general deputies," 12 serving in the jail. At least 25 of the remaining 64 general deputies are court or hearing room bailiffs. All of the judges, referees, and visiting or retired judges sitting are served full time with bailiffs, as is the Probate Court. The figure of 25 bailiffs is conservative . . . . . 25-30

II. Courtroom Deputy Clerks of Court

County Municipal Court (Salary \$391-615 per month)

There are 48 "Deputy Clerks" provided for in the 1965 budget, plus 4 more requested and provided for in a contingency appropriation if needed. Of these, 14 will serve the judges in court, with additional clerk help occasionally needed in traffic and criminal courtrooms in Minneapolis . . . . . 14-18

District Court (Deputy Clerks, \$400-689 per month)

In addition to 3 assignment clerks under the District Court budget, there are 58 positions in all provided for under the Clerk of District Court's 1965 budget approved by the 1963 Legislature. Of these, 22 are "deputy clerks," 11 are "court deputies," and there are 2 criminal deputies. Of these 39 deputies noted immediately above, at least 25 are serving regular, retired or visiting judges and referees full time in court or hearing rooms while court and hearings are in session. Normally, at least 20 of these courtrooms are engaged in civil or eminent domain matters. . . . . 25

(Under the District Court budget for 1965 there is one law clerk for special term, paid \$5,200 per year)

APPROXIMATE TOTAL NUMBER OF BAILIFFS AND DEPUTY CLERKS UNDER STUDY . . . . .80-89



## EXHIBIT II

Excerpts from Letters Received on Courtroom Personnel Reform in  
Other States:

1. From Ruggero J. Aldisert,  
Calendar Control Judge, Court of Common Pleas  
Pittsburgh, Pa.
- ... The Allegheny County Court of Common Pleas is a 19-judge court which services a population of 1,700,000 people. We are a court of general trial jurisdiction.
- ... For some time, this Court has had the services of law clerks paid a salary of some \$6,000 a year or less. Prior to this year there was one law clerk for every two judges. The Court on its own instituted this law clerk system some 15 or 20 years ago by first utilizing bailiffs. What this specifically means is that when a vacancy would appear in the ranks of general court bailiffs, the court would fill the vacancy with a graduate law student. This developed over the years until we worked out the ratio of one law clerk for every two judges.
- ... Through the years enough public interest was generated that we have now been able to have the Board of County Commissioners include in the budget sufficient funds to have a law clerk for each of the 19 judges. Their annual salary is \$6,000. For the most part these men and women serve a minimum of one year, sometimes two years, and in some cases even longer. Most of them come to us on the recommendation of the faculties of the two law schools in our community.
- ... In Allegheny County the law clerk performs only law clerk's functions. He does not perform the work of a bailiff and we do not have a deputy clerk assigned to each courtroom. We have a centralized system of minute clerks for our court. These minute clerks handle the selection of juries in a central selection room, and come to the individual courtrooms only to receive the verdict when the jury returns with it. Upon receiving the verdict the minute clerk returns to the central pool to make the proper entries in the minute docket.
- ... It is my judgment as a judge of this court, and as a former practicing lawyer, that the law clerks perform a great and meaningful service to the court. One of the great services performed is to check the citations in the briefs submitted by counsel and to perform independent segments of research to assist the court in the preparation of opinions. In addition, the law clerk performs an invaluable service during the trial. Where a question is presented which calls for immediate ruling by the court it is a time saving device for the court to refer this specific question for immediate investigation to his law clerk so that there will not be any delay in the trial.

... We feel that a better quality of justice results from a minimum of delay, both during the trial and in the consideration of post-trial motions.

2. From Eugene A. Wright,  
Judge of Superior Court,  
King County, Seattle, Washington  
(Also Editor, National Conference of State  
Trial Judges, Institute of Judicial Administration,  
New York University)

... For my first 4 years I used a relatively uneducated bailiff who did virtually nothing but preserve order and run errands. The salary paid at that time was commensurate with starting salaries for young lawyers in several Seattle law offices.

I concluded that I could do better. It was obvious that many young law graduates needed experience in courthouse and courtroom procedures before they were capable of practicing law.

