

PUBLIC WELFARE FOUNDATION FINAL/INTERIM REPORT

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Name of Organization: American Bar Association Criminal Justice Section

Type of Report (Interim, Progress, or Final): Final Report

Grant Period: April 15, 2012 to September 30, 2013

Time Period Covered by Report: April 15, 2012 to September 30, 2013

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Required Confirmation: I confirm that the information contained in this report is accurate and complete.

Signature of Chief Executive Officer

Or Other Authorized Signatory: _____

Printed Name: Salma S. Safiedine

Title: Director, Racial Justice Improvement Project

Date of Signing: 12-3-13

Please email the completed document to submit@publicwelfare.org. The cover sheet must be signed by an authorized signatory. You may send the signed cover letter via email to submit@publicwelfare.org, by fax to 202-265-8852, or mail to Public Welfare Foundation, 1200 U Street, Washington, DC 20009. Attn: Grants Management.

Narrative:

In 2010 the American Bar Association Criminal Justice Section launched the Racial Justice Improvement Project (RJIP), a project funded by the Bureau of Justice Assistance (BJA). RJIP is designed to identify and reform policies and practices that produce racial disparities in local criminal justice systems across the country. One of the project's chosen jurisdictions is St. Louis County Minnesota.

Minnesota

St. Louis County, Minnesota is the largest county by area in Minnesota. According to the 2010 US Census, St. Louis County, Minnesota, has a population of 200,226, which constitutes 4% of the state population of 5,303,925. County residents who identify themselves as White comprise 93.0% of the population, 1.4% identify themselves as Black/African American, and 2.2% identify as American Indian or Alaska Native. The County's proportion of Whites is higher than the state (85.3%), as is its American Indian/Alaska Native population (1.1% statewide). The median income per household is \$23,258 versus a state median of \$29,431, a difference of 21%ⁱ; 16.4% of the county population live below the poverty level, compared to 10.9% of the state population. In 2009, St. Louis County reported 9,338 crimes, per 100,000 people, including 3,648/100,000 Part I crimes¹ and 5,690/100,000 Part II crimes.ⁱⁱ The Minnesota state crime rate was 7,547 per 100,000 people, with 2,894/100,000 Part I offenses and 4,653/100,000 Part II offenses. While St. Louis County had a higher crime rate for both Part I and II offenses, the closure rate was similar to the state rate (46% and 49%, respectively).

St. Louis County is a member of the sixth judicial district of Minnesota (along with Carlton, Lake, and Cook Counties), and is the only county in the state to contain three separate courthouses with chambered judges. The courthouses are located in Duluth, Hibbing, and Virginia, Minnesota². Eight judges are seated in the Duluth courthouse; two preside in Hibbing, and three in Virginia.

St. Louis County Sheriff's Office (SLCSO) patrols most of the County, including the unincorporated areas and the towns of Mountain Iron, Aurora, and Buhl/Kinney. Duluth, Hibbing, and Virginia each have their own police departmentsⁱⁱⁱ. The SLCSO also maintains the county jail and Range lock-ups. The primary SLCSO offices are located in Duluth, Hibbing, and Virginia.

The county maintains three detention facilities to hold pre-trial defendants. The Virginia facility has 12 beds and the Hibbing center is comprised of eight beds. Both are 72-hour holding facilities. The Duluth facility holds up to 192 pretrial and sentenced inmates.

Data

Under the Racial Justice Improvement Project a Minnesota Task Force (TF) was formed to address racial disparity and implement criminal justice reform in St. Louis County, Minnesota. TF used a portion of Bureau of Justice Assistance grant funds to identify decision points, and gather and analyze data to determine where racial disparities exist and which problems are most suitable for reform. Based on TF members' personal experience and other anecdotal evidence, the TF decided to examine the pretrial release procedures in St. Louis County. At the time of this decision, no hard data were available to determine whether there were racial or ethnic disparities in treatment of defendants prior

¹ According to the Federal Bureau of Investigation, Part I offenses include murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson, while all others are Part II offenses.

² Hibbing and Virginia are located in a rural area of the county known as the Iron Range.

to a plea or trial. Thus, the TF decided to collect data to determine whether inequalities existed.

