

# LAW SCHOOL DEVELOPMENTS

*Once a year this department will carry figures on law school registration. In addition it will provide a medium for the description of experiments in curriculum, teaching method, and administration. Like "comments," the typical law school development note will be characterized by brevity and informality; unlike them, it will be descriptive rather than argumentative and will deal primarily with devices which have been tested in actual operation. As a general rule, the authors will gladly answer inquiries and, to the extent available, upon request supply copies of materials referred to.*

## THE DUKE LAW SCHOOL LEGAL INTERNSHIP PROJECT

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The ugly duckling has become a beautiful swan! Criminal law and procedure, long shunned by lawyers and legal educators, is now a focus of their attention. The American Bar Association is undertaking studies of criminal justice at all levels; the American Law Institute has drafted a Model Penal Code; and the Department of Justice has sponsored efforts to eliminate inequalities in criminal justice resulting from inequalities of wealth. The Supreme Court decision in *Gideon v. Wainwright*<sup>1</sup> makes it unlikely that this current concern with criminal law administration will be only temporary.

The curriculum of law schools is gradually responding to this increased interest in criminal justice and to the increased responsibilities being placed upon the legal profession in providing representation in criminal trials. New courses and seminars in criminal procedure are being introduced; new programs, such as the Prettyman Fellowship Program at Georgetown, are being undertaken by the law schools. Almost inevitably the Duke Law School felt a strong need to provide new educational opportunities for its law students in the field of criminal law administration; and fortunately the National Defender Project was available, and willing, to help meet this need.

### I

#### THE APPLICATION TO THE NATIONAL DEFENDER PROJECT

Early in 1964 the North Carolina Fund, a unique statewide antipoverty organization financed by grants from the Ford Foundation and from two local foundations, became interested in the quality of legal services available to indigents in North Carolina. Although the State, in response to the *Gideon*

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<sup>1</sup> *Gideon v. Wainwright*, 372 U.S. 335, 83 Sup.Ct. 792, 9 L.Ed.2d 799 (1963).

case, had made provision for the compensation of attorneys assigned to the defense of indigents in criminal cases, there appeared to be substantial areas for improvement in this field; and in only a few cities did any type of legal aid agency exist to handle civil matters.

After the Executive Director of the North Carolina Fund asked me to investigate possibilities for the extension of legal services to the indigent, I was in contact with General Charles L. Decker, Director of the National Defender Project, to determine the possibilities that his organization might make grants for projects in North Carolina designed to enhance the scope and quality of the legal representation furnished to indigents in criminal cases. Finally, we determined that Durham, North Carolina would be especially suitable for some type of pilot project; here the facilities of the Duke Law School would be available and here also there was already under way a massive antipoverty program with which the pilot project might be coordinated.

After extensive discussions with General Decker and members of his staff, it was agreed that the project should have two components: (a) more extensive formal instruction for interested Duke law students in criminal law administration; and (b) establishment of a summer internship program for a selected group of law students, who, through observation of, and participation in, criminal trials, would be better prepared to make a substantial contribution towards improvement of criminal justice.

Since relatively few court sessions are held in North Carolina during the month of August, the summer program was scheduled for only two months—June and July. The interns were to be furnished subsistence at a rate of \$150 per month. It was contemplated that the same person who taught the course in Criminal Procedure—which would be required of the prospective interns—would also be supervisor of the summer program. (Not unnaturally, since I had suggested the project in the first place, I was given the responsibility for both the course and the summer program.)

As part of the demonstration of need for the internship program, letters were written by Dean Latty of Duke to various judges, prosecutors, and prominent attorneys. The responses indicated clearly that, at least as an experiment, the program would receive the requisite support from lawyers and court officials.

In discussions with General Decker, I had suggested that the summer interns should not only be assigned to assist defense counsel but also should have some opportunity to work with prosecution officials. In this way the student would obtain a more balanced picture of criminal law administration and would be much better prepared to participate in representing an indigent defendant. Moreover, it seemed probable that the program would receive much more cooperation from the solicitors—prosecutors—if the interns had some opportunity to work with them. Thus, as part of our final application we enclosed letters promising assistance from the solicitors in whose courts the program would be operating.

