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April 5, 2005

Alan Kalmanoff, Executive Director
Institute for Law and Policy Planning
2613 Hillegass Avenue
Berkeley, CA 94704

Re: Lassen County Study

Dear Mr. Kalmanoff,

I've been promising you an update on the effect of your brief study of the Lassen County Criminal Justice System for some time. Now that I am retired, I feel I can fairly assess the impact of your visit to our small rural county in the summer of 2003. My assessment is, of course, colored by my experience in trying to implement the changes you recommended in your study.

Before you came, the system in Lassen County, in my opinion, was inefficient and extremely harsh. I had been for some time, particularly concerned about the fact that the local judge who did most of the criminal calendar would not allow public defenders to represent our clients at their arraignments. He coerced time waivers from indigent defendants in custody and would not allow the Public Defender to appear unless and until he appointed us, often violating the defendants' rights in the process. The legal presumption of pre-trial release on misdemeanors in the absence of flight risk or public safety issues was not followed. Pre-trial release was rare even on lightweight misdemeanors, especially if the defendant lived in a neighboring county or nearby, Reno, Nevada, or had only once missed a past court appearance. The jail population was full of people who had jobs waiting for them and families to support, who found themselves incarcerated on offenses that had no impact on public safety. They often waited in custody for more than a week before the Public Defender was notified of our appointment.

This same judge's treatment of defendants on spousal battery cases was particularly harsh, setting bail unreasonably high for the working poor, and forcing married people to have no contact with one another against their wishes. There was no procedure for a defendant to clear a missed court date short of turning himself in at the jail, even if he had a legitimate justification for the failure to appear. This minor offense was harshly punished by a thirty-day straight-time jail sentence.

The number of people on formal probation for misdemeanor conduct was disproportionate to the numbers in other parts of the state, and almost all defendants were referred to probation for a full pre-sentence investigation, even on misdemeanors. It seemed that the criminal justice system in Lassen County was fueled by an economy that depended on keeping the jail full. Even Proposition 36's requirement of drug treatment was resisted by this judge with a loss of money to the county.

Your independent and brief study of our system found a jail population where people got more jail time on traffic related offenses than they did on felonies. It also found a system overburdened with unnecessary probation referrals and no effective pre-trial release program. While your brief assessment that the jail was "the tail wagging the dog," did not go over well with certain members of the Board of Supervisors, the long-term effect of your recommendations has been remarkable. On the day you did your one-day snapshot of jail population, there were 118 people incarcerated, mostly locals, and mostly on

relatively lightweight and traffic related misdemeanors. This population figure was consistent with the average jail population over the long-term. The day I retired as Lassen County Public Defender, after forcing badly needed change (which I will outline below), the population was 62, or about ½ of the average before you arrived.

My reading of your assessment and the interviews you conducted of other local officials made me realize that I was not alone in my feelings about the inefficiencies and harshness of local practices. I was inspired to aggressively fight for change in a system that was bogged down in hometown personalities and politics. I soon realized that the only way to achieve fairness for my clients was to take my cases before a different judge, one who would follow the law and look compassionately at the offenders who came before him. I began filing affidavits of prejudice against one of the two sitting judges in this county. I later used his blatant acts of retaliation against me to file challenges for cause against him. I was harshly criticized publicly for my actions but vindicated by an out-of-county judge who found that this judge had demonstrated his prejudice and the result is that he can no longer hear any criminal cases that the Public Defender handles (approximately 90% of the calendar.) The presiding judge has responded by removing him completely from criminal cases.

The Judicial Council has assigned a visiting judge to hear criminal matters in Lassen County and the result is that the jail population has decreased by one-half. Public Defenders regularly appear at in-custody and out-of-custody arraignments. People are often released on their own-recognizance at their initial appearance as is required by law. From the time I began challenging this local judge, not a single defendant was sentenced to thirty days in jail for missing a court appearance. I also had no problem getting their cases on calendar to clear failures to appear.

The stance on spousal abuse has softened and families' rights are respected while not compromising safety. There have been changes in local practices wherein misdemeanors are no longer referred to probation unless certain specific criteria are met. People are only placed on formal probation on misdemeanors in rare cases. The Chief of the Susanville Police Department issued an order that people arrested for being intoxicated in a public place be released after drying out and not charged criminally. An order was also issued that people who are arrested on bail amounts under \$5000 be cite-released and not detained in the jail. All of these changes have contributed to the lessening jail population and a more efficient and cost-effective criminal justice system.

On a personal note, I was honored this year by California Lawyer Magazine as one of their Attorneys of the Year for having a significant impact on public policy for my work in bringing about change in Lassen County. I credit that award to you. You inspired me to be strong in my convictions and you reminded me of my duty to bring about positive change on behalf of my clients. As a result of your brief presence in Lassen County, the criminal justice system is more efficient and, in my opinion, more fair. Public Safety is not compromised (people still do not lock their doors in this community). The guilty are punished and the innocent are set free. I was able to get 120 cases dismissed during my last year as Public Defender.

Thank you for your good work in this county. The criminal justice system is greatly improved as a result of your brief presence here.

Very truly yours,

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