In March, 1959 I employed the first law clerk-bailiff and have been so enthusiastic about the results that I would never return to the former system.

... When we are handling jury trials, my law clerk-bailiff is occupied with the care of the jury, assisting in the preparation of jury instructions and research of the law, handling my calendar problems, including special appointments.

During nonjury trials, the law clerk is occupied with the study of trial briefs, if any, and further research of the law. The keeping of files and records is an important part of the job. A legally trained law clerk or bailiff can do that satisfactorily. I like to have my trial notes bound, indexed and filed away for future reference. I also keep a card index by subject matter of cases which have been tried, another index by subject matter of cases which have been tried, another index of cases appealed and a third one of legal periodicals and other materials particularly on judicial administration. Current decisions of our own state Supreme Court and of the United States Supreme Court are indexed and digested.

... This is the only way that I know of to keep abreast of the law, to record essential materials, and to do a reasonably good job of deciding cases.

... Initially when this program was established, it was intended to be a six months' training program. .... I am convinced that the procedure is a valuable one for the young lawyer, for me and for the administration of justice.

... The time of a judge is too valuable to be wasted on unimportant details. All over the country judges are complaining about not having enough time to reflect, to prepare proper jury instructions, to polish

their decisions, and to study new developments in the law. I am satisfied that having a law clerk-bailiff is a partial solution.

... After several years of experimentation I concluded that a six months' term for a law clerk-bailiff was not long enough. I have now changed to a one year term and find that much more suitable and would recommend that to you. Mid-summer seems to be the best time to make the change.

3. From John J. Lavelle,  
Court Administrator  
Court of Common Pleas  
Cuyahoga County  
Cleveland, Ohio

... In practice, in our court, each judge appoints his individual bailiff, for whatever consideration he deems pertinent. All other employees of the court are appointed by the judges in a general meeting. Some judges have appointed young lawyers as bailiffs, and in some instances, these young men have been helpful to the judge in research. However, in the civil branch of our court, the bailiff also acts as a clerk in the court room, keeping the trial docket and making such entries as are necessary, under the direction of the judge. He may, depending on the preference of the individual judge, administer the oath to the jury and witnesses; he conducts the jury to and from the central jury room; he may be required to transact some personal chores for the judge. In short, he is a combination clerk-bailiff. Each judge has available to him, in chambers, the state reports, code and Ohio Jurisprudence, in addition to such texts as he may need, so that other than out of state reports, etc the bailiff is not required to leave the court room for any extended periods.

We do have a pool of law clerks, six in number, who are generally recent law school graduates, except for the Chief Law Clerk, who is a seasoned and experienced lawyer. These clerks are available to any of our judges who wish to have a problem researched, and a considerable part of their work lies in checking the law concerning motions to pleadings, summary judgments, etc. When we appoint a law clerk, it is with the understanding that he will remain with us at least two years, before going into private practice, so that we have some continuity in the position. Generally, our law clerks come to us from Western Reserve Law School, recommended by the Dean. ... Part of our problem in getting good law clerks is salary, our starting salary has been \$6,000 per year. Many of the large law firms in Cleveland are offering in excess of this amount to top members of their classes.

We have had but one man in a court room since 1933, when the position of court room clerk was abolished in an economy move. We have had the law clerks for about 10 years. We find the system most satisfactory.

Other courts in Ohio where the number of judges is less and the volume of business considerably smaller, combine bailiffs duties with that of investigator in Domestic Relations cases, probation officer, etc. I know such a procedure would not be practical in a metropolitan court, but I cite it to you as an example.

EXHIBIT, III.

SHERIFF'S OFFICE  
Hennepin County  
Minneapolis, Minn. 55415

Ed Ryan, Sheriff  
Jack Whitney, Undersheriff  
Eugene C. Arnold, Inspector

2 September, 1964

PERSONNEL REQUIREMENTS FOR SHERIFF TO EFFICIENT SERVICE  
HENNEPIN COUNTY MUNICIPAL COURT, EFFECTIVE JANUARY 1, 1965

BAILIFF (26)

One bailiff assigned to each judge, (14)

The judges have indicated a need for two additional bailiffs in criminal and traffic courts. The heavy case loads of these two courts demand additional bailiffs to insure security of the court, security of prisoners, escorting convicted prisoners to the jail, to the Clerk's office to pay fines, and to the Probation Office for presentence investigation.