In preparing our application, we were unsure of the probable workload which would be available to the interns if their activities were limited solely to Durham County, which has only 115,000 inhabitants. Therefore, our application envisaged that the interns might also be assigned by the supervisor to assist attorneys in the neighboring counties of Wake, where the State capital,

Raleigh, is located, and Orange, in which Chapel Hill is situated. Furthermore, in the remote possibility that during the summer months the criminal caseload might be low in all three counties, our application made provisions for assignment of the interns to even more remote counties.

Despite considerable uncertainty as to the amounts of some of the prospective expenses—such as those for travel by the interns and supervisors and for long distance calls—we were still able to provide the National Defender Project with a realistic budget. The Defender Project furnished a \$9,000 cash grant towards the budgeted cost of the program—which included the course in criminal procedure, the summer internship program, and one other major item.<sup>2</sup> Duke University made a contribution of \$11,970 in the form of services and facilities, including faculty time, classroom facilities for the course in criminal procedure, office space, library facilities, and secretarial services.

The final draft of the application consisted of an introduction and summary; a description of the geographic unit covered; a description of then-existing legal services for the indigent accused; an explanation of the expanded service in connection both with educating the participating interns and with providing better legal services for the indigent defendant; a detailed discussion of the training to be provided through the program, including an outline of the course in Criminal Procedure and a discussion of the manner in which that course would fill a major need in the curriculum and would be coordinated with other courses; a budget; a recital of local support and coordination, including coordination with the Bar and with The North Carolina Fund; and biographical information concerning the program supervisor.

## II

### THE COURSE IN CRIMINAL PROCEDURE

Prior to 1965, the Law School had offered a first-year course in Criminal Law and Procedure. However, as a practical matter, time limitations precluded any extensive coverage of materials on procedure; and the casebook used in the course was primarily oriented to substantive criminal law. A Seminar on Criminal Law was available to second- and third-year students, but centered on substantive criminal law, jurisprudence, and penology; and courses in Constitutional Law and Evidence allowed only a brief opportunity for coverage of problems of criminal law administration. A Military Law Seminar treated criminal procedure before courts-martial, but dealt only tangentially with procedure in state and federal courts. Comparison with the curriculum offerings of other national law schools convinced our faculty in the fall of 1964 that a new course in Criminal Procedure should be offered.

<sup>2</sup>As our application to the Defender Project had provided, during the spring semester a number of the students taking the Criminal Procedure course—including all of the prospective interns—participated in a sensitivity study administered by Professor Martin Lakin of the Duke Psychology Department in conjunction with Professor Melvin Shimm of the law faculty. Professor Lakin had previously performed such studies on other control groups, such as doctors, nurses, and juvenile court judges. According to the participants, the experience was beneficial; and there is a substantial likelihood that in the future the sensitivity study will be undertaken with a larger number of law students at Duke.

With the aid of the grant from the National Defender Project, this course was offered in the Spring of 1965 as an elective for second- and third-year students, although completion of the course was made a requirement for participation in the summer internship program that was planned for the summer of 1965. Because the extent of student interest in the course was something of an unknown quantity, I was unsure in advance whether to offer it on a seminar basis with research papers to be prepared by the students, or whether to teach it from a casebook with examinations as a basis for grading. The enrollment of 57 students made it impossible to use a seminar approach. Moreover, this enrollment of some thirty per cent of the eligible students demonstrated that the offering of the course had been long overdue.

In the course we used materials on "The Comparative Study of the Administration of Justice," which had been prepared as part of a Ford-financed project of which Professor Francis C. Sullivan of Loyola was Director and in which my colleague, Professor Paul Hardin III, had been a Comparative Law Fellow.

