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Working Memorandum Number 5

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LAW AND JUSTICE, HUMAN RIGHTS, AND PUBLIC SAFETY

GOVERNMENT OF MINNESOTA

Prepared for the
Governor's Council on Executive Reorganization

by
Public Administration Service

Introduction

A number of state agencies have responsibilities in the broad functional field of law and justice, human rights, and public safety. The following executive units perform a significant role associated with some aspect of these generally related activities:

- Attorney General's Department
- Bureau of Criminal Apprehension
- Commission on Uniform State Laws
- Department of Human Rights
- ✓ Fire Marshal's Section of the Insurance Division,
Department of Commerce
- ✓ Safety Division of the Department of Highways
- ✓ Motor Vehicle Division of the Office of the
Secretary of State
- ✓ Department of Civil Defense
- Department of Military Affairs

The Attorney General is the chief legal officer of the state. This is a constitutional-elective position. In addition to providing general legal counsel and services to state executive agencies and to the Legislature, the Attorney General's Department prepares legal opinions; performs civil and criminal litigation in behalf of the state; conducts consumer protection and anti-trust investigations; and performs or coordinates criminal and law enforcement planning and the development of police standards. His department maintains liaison with the Bureau of

Criminal Apprehension which, by law, is a division under the Attorney General.

The Bureau of Criminal Apprehension performs a variety of criminal investigatory, identification, laboratory, communications, and police training functions and services. These are performed both in behalf of the state and its constituent local governments. Although, as noted, the Bureau functions under the legal jurisdiction of the Attorney General, its Superintendent is appointed by the Governor.

The Commission on Uniform State Laws examines legal subjects on which uniform laws among the various states are desirable and prepares bills to effect uniformity for introduction into the Legislature. The Commission is composed of three members learned in the law appointed jointly by the Governor, Attorney General, and Chief Justice of the Supreme Court.

The Department of Human Rights, with an attached advisory Board of Human Rights, has as its purpose the encouragement and enforcement of fair practices and the elimination of discrimination in employment, housing, public accommodations, public services, and educational institutions. This program entails community organization and education, conciliation, investigations, and (as necessary) legal action to enforce compliance. The agency cooperates with and seeks to correlate its efforts with other state organizations which have a human resources development orientation.

The Fire Marshal's Section of the Insurance Division (Department of Commerce) enforces laws, rules, and regulations pertaining to fire prevention. It conducts building inspections, seeks remedial action or pro-

secution, and also investigates suspected arson cases. In addition it conducts training schools for local fire prevention and combat personnel.

The Safety Division of the Department of Highways includes the State Highway Patrol, an Office of Driver Licensing, and several other sections and units concerned with driver improvement and training, traffic safety research and information, and motor vehicle safety inspections. The Safety Division is the primary agency of the state in implementing, with partial federal funding, the comprehensive safety program contemplated by the 1966 Federal Highway Safety Act. It also serves for the Commissioner of Highways as the administering agency for the Interstate Vehicle Equipment Safety Compact.

The Motor Vehicle Division of the Office of the Secretary of State, in addition to its primary task of registering and licensing motor vehicles, is also responsible for the examining and licensing of chauffeurs and school bus drivers. Both functions are performed principally through the medium of designated deputy registrars located throughout the state.