A survey made by the Sheriff's Office indicates the position of the judges is well taken in the following court areas: Minneapolis, St. Louis Park, and Bloomington, however, we feel that Crystal and Wayzata areas will fall short of calendar calls which demand additional man power.

Four extra bailiffs in the above mentioned court areas (12)

WARRANT DIVISION:

FILE CLERKS (5)

Under this new court system we will have central records on all warrants issued in Hennepin County. This file must be available to the law enforcement agencies of the County twenty-four (24) hours daily. Five persons operating three shifts seven days a week.

STENOGRAPHERS (2)

Two girls capable of taking dictation, typing and filing. This number is an addition of one girl over the present system in the Minneapolis Police Department

SHERIFF'S OFFICE  
HENNEPIN COUNTY  
Minneapolis, Minn. 55415

Ed Ryan, Sheriff  
Jack Whitney, Undersheriff  
Eugene C. Arnold, Inspector

Page 2

TELEPHONE CLERKS (5)

These girls will work five day week with two shifts to ten o'clock each evening. Their duties will consist of the following: searching for addresses, telephoning defendants advising issuance of warrant, answer incoming calls, type information on master file cards and work sheets attached to each warrant.

WARRANT DEPUTIES (30)

At present in the City of Minneapolis all members of the department serve warrants. A survey of all chiefs of police to the county indicates that they will not assist this office in the service of warrants other than felony warrants issued as a result of their investigations.

Two officers must work together on criminal warrants where one officer can arrest in traffic cases. It will be impossible for 30 officers to carry the warrant load from this new court system, however, with experience we will be better qualified to submit a request to the Legislature for additional men. We must also consider the possibility of receiving in excess of 10,000 delinquent or outstanding warrants from the City of Minneapolis. It will be necessary for two men to remain in the Warrant Office each day so that they are available to take persons who surrender to jail.

DEPUTIES FOR CIVIL PROCESS (17)

At present there are only 7 policemen assigned to the entire City of Minneapolis. We will increase this number to 9 and assign 6 deputies for the remainder of the County. It will be necessary to have 2 persons in the office to record, receive, and register the civil papers upon receipt and after execution. The City presently has one office clerk.

SUPERVISOR

One man with rank of Lieutenant.

The Table of Organization should also include salary scale of Sergeant for 2 of the above men who will supervise on shifts when Lieutenant is not on duty.

ED RYAN  
Sheriff

J. Whitney  
Undersheriff

Copied by  
Citizens League  
11/27/64

## EXHIBIT IV

COMPARATIVE SUMMARY  
BUDGETARY PROPOSALS FOR SHERIFF'S FUNCTIONS  
HENNEPIN COUNTY MUNICIPAL COURT - 1965

	<u>Original Request</u>	<u>Revised Request</u>	<u>Approved by County Board</u>
<b>I. <u>POSITION SCHEDULE BY FUNCTION</u></b>			
Bailiff+ . . . . .	26	16	16
Warrant Service . . . . .	30	30	4
Civil Process Service . . . . .	17	8	8
Supervision . . . . .	1	1	1
Clerical Service . . . . .	13	12	8
Total	87	67	37
<b>II. <u>BUDGETARY REQUEST BY OBJECT OF EXPENDITURE</u></b>			
SALARIES . . . . .	\$555,864	\$380,736	\$209,496
OPERATING EXPENSE . . . . .	20,000	42,800	98,320
Office Supplies	\$ 3,000		
CMED Rental	4,320		
Mileage	8,000		
Uniforms	2,000		
Contractual Service +	80,000		
Other	1,000		
Total Approved	\$98,320		
CAPITAL PURCHASES . . . . .	92,000	72,000	33,200
Automobiles	\$ 5,400		
Office Furniture	26,000		
Communications Equip.	1,800		
Total Approved	\$33,200		
SALARY & OPERATING CONTINGENCY . . . . .	-	-	20,000
Total	\$667,864*	\$495,536*	\$361,016