The materials commenced with a study of arrest, including the purpose and definition of arrest, arrests for investigation, arrests with and without a warrant, citizen's arrest, force that may be used in making a legal arrest or resisting an unlawful arrest, and legal controls on wrongful investigation. Investigation of alleged crime was the next subject covered, and the materials dealt with the duty to investigate, questioning of non-suspects, confessions, the Mallory Rule, self-incrimination, right to counsel during investigation and the significance of *Escobedo v. Illinois*,<sup>3</sup> search and seizure, and electronic eavesdropping. Next the students were taught about the commencement of criminal proceedings by indictment or information, the role of the grand jury, setting of bond, extradition, arraignment, motions for change of venue and for other relief, the right to a speedy trial, pleas, and discovery. The materials concluded with a treatment of the trial itself—problems of publicity before and during the trial, selection of the jury, challenges of jurors, appointment of counsel and the requirements under *Gideon v. Wainwright* and the Criminal Justice Act of 1964,<sup>4</sup> evidentiary privileges applicable during the trial, arguments to the jury, and instructions to the jury.

Use of the materials was subject to some disadvantages. For one thing, they were not available in permanent hardback form and therefore proved quite cumbersome for the students to handle during classroom sessions. Moreover, the materials based on foreign law were not available to the students and had to be presented to them orally. Some fields, such as sentence and punishment, which have been covered in other criminal procedure casebooks, had been omitted here in favor of subject matter that generally is not included in the casebooks.

However, in my opinion—and apparently this view was shared by my students—the case materials proved highly stimulating and exciting; and the choice of subject matter conduced to an understanding of the most vital problems confronted in a criminal proceeding. A revision of the materials was underway this spring; and the lessons derived from their use at Duke in the Criminal Procedure courses have undoubtedly facilitated this revision. We definitely plan to continue use of "The Comparative Study of the Admin-

<sup>3</sup> *Escobedo v. Illinois*, 378 U.S. 478, 84 Sup.Ct. 1758, 12 L.Ed.2d 977 (1964).

<sup>4</sup> Criminal Justice Act of 1964, Public Law 88-455, 78 Stat. 522 (1964).

istration of Justice," especially since it will soon be available in permanent form through a commercial publisher.

### III

#### THE INTERNSHIP PROGRAM

Since the grant from the National Defender Project was not made available until early in 1965, the selection of prospective interns did not begin in earnest until the spring semester. Notices about the program were posted, and application forms were provided wherein interested students were to furnish certain biographical information and explain why they wanted to participate in the program. Unfortunately, it was impossible to answer some students' questions about the details of the program, since it was an innovation and there were no precedents to cite. Nonetheless, seven qualified second-year students and one third-year student were accepted and began their duties as interns. One other highly qualified second-year student dropped out of the program shortly before it began because of his wife's inability to obtain in the Durham area any summer employment as a teacher. Some of the interns were concerned about employment prospects during August, after completion of the internship program. Fortunately, through inquiry with Durham attorneys, I was able to assure them that some type of legally-oriented employment would be forthcoming if they desired it after completing the summer internship.

On the morning of Monday, May 31, the seven second-year interns completed their last examination; and that afternoon all the interns met with me to begin their duties. During the rest of the week they were present in the Durham County Superior Court to observe criminal trials and be available for assignment to assist indigent defendants. However, at that particular time few indigent cases were pending. Therefore, in accord with the plan outlined in our application, I arranged with Mr. Dan K. Edwards, the Durham County Solicitor, that he would provide the interns with experience in his office on any occasion when the number of defense matters was insufficient to keep them fully occupied. However, their primary duty would remain to assist indigent defendants.

As time went on and as the local attorneys became familiar with the interns, they were increasingly relied on to assist defendants and had less time available for assisting the Solicitor. However, at the outset the experience provided them in observing the preparation and trial of the case from the prosecution side of the docket proved invaluable.

Fortunately, the judges assigned to Durham County supported the internship project enthusiastically; and since North Carolina uses a rotation system for assignment of its judges, several of them came in contact with the interns during the period that the program was in operation. As a result the interns saw several different approaches to criminal law administration. For example, one judge would appoint counsel to represent an indigent defendant only in felony cases; another might appoint counsel upon request in a misdemeanor case. Sentences imposed for similar offenses sometimes differed markedly among judges.

In Durham County the attorneys are assigned to represent indigents on a rotation basis from a list of those who have volunteered to handle such cases.

During the first week of the internship program, the presiding judge decided that the interns would also be assigned on a rotation basis along with the attorneys.

