

Testimony to the
ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
COMMITTEE

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Chairman Potter and members of the ACIR committee, thank you for the opportunity to address State assistance to counties for major trials.

North Dakota has a county based criminal prosecution system. NDCC § 11-16-01(1) specifically states the State's Attorneys (SA) are the public prosecutors and shall "attend the district court and conduct on behalf of the state all prosecutions for public offenses." Further, NDCC § 11-16-01(4) provides that it is the job of the SA's to "draw all indictments and informations." In many ways, the label "State's Attorneys" can be a bit misleading for the public since it in fact is a county attorney that is primarily responsible for prosecuting public violations of the law. In North Dakota, almost all criminal cases are handled by a SA.

The State does provide assistance to SA's in few significant ways which are primarily provided for by the Attorney General's office (AG). The most direct financial support the AG's office provides is through witness reimbursement fees. This program was a direct result from a homicide case out of Adams County in approximately the late seventies. Adams County spent a significant amount of money on paying the witnesses for the trial and ultimately endangered the entire county budget. From that point on, the AG's office has always set aside money in its budget to reimburse counties for witness fees.

Generally, the process works as follows: An SA subpoenas witnesses for trial and ultimately the county pays those witnesses for their travel etc. The county then turns to the AG's office to provide reimbursement to the county. The AG's office has specific rules for when they will pay out reimbursement and if the request complies, they reimburse the county. During the 2007 - 2009 biennium, the AG's office expended \$231,595 in Prosecution Witness Fees. In this biennium's budget, the AG's office had budgeted for \$100,000 of which \$41,727 has already been paid out. This is typical for the witness fees to exceed the budgeted amount. However, instead of stopping payments, typically the AG's office will seek additional funds from the Emergency Commission to cover any short falls. Because of the nature of the criminal justice system, it is very difficult to predict on a year to year basis the amount of money necessary for this fund.

The second significant "non-fiscal" support the AG's office provides is by supplying an Assistant AG when requested by the SA. Typically, this occurs in significant time consuming trials where the Assistant AG has some expertise. Although the AG's office has statutory authority under NDCC §§ 54-12-01(5) & 54-12-02 to also prosecute cases, most of the time they rely on the local SA to request their support. In addition to actually handling the case, many times the Assistant AG also provide their expertise through legal

research and technical assistance. While not directly helping a county's fiscal bottom line, these services are invaluable to all SA's.

Finally, (and arguably the most significant every day help) the AG's office provides significant indirect support to SA's by maintaining a well functioning State Lab. The State Lab is involved in processing evidence in thousands of cases a year ranging from simple marijuana possession to homicide and everything in between. Without a quality lab, county costs and the burdens on SA's would increase exponentially. The lab personnel not only conduct scientific tests but are then required to testify in support of their findings. The State lab provides this support to the counties without request for fiscal reimbursements.

The AG's office and SA have long enjoyed an excellent working relationship and we look forward to continuing this tradition. We also thank the legislature for their continued support for these services and request the legislature continue to make these crime fighting efforts a top priority.