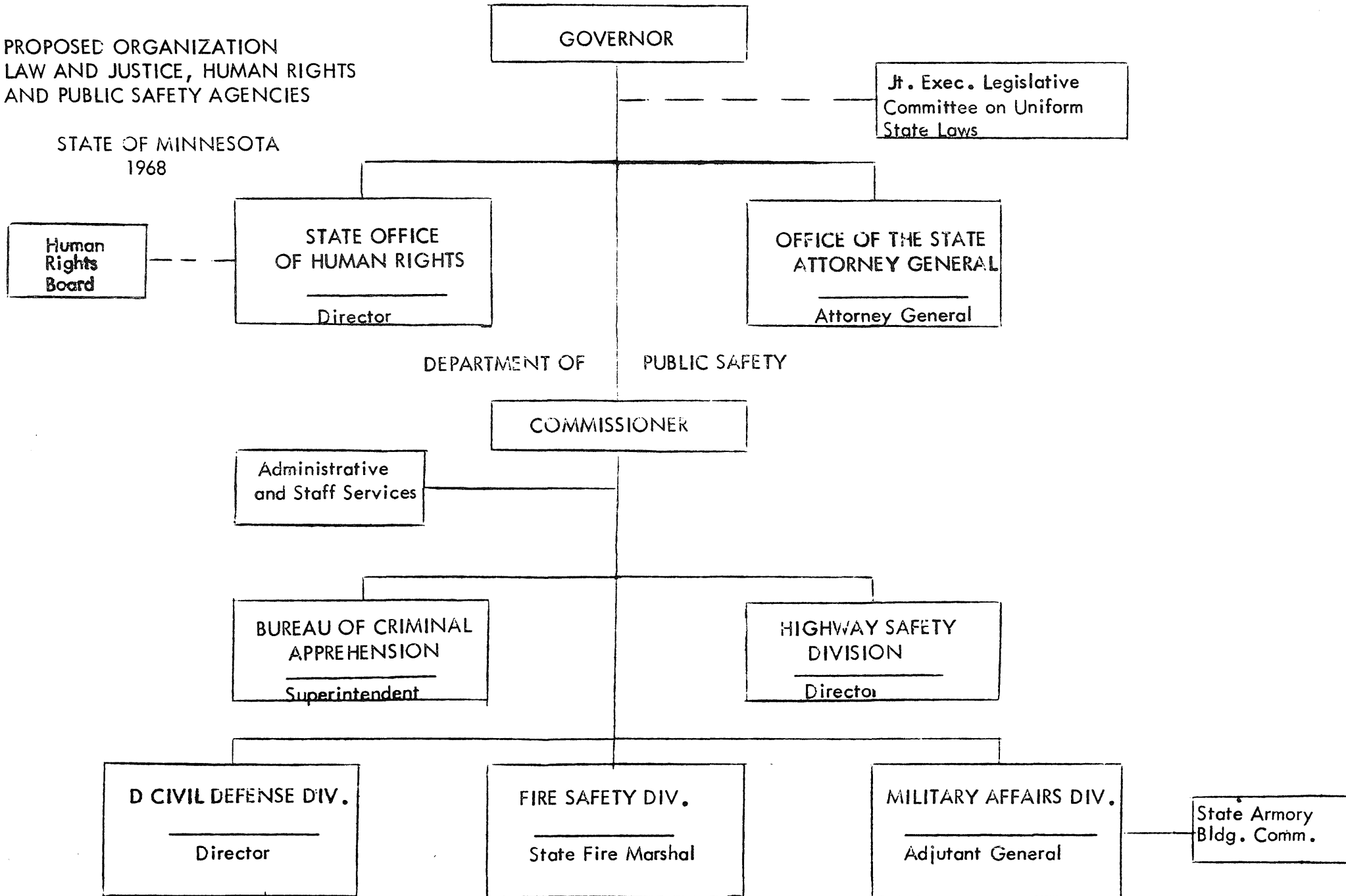
The Department of Civil Defense is responsible for planning and preparedness in anticipation of natural disasters or enemy attack, and for coordinating emergency operations when such events occur. This necessitates involvement of all political subdivision of the state (as well as lay persons and civic and business groups) and correlation of emergency plans of the state with those of the federal government. Regular expenses of the department are shared with the federal government but some special projects are fully funded federally.

The Department of Military Affairs consists of the Office of the Adjutant General, the military forces of the state, and all military reservations, installations, armories, air bases, and facilities owned or controlled by the state for military purposes. The military forces of the state include the Army National Guard, the Air National Guard, and when organized, the State Guard. The Adjutant General is charged with the responsibility of organizing, administering, training, supplying, and housing the Minnesota National Guard which has a total strength of almost 12,000 men. The force has both a federal and state responsibility and the major costs of its operation are borne by the federal government.

The Adjutant General is Chairman of the Minnesota State Armory Building Commission and is also State Disaster Relief Coordinator. The former is a corporate body concerned with the planning and construction of armories as needed in the state. The State Disaster Relief Coordinator is responsible for coordinating the use of state agencies and of state and federal emergency funds allocated for use during periods of emergency or disaster.

PROPOSED ORGANIZATION
LAW AND JUSTICE, HUMAN RIGHTS
AND PUBLIC SAFETY AGENCIES

STATE OF MINNESOTA
1968



Proposed Organization

It is proposed that the activities stated above, insofar as they pertain to the executive branch of government, be organized into three executive units of government as shown on the accompanying chart. Such executive units would be the Office of the State Attorney General, the State Office of Human Rights, and a Department of Public Safety. The Commission on Uniform State Laws does not perform an exclusively executive function and its duties should be vested in a Joint Executive-Legislative Commission which is also shown on the accompanying chart. Its membership should be appointed by the Governor and Legislature acting jointly. Its duties would not change.

Office of the State Attorney General

Such legal duties of the State Attorney General as are performed in service to the Legislature should be transferred to the legislative branch of government. The Attorney General should be appointed by the Governor and his status as an elective officer should be removed from the Constitution.

Some duties of the Attorney General which have operational, rather than legal service objectives, should be transferred to operating departments of the government. Thus, criminal and law enforcement planning, the development of police standards, and all functions of the Bureau of Criminal Apprehension should become responsibilities of the proposed Department

of Public Safety. Similarly, the Attorney General should not carry primary responsibility for preliminary investigations associated with consumer protection and violations of anti-trust laws. This kind of investigatory work should initiate in the Commerce and Consumer Protection Department which was described in Working Memorandum Number 1. The Attorney General, however, should continue to have staff assigned to operating departments -- including both the Public Safety Department and the Commerce and Consumer Protection Department. On the basis of legal consultation, legal service and litigation, such assigned staff, and as necessary the Attorney General himself, should participate in the affairs of operating departments.

From the foregoing it can be seen that the objective relative to the Attorney General would be to constitute him as the chief legal counsel of the Governor and the executive