**III. RECOMMENDED POSITION SCHEDULE BY CLASS TITLE**

<u>No.</u>	<u>Class Title</u>	<u>Salary</u>	<u>Recommended Budget</u>
1	Lieutenant (Supervisor) . . . . .	593 - 661	\$ 7,932
28	Deputy Sheriff+ . . . . .	505 - 573	169,680
1	Clerk Stenographer II . . . . .	362 - 433	4,752
5	Clerk Typist I . . . . .	294 - 351	19,860
2	Clerk I . . . . .	276 - 331	7,272
37	Total Positions and Salaries . . . . .		\$209,496

\* Based on estimates. No definite figures or dollar amounts were submitted.

+ Since original approval, \$27,000 has been shifted from the salary account to contractual service to cover part of the cost of temporarily contracting for services of 9 Minneapolis police to serve as bailiffs in lieu of deputy sheriffs, pending action by the Legislature.

EXHIBIT V

GEORGE M. SCOTT  
400 Court House  
MINNEAPOLIS, MINNESOTA  
55415

November 9, 1964

Stanley R. Cowle, Director  
Budget and Purchasing Office  
Court House  
Minneapolis, Minnesota 55415

Dear Mr. Cowle:

In your letter of November 3, 1964, you ask whether the County can contract for the service of police officers with major municipalities of the County of the County to provide traffic and criminal warrant service by the several municipalities as they are presently discharging their duties for the Municipal Court of such municipalities which, on January 1, 1965, will be the process of the County Courts. You call attention to Minnesota Statutes Section 471.59 which provides for the joint exercise of powers between two or more governmental units by agreement entered into by their governing bodies.

Under Section 488A.06 of the new County Court Act, subdivision 1 provides:

"The sheriff, with the approval of the majority of the judges, shall assign to the court a sufficient number of deputy sheriffs who shall act as bailiffs of the court. A bailiff shall be in attendance in all sessions of the court involving traffic or criminal matters and serve all process and warrants and perform such other duties as may be directed by the judges of the court."

Section 488A.111 provides:

"All salaries of the judges of the municipal court of the county of Hennepin, court reporters, the clerk, deputy clerk and all other employees of said court and all expenses of said court shall be paid from the treasury of Hennepin county."

It would therefore appear that the sheriff, the judges and the county would all be involved in the procurement of the necessary bailiffs to be furnished the court. Your attention is also directed to Section 412.161 relating to villages, particularly the duties of constable, wherein it provides:

"In any village in which the office of constable has been abolished, the council shall designate one or more of its police officers as a process officer who shall have all the powers and duties of the constable."

At common law, one of the duties of a constable was to serve process which was properly placed in his hands for service. With respect to cities of the fourth class, Section 411.26 provides:

\*\*\*\* All police officers and watchmen of the city shall possess the powers of constable at common law or by the laws of this state and it shall be their duty to execute and serve all warrants process commitments, and all writs issued by the city justice for any violation of the laws of the State of Minnesota or of the ordinances or bylaws of the city and all writs and process issued by the city justice in civil actions; \*\*\*\*

It would therefore appear that there is a power common to the county and the sheriff's department and the various villages within the county in the exercise of police powers. Section 471.59 provides a method by which they may be jointly and cooperatively exercised by agreement of the parties. It is our opinion that if the parties involved, namely the County Board, the Sheriff, the Judges of the County Court and the various municipalities whose police officers are to cooperate with the Sheriff in the service of process, are in agreement and arrive at a plan for the joint exercise of such police powers, a contract for the joint exercise would be valid under the provisions of M.S.A.471.59.

It should be noted that the duty to supply bailiffs is placed upon the Sheriff and we doubt if the County could contract away his duty without the Sheriff being in agreement. As the approval of a majority of the Judges, pursuant to M.S.A 488A.06, is a pre-requisite for the assignment by the Sheriff of deputies to act as bailiffs, it would seem that both the Sheriff and the Judges are the parties most concerned and an initial agreement satisfactory to both is necessary before the various political subdivisions could be contacted for their approval of any contract for joint exercise of the powers of their police officers and the police officers assigned by the Sheriff to the Court.