By the end of the first week, I had determined that some of the interns should be assigned to the Superior Court of Wake County, which holds its sessions in Raleigh, a city located some 25 miles from Durham. The Solicitor there offered his wholehearted participation in the program, and accepted four of the interns for permanent assignment to his Court. There again the interns were available to assist the Solicitor whenever their defense duties allowed them time; and again the scope of their duties in representing indigents increased markedly as defense lawyers became familiar with the program.

The cases handled by the interns ranged from the most serious to the relatively minor. For example, one intern participated with a Durham attorney in defending an indigent charged with two murders. An insanity defense was presented which raised the interesting issue whether a defendant is entitled to have the jury instructed that if he is acquitted by reason of insanity, he will not automatically be granted his freedom but instead will be subjected to an immediate sanity hearing. The intern later assisted the attorney in preparing the case on appeal and the appellate brief in this case, which will soon be heard by the North Carolina Supreme Court.

Another intern participated with counsel in the trial of a robbery case which raised issues suggested by the case of *Escobedo v. Illinois*. Here again the intern has assisted the attorney in preparing the case on appeal and the appellate brief. This same intern reports that the cases on which he worked during the summer program involved: murder, forgery, assault and battery with intent to rape, larceny, storebreaking, receiving stolen goods, safecracking and safe robbery, abortion, assault and battery with intent to kill, unlawful possession of barbiturates, and disposing of mortgaged property. He noted that:

"A forgery case early in the program provided another important lesson. The defendant, an eighteen-year-old boy, had been charged with three counts of forgery which by statute carries a maximum of thirty years punishment. Investigation revealed that the boy usually wrote checks for his mother. He had written checks, signing her name, after the account had been closed. Seizing this fact, the court-appointed attorney was able to have the charges reduced to passing worthless checks on the theory of 'agency' and eventually the defendant received only a two-year sentence and was placed on probation after offering restitution. This case illustrated the need to examine the indictment for possible reduction of the charge. The police do not always get all the facts which make a difference at law."

In several instances, the interns were able in their investigation to uncover facts which led to the dismissal or reduction of charges against the indigent defendants whom they were assisting. In Raleigh the solicitor, burdened with a tremendous backlog of cases, utilized the interns on occasion to screen cases which should be dismissed or where pleas to lesser offenses should be sought. The interns were also able to contribute to the administration of justice by ferreting out facts which, in the hands of defense counsel, could be useful

in seeking probation, a suspended sentence, or some other punishment tailored to the individual defendant.

According to a participating student, "It was obvious to all that the enthusiasm of the interns rubbed off on some defense attorneys." In a few instances, one intern was assigned to help the prosecution on the same case where another intern was assisting the appointed defense counsel; and interesting post mortems on trial tactics would then take place with the supervisor.

The type of relationship between the interns and the court personnel is described by an intern in these terms:

"We were welcomed into the 'inside' group in Raleigh and were treated nearly as equals. We were involved in the everyday life of the court when it was in session. One time I had the experience of scurrying for information on the *Escobedo* case while the judge debated his decision on a motion. Though the importance of this case had been emphasized in law school, the point was much more clearly made when I realized how much pause it did give a judge who was faced with the problem of interpreting it. Another time I researched a point of evidence when the judge allowed the defense to impeach a witness for the prosecution with prior indictments which had not resulted in convictions.

"There were many opportunities for shoptalk. We occasionally lunched with the Solicitor and his assistant, and once in a while the judge and other attorneys joined us."

An intern in Durham reported that in one case involving alleged larceny of an automobile, he and the defendant's attorney decided that the facts showed a taking with the owner's permission; the Solicitor decided to take a *nol pros*. In a misdemeanor case where counsel had been appointed, the defendant was charged with possession of gambling devices. The intern reported to defense counsel that the warrant could be quashed and that, if defendant were thereafter charged under the proper statute, it would be difficult for the State to prove its case. After this had been pointed out to the Solicitor, he decided to take a *nol pros*. The intern added:

"A secondary result of my research on the case was the issuance of instructions to the police on drawing valid warrants in cases involving lottery tickets."