At its January 2011 meeting, the TF agreed to contact Rob Weidner, PhD, a criminologist at the University of Minnesota, Duluth, to discuss data collection and analysis. Dr. Weidner had conducted previous criminal justice research on behalf of St. Louis County, thus had an understanding of the system and the county's specific characteristics.

Over the course of the next nine months, data were collected and analyzed by Dr. Weidner. Results indicated the following:^{iv}

- Non-Whites were significantly less likely to be detained than Whites, but were also significantly less likely to be offered release on their own recognizance (ROR);
- In Duluth and Virginia courtrooms, pretrial release on their own recognizance (ROR) was more likely to be offered to Whites than non-Whites; in the Hibbing courtroom, non-Whites were more likely to be offered ROR pretrial release; and
- Defendants on ROR were more likely to fail to appear than those for whom bail was set; failure to appear rates were higher in Duluth than in Virginia and Hibbing.

Several TF members were concerned that the data analysis from Dr. Weidner was not clear, was open to interpretation, and that the data did not conclusively indicate a point or method of reform. With this potential shortfall in mind, the TF proposed various solutions only after intense dialogue with experts and key criminal justice stakeholders. At the October 2012 Racial Justice Improvement Project conference in Washington D.C. the TF developed the following hypotheses:

1. Individuals in St. Louis County get higher bond the further away they live from the court house where they are arraigned; this disproportionately impacts minorities, particularly Native Americans, because of residence on reservations on the edges of the county.
2. Judges are not using bail reports (because they are unavailable) to set bail, and are thus using snap judgments to set bail higher for minorities.

In 2012, the task force worked on several projects to address the racial disparities in pretrial detention and address their formulated hypotheses. First, the pretrial risk assessment tool that Arrowhead Regional Corrections (ARC), the St. Louis County Probation Department, began using in September 2011, was evaluated by the Pretrial Justice Institute ("PJI") to ensure consistency with nationwide best practices. This analysis revealed a series of problems with the pretrial assessment tool that ARC had been using, ARC investigated the issue and remedied the tool. The pretrial assessment tool was tweaked taking into account the recommendations of experts at PJI, and eventually an updated pretrial assessment tool was implemented. Subsequently, funding support from Public Welfare Foundation was requested and received to further the efforts of TF.

With the support of Public Welfare Foundation, TF went on to interview each of the judges in the County to inquire about their pretrial practices to see where reform and training might be needed. The notes from the interviews were then compiled into a summary and distributed to TF members. This gave TF a baseline of information needed to move forward on improving pretrial decision-making.

Training

Based on the interviews conducted, project staff worked with experts from around the country to conduct a training program on pretrial justice for the judges. The daylong training program on July 27, 2012 addressed pretrial justice issues and initiated a dialog that all found productive. The TF brought in experts from around the country to provide education about best pretrial practices. The experts, after a thorough understanding of St. Louis County and current practices, were able to provide helpful information regarding pretrial and how pretrial assessment tools can be used to make the system more efficient and fair. It was the first time this kind of training was ever conducted in the county, and many of the judges have requested follow up training. The training was an overall success, and created the conditions for further reform.

Implementing Reform Through MOU *(see MOU attached)*

Under Minnesota law, judges have wide latitude in making pretrial release decisions. Rule 6.02 of the Minnesota Criminal Procedure statute states that in making bond decisions, the court should consider factors such as community safety, the nature and circumstances of the offense, family ties, employment, financial resources, location of residence, prior criminal convictions, and prior history of appearing in court. In practice, however, not much of this information is actually known by the arraignment court judge when the bail determination is made. The judge usually knows only the name of the arrestee, the current charge, and the arrestee's prior criminal history in the state of Minnesota. The court's probation officer, when requested by the judge, prepares pretrial release reports, but reports are not prepared in every case. Moreover, Rule 6.02 states that the "court must set money bail... on which the defendant may be released" in every case, but there is no specific guidelines on the amount of bail that should be imposed. As a result, many defendants are held in jail while awaiting trial because they cannot afford the bail imposed, and not necessarily because the court has sufficient information to determine they are a flight risk or pose a threat to community safety. The problem of over incarceration of the pretrial population is so severe in St. Louis County, that for the last few years, St. Louis County has spent approximately \$1 million to house its detainees (most of whom are pretrial) in jails in neighboring counties in the state.