The Judges of the Minneapolis Municipal Court have indicated their approval of exploring the possibilities of contracting for services of persons already employed by the City of Minneapolis in their Municipal Court and their being carried after January 1, 1965 as personnel assigned to the new County Court system. I am attaching hereto an excerpt of the minutes of the Judges of the Municipal Court containing their recommendation.

If such a meeting of the minds of all parties concerned is arrived at, it is the opinion of this office that the provisions of Section 471.59 is authority for the execution of a contract between the parties for the joint exercise of the police powers to the end that the service of warrants within the County by local police officers may jointly and cooperatively exercise the powers and duties imposed on the Sheriff of Hennepin County by Section 488A.06 of the County Court Act.

Sincerely yours,

/s/George M. Scott  
County Attorney

GMS:nb

Copied by  
Citizens League



EXHIBIT VI

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State of Minnesota

District Court

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Wednesday, December 4, 1963

SEPTEMBER GENERAL TERM A.D. 1963

Court convenes pursuant to adjournment and transacts the following business before the

HONORABLE Irving R. Brand, JUDGE

Clarence D. Hall, COURT REPORTER

553714-34930

Helen L. Olson

vs

Charles Hall

Herbert Olson atty. for the Pltf.

Charles Coulter atty. for the Deft.

Donald Christy duly sworn and testifies in the Pltfs. behalf.

Pltfs exhibit Y. (Business Records) offered and received in evidence.

Helen Olson retakes the stand and continues to testify in her own behalf.

Pltfs exhibit D.D. (Photo) offered and received in evidence.

Dr. Sydney K. Shapiro duly sworn and testifies in the Pltfs. behalf.

Pltfs. exhibit R. (Bill) offered in evidence.

Thursday, December 5, 1963

553714-34930

Helen R. Olson

vs

Charles Hall

Helen Olson retakes the stand and continues to testify in her own behalf.

Defts exhibit 1 (Bill) offered and received in evidence.

Dr. Joseph Resch duly sworn and testifies in the Pltfs. behalf.

Pltfs exhibits EE, FF & GG (Records) offered and received in evidence.

Pltfs. exhibit E (Hospital Records) reoffered and received

Pltfs exhibits A. (Hospital Records) reoffered and received.

Pltfs exhibits A (Hospital Records) B & F (X-Rays) reoffered and received.

Pltfs exhibit I.I. (Letters) offered

Pltfs exhibit J.J. (Letters) offered

Dr. George Dorsey Jr. duly sworn and testifies in the Pltfs. behalf.

ruling  
reserved  
"

COURT ADJOURNS

A TRUE RECORD

Copied by  
Citizens League

ATTEST: PHILIP C. SCHMIDT

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State of Minnesota

District Court

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Friday, November, 6, 1964

SEPTEMBER GENERAL TERM A.D. 1964

Court convenes pursuant to adjournment and transacts the following business before the

HONORABLE Dana Nicholson, JUDGE

Richard Pawlik COURT REPORTER

#573087 (39538) and #605483 (51194) Trail of cause resumed, Consolidation.  
Plaintiff - Kathleen E. Swanson. (Both cases)

vs

Dfdt. #573087 - Mpls. Star & Tribune Co., a Delaware corp., and John Michael Hughes  
Dfdt. #605483 - Cares, Inc.

Attorney for the Plaintiff - Wm. Essling and Chas. Williams of (Johnson & Essling)  
224-4818

Attorney for the Defendants - James Fitzmaurice (Faegre & Benson) 338-7571  
Dr. Sidney K. Shapiro is duly sworn and examined by Attorney Essling for the Plaintiff  
Plaintiff exhibit A is offered and received. A is the Mt. Sinai Hospital record of  
Mrs. Swanson

Attorney Fitzmaurice cross-examines the witness, Dr. Shapiro

Plaintiff exhibit B is offered but not received

Mrs. Swanson resumes the stand for further cross-examination by the defense

Dfdts exhibit 4 is offered and received. #4 is a letter from Miss Larson to Mrs.  
Campbell

Mrs. Swanson is re-examined by her attorney.