An intern in Raleigh reported:

"One aspect of my work that I found most interesting was the investigation of a murder that had taken place in a rural section of Wake County. I spent an entire day in surveillance of the area and the scene of the crime. In the course of my investigation I talked with some eight witnesses to the crime and uncovered a motivation which to this time had lain dormant. During this time I exposed myself to a stratum of our society which I knew very little about and understood less. I think I derived a much greater understanding of these people and their various behavioral patterns through this one opportunity."

"One of my most challenging endeavors was to prepare a brief on the effect of the 1964 Civil Rights Act upon the North Carolina trespass law. The brief was subsequently forwarded to the Attorney General of North Carolina to support a *nolle pros* stand on trespassing violations of the North Carolina law prior to the passage of the Civil Rights Act."

Another intern in Raleigh stated that during seven weeks he had, in one way or another, done work on more than 150 cases, including:

"All varieties of driving offenses, all of the various types of assault, murder, manslaughter, rape, burglary, larceny, robbery, arson, forgery, failure to provide support, worthless checks, receiving, escape, carrying concealed weapon, hit and run, gambling, false pretense, embezzlement, kidnapping, and possession of non-tax-paid whiskey. On all of these cases I had to interview witnesses and prepare trial briefs."

"On three cases in particular I put in a great deal of time. These cases were for murder, rape, and breaking and entering, larceny, and receiving. On these cases I spent considerable amounts of time interviewing the defendants; and other witnesses that I interviewed ran the entire gamut from doctors and clergymen to tenant farmers. Each witness presented his own peculiar problem. Trying to understand the language of the doctor and the frame of reference of the tenant farmer were invaluable experiences."

Naturally the exposure to a wide variety of cases and counsel provided the interns with considerable sophistication with respect to criminal law administration and trial procedure. Occasionally an attorney who did not generally appear in criminal cases but had been appointed to represent an indigent would obtain helpful information from the interns about the probable handling of his case by the solicitor.

With respect to trial tactics, one intern noted:

"I have observed some excellent and some poor trial work by lawyers. Voir dire is generally poorly handled. Few lawyers have had the jurors say much, nor have the lawyers really established a rapport with the jurors, which I feel essential—especially where complex issues are to be before the jury."

The interns were especially critical of one appointed attorney who was under the erroneous impression that he would be allowed to argue before the grand jury for dismissal of the indictment against his client.

The supervisor's responsibilities in the program centered on establishing liaison with court personnel and attorneys in order to maximize the use of interns. Since the program was a new one and the participating law students were unknown to the members of the Bar, I was called upon to some extent to vouch for their proficiency and ability. Fortunately, when the prosecutors and judges began to rely upon them, the appointed defense counsel soon began to follow suit; and after a few weeks their performance spoke for itself.

At the end of each week I would meet for discussion with the interns—usually at a Saturday morning breakfast meeting. At the first of these meetings our discussion centered on the questions asked in the Criminal Procedure examination which they had all taken a few days before. Later meetings focussed on their experiences in the courtroom and on a comparison of procedures and problems in Durham with those in Raleigh.

Of course, the supervisor had to be available for questions as problems arose during the week. However, I tried to avoid intruding upon the relationships which the interns were establishing with the practicing attorneys whom they were assisting. I suspected that generally the court-appointed attorney

would provide an intern with much more valuable instruction if the supervisor was not at every moment peering over the intern's shoulder.

The application to the National Defender Project had envisaged that the interns would hear guest lecturers discuss problems of criminal justice. Since the interns were tied up during the day with busy court schedules in two different cities, it was apparent that any guest speakers would have to appear on evenings or on weekends. I decided that the solution was for the interns to meet for dinner with a guest speaker at the middle of each week; and ultimately these meetings became highpoints for the interns.