After many meetings and discussions with criminal justice stakeholders, TF drafted a Memorandum of Understanding (on behalf of their respective agencies) regarding treatment of pretrial investigations and identifying cases where pretrial investigations would be mandatory and when they will no longer need to be conducted. In meeting the ultimate goal of reducing disparities, TF developed an agreement with the courts and with Arrowhead Regional Corrections (ARC) regarding allocation of resources in ordering pretrial assessments, as well as streamlining and improving the use of the pretrial assessment tool newly implemented by ARC. The TF drafted a memorandum of understanding with the objective of determining what steps can be taken to ensure that a pretrial investigation report is done for more felony arrestees and for any arrestee who will be detained pretrial, ensuring that nonviolent, low risk arrestees are released without conditions, moderate risk arrestees are released to community supervision, and money bail is imposed only to keep high risk arrestees in detention. The ultimate goal is to increase pretrial release studies for felony cases while maintaining community safety in all cases. The county officially approved the agreement and a few members of the TF met with county judges individually to ensure mutual understanding of the agreement and its implementation.

The TF went on to address changing the discretionary pretrial release/detention practices in the county. The TF came up with standard practices for judges to follow that are rooted in the presumption of release and community supervision, and are not based on the imposition of money bail. TF developed a checklist for judges to streamline Minnesota Rule of Criminal Procedure 6.02 to enable a clearer understanding of all the factors judges should consider before making a pretrial

determination. The checklist also serves to help ensure proper adherence by the judiciary of TF's newly agreed upon Memorandum of Understanding. This checklist was recently finalized, and has been distributed to all judges in St. Louis County. (*See checklist attached*). The checklist is currently being utilized and is always available on the judges' bench. An independent evaluator is currently evaluating the use of this checklist and its impact on pretrial decisions.

Follow up training is needed and the TF is planning a daylong training just on pretrial issue where Truman Morrison and Pretrial Justice Institute (John Clark) will return to the jurisdiction. In this follow-up training there will be more advanced discussion on pretrial justice issues and trainers will use specific factual scenarios. In addition to the training, TF is working to see whether the risk assessment tool can be automated. TF is also working on securing laptops inside the courthouses to ensure criminal history reports and pretrial assessment reports are readily available.

Looking ahead, Minnesota plans to measure the effectiveness of their reform efforts by tracking the number of pretrial detainees and the race of those detainees. TF may also track the length of pretrial detention and the cost. TF can then determine whether the overall number is declining as the judges receive more training and the probation officers fine-tune their processes, and they can determine whether the racial disparities are reduced or eliminated over time. Public Welfare Foundation has recently refunded the Minnesota TF through the Racial Justice Improvement Project and we are currently working towards creating additional reform effort plans and eventually conducting a final evaluation of all the reform efforts currently implemented.

Financial Information:

- 1. Total grant received from the Public Welfare Foundation: \$20,000**
- 2. Total amount of unexpended PWF funds as of the date of your report: \$0.00**
- 3. Please find financial statement listing our organization's actual income (including a line item for the funds you received from the Public Welfare Foundation) and line item expenditures for the time period covered by this report. (Please see the financial report attached).**

ⁱ U.S. Census, 2010, downloaded on 2 September 2011 from <http://quickfacts.census.gov/qfd/states/27/27137.html>.

ⁱⁱ State of Minnesota Department of Public Safety (2009). *Uniform Crime Report*. downloaded on 4 September 2011 from <http://adwww2.americanbar.org/sections/criminaljustice/PublicDocuments/RJPMNCrime%20Information2009.pdf>

ⁱⁱⁱ St. Louis County, MN Sheriff's Department, downloaded 4 September 2011 from <http://www.stlouiscountymn.gov/LAWPUBLICSAFETY/SheriffsOffice.aspx>.

^{iv} Weidner, Robert R. (8 August 2011). *Pretrial Detention and Release Decisions in St. Louis County, MN, in 2009 & 2010: Interim Findings*. Paper presented to the St. Louis County, MN, Racial Justice Improvement Project.