The Plaintiff Rests. No opening statement by the Defense

Russell K. Peterson is duly sworn and examined by defense attorney Fitzmaurice.

Mr. Peterson is cross-examined by Attorney Essling

Dr. Edward L. Salovich is duly sworn and examined by Attorney Fitzmaurice.

Dfdts exhibits #5 and #6 are offered and received. #5- X-Ray film cervical #6-X-Ray  
film lumbar

Plaintiff attorney cross-examines Dr. Salovich

Dfdts exhibit #7 is offered and received. #7 is 2 sheets (stapeled together) from  
General Hospital

Both Sides Rest. Defendant Attorney Fitzmaurice makes closing arguments to court  
and jury.

The Judge charges the Jury and they retire for deliberation at 4:18 PM. with deput-  
ies Sam Reibblatt Jack Hartin and Mary Mlenoday in charge. The deputies were duly  
sworn.

The Jury returned in open court at 5:15 p.m. and rendered the following verdict  
"We the jury in the above entitled actions find for the Plaintiff and against  
the Defendants John Michael Hughes and Carco, Inc., under direction of the court,  
and we assess Plaintiff damages in the sum of three thousand three hundred twenty  
five dollars (3,325.00) and further find, under direction of the court, that the  
Plaintiff recovers nothing from the Minneapolis Star and Tribune".

Dated this 6 day of November, 1964  
(s) Joseph P. Lathauer. Foreman

Entry of Judgment is stayed  
for 30 days  
11/6/64 (s) Dana Nicholson  
Judge

COURT ADJOURNS

A TRUE RECORD.  
ATTEST: PHILIP C. SCHMIDT  
by Mack Rose Deputy

Copied by  
Citizens League  
545 Mobil Oil Building  
November 23, 1964

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## EXHIBIT VII

EXCERPT FROM REPORT OF METROPOLITAN COURTS CALENDAR CONFERENCE, LOS ANGELES, NOVEMBER 12-14, 1964, BY DISTRICT COURT JUDGES JOHN A. WEEKS AND THEODORE B. KNUDSON

### Relation of Courts to Other Governmental Units

There was unanimity of agreement that the courts must be able to appoint and control their own personnel. In Los Angeles County, the Probation Department is under the county Clerk. Under the law, probation reports are filed. It is not uncommon for a Probation Officer who is dissatisfied with the judge's decision to leak the same to a news media representative, who will make comparisons between the judge's sentence and the recommendation made by the Probation officer.

In most courts of which representatives were in attendance, the clerks were under an elected clerk over whom the judge had no jurisdiction. The same likewise is true of bailiffs generally.

In Pennsylvania, they have law clerks. They started out with six, and now have 20 law clerks for 19 judges.

There now is legislative authority in Michigan for law clerks.

There was a general consensus that the judge should be able to appoint the bailiff and the clerk, as well as his own secretary. The same is true of the entire Clerk's office, as well as the Probation office, and all other allied agencies upon which the Court must depend for the carrying out of its orders. It is pointed out that there are frustrations and irritations in the administration of such departments, but it is far more frustrating and irritating to find that the Court can do nothing about offices and agencies over which it has no control and wherein the Court finds itself handicapped by the inability to do things which normally would be expected to be under the judicial department of the government.

Speaker after speaker pointed out the division of powers and the absolute necessity for the judicial department to have the power of appointment, the determination of compensation, and all factors which affect the work of the Court.

In dealing with other governmental units, it is pointed out that it is desirable to have the administrative executive of the Court make all preliminary contacts with other administrative agencies, and never in the first instance utilize a judge for that purpose. Notwithstanding that other governmental units may want to deal directly with the judges, the presiding judge or committee of judges should be utilized only as a last resort and sometimes, all else failing, resort to mandamus or other like proceedings should be initiated to insure that the power of the judiciary is not diminished, if not in fact dissipated altogether, which has been the case in many of the states, including that of New York.