The first guest was the Solicitor of Durham County, with whom the interns were already acquainted. Next it was the Solicitor of Wake County and his assistant. An Assistant United States Attorney compared North Carolina criminal procedure with that used in the Federal courts. A practicing attorney from Chapel Hill who participates extensively in criminal trials discussed criminal procedure from the standpoint of the defendant. This same attorney had previously served as a criminal law specialist for the North Carolina Institute of Government in Chapel Hill and was conducting a study of bail procedures in North Carolina; thus, his experience was especially helpful to the students. A legislator from Durham who had been Chairman of a Judiciary Committee of the North Carolina General Assembly provided legislative insights to the interns. Mr. V. L. Bounds, then with the Institute of Government as their expert in penology and more recently appointed Director of the North Carolina prison system, discussed sentencing and punishment in North Carolina, including the State's much-commended work release program. Another attorney who specializes in criminal defense work in Durham and whose court performances had been praised by the interns met with them for a discussion of trial tactics. At the final meeting Mr. Floyd McKissick, a Durham Negro attorney who is the national President of CORE, and his law partner, discussed criminal justice in North Carolina and elsewhere from the standpoint of the civil rights attorney.

The internship program had originally been scheduled for the period from June 1 through August 1; however, because of the apparent success of the program, approval from the Defender Project was obtained in late July to extend it for two or three additional weeks for those interns who were in a position to participate; four of them took advantage of this option. One intern was kept in the program for an additional period to complete an appellate brief to be submitted to the North Carolina Supreme Court in a case where he had assisted appointed defense counsel at the trial.

The one third-year student who had begun the program in June was compelled to drop out at the end of that month because of the demands of preparation for his forthcoming bar examination. On the other hand, a third-year student who completed his bar examination in June participated in some activities with the interns during July. It does seem clear, however, that a law student who has just graduated and is facing a bar examination usually cannot participate adequately in a program so demanding as the Duke summer internship program.

#### IV

#### EVALUATION

The Duke Law School is primarily concerned with legal education; and so the program should first be evaluated in terms of its contribution towards

enriching the education of the law students who were involved. The heavy enrollment in the Criminal Procedure course indicated a great interest in that field on the part of students; and certainly there is a need for the instruction provided in that course. We consider that in every way the course was successful in enriching the legal education of the law students involved.

With respect to the summer internship program, letters to the Duke Law School from judges, prosecutors, and practicing attorneys furnish abundant evidence that it was successful. The newspapers, both in Durham and Raleigh, published laudatory articles about the summer program. In my opinion, after following the interns on a day-to-day basis, the program achieved its goals.

However, the best evaluation may come from the participating interns themselves. One writes:

"As a general commentary on the program I can say that it was responsible for this being the most enjoyable and educational summer I have ever had. I have learned more criminal law in eight weeks in the program than I have in two years of law school. This is not meant to reflect on any deficiencies which law school may have but rather is to point out the excellence of the program."

Another states:

"It was anticipated that the program would provide an interesting and educational summer. Although it will be some time before individual interns will realize all the advantages gained from the program, it is apparent that the program was even a greater success than its participants hoped it would be. Not only will the bar exam be easier to prepare for in light of the more realistic problems encountered but also entering law as a practitioner should be made with less strain. It would indeed be desirable to extend the program next year to give a greater number of students an opportunity to participate in it."

A third intern comments:

"From a personal viewpoint, the program was of inestimable value. I wanted to have a job this summer that would give me some real idea of what direction I might take upon graduation. This much has come from my experiences, so the summer was successful. I am convinced that I want to be a trial lawyer. I hope that I will be able to find a job that will give me the opportunity to spend a couple of years in court before I go with a firm."

The evaluation by another intern is in these terms:

"In evaluating the program, one of the chief advantages has been in being able to work on the case from the first interview through the disposition of the case under the supervision of an attorney, and yet being responsible for conducting much of the necessary interviewing and research. Experience is soon a dear teacher in this type of work where the practical is of great importance in applying the law to a given case. This fact is evidenced by the frequent experience of seeing cases disposed of on pleas to lesser included or other offenses. Doing some work for the Solicitor has brought this home more vividly.

"A great deal of the assigned counsel practice relates to problems of a social nature and penology in which the real question relating to the indigent is not guilt or innocence, but what is the best disposition to make of the case: how can the individual and society benefit most in the disposition of the cases. This awareness is valuable to the lawyer who frequently deals with a 16-20 year old indigent; whether probation, prison, or work-release will be the best answer and hope for making a good citizen.

"Working on some cases for the Solicitor and on post conviction hearings has shown me the tremendous problem facing law enforcement officials of the safeguarding of society at the same time they safeguard the rights of the individual defendant. Preparing briefs in these areas of the law has been most stimulating.

"The interns have served extremely valuable roles in many of the cases on which we have worked because the attorneys appointed are frequently not interested in devoting nor able to devote a great deal of their time to these cases in which the circumstances of the cases are not appealing to them, and also because many of them are not criminal law practitioners, a weakness of the assigned counsel system. The program should secure a great variety of cases for the interns to work on.

"Participation in this program has shown me the tremendous importance of thorough preparation for the trial of a case. Utilizing trial tactics is much more appealing to me now as a challenge in the practice of law. I feel that other students would find the program likewise rewarding, and I recommend that it be continued next year."

In addition to the benefits that resulted for the participating law students, it is clear that the internship program helped improve the administration of justice in the areas where it was in effect. For one thing, the investigations made by the interns assisted appointed defense counsel in obtaining acquittals, dismissals of charges, acceptance of pleas to reduced charges, and lighter sentences. This assistance was especially important in instances where the appointed counsel was relatively inexperienced in criminal procedure or was busy with other matters. In many instances the interns, fresh from a course in Criminal Procedure, enabled the counsel to raise important legal issues that might otherwise have been ignored. Moreover, the enthusiasm of the interns tended to induce especially vigorous efforts on the part of counsel.

Fortunately the prosecuting officials and judges who were in contact with the program did not object in any way to the defendant's having the best defense available to him—and therefore did not feel reluctant to cooperate in a program designed to improve the quality of defense efforts. Moreover, from the standpoint of the prosecuting officials there was some quid pro quo in that the interns, in the event of any lull in their defense duties, were available to assist in preparing cases for prosecution; and this assistance was especially important in Raleigh because of an overwhelming accumulation of untried cases.

## V

### EXTENDING THE PROGRAM

The National Defender Project has approved a grant to the Duke Law School which will enable us to continue the program for the next two years.

We are hoping to select next summer's interns sometime during this fall; and, in view of the favorable reports on the program that the 1965 summer interns have given to their fellow students, we are expecting to have an ample number of qualified applicants from whom to select the future interns. Then after the selection is made, we shall probably schedule a series of discussions wherein the future interns can meet with their predecessors and also hear suitable speakers on problems of criminal justice.

By reason of the favorable experience this past summer, we anticipate that we shall receive the future cooperation of lawyers and court officials in Durham and Raleigh; but if the program is extended to other counties, the interns will once again be called upon to demonstrate the contribution that they can make to effective criminal law administration.

I have discussed with representatives of other law schools in our State the possibility that they might wish to establish similar programs. In that event, it might be feasible to place summer interns in every major metropolitan center in North Carolina. Moreover, Professor Hardin and I have been serving on a local committee that is seeking to organize a Durham legal aid agency as part of the local community action program which is funded in substantial part by the Office of Economic Opportunity. If this agency is established, then the activities of the Duke summer internship program will be coordinated with this agency—and this coordination might include the sharing of library facilities, supervisory and secretarial personnel, and office space.

North Carolina, unlike some states, has no rule of court or statute which under certain circumstances enables a law student to appear as counsel for an indigent. Thus, the student will not be allowed to represent the defendant without direct supervision from a licensed attorney. However, if many of the state court judges continue to refuse appointment of counsel for indigents in misdemeanor cases, it may also be possible to evolve some arrangement whereby in such cases an intern can be assigned to bring to the court's attention any information which might help avoid a miscarriage of justice as to either the verdict or the sentence. Also, perhaps the interns can be utilized in some way in connection with establishing a system designed to minimize pre-trial detention.

#### CONCLUSION

The grant from the National Defender Project to the Duke Law School has made possible a valuable and much-needed program. The law students who participated in that program as summer interns broadened markedly their legal education and obtained new and practical insights into the administration of criminal justice and the professional responsibilities of the Bar; at the same time these young men enhanced their understanding of the problems of poverty and obtained a new empathy with the indigent. The gain to the students was paralleled by an improvement in criminal law administration which resulted from the program; the interns were able to assist appointed defense counsel in providing a quality of defense that otherwise might not have been available to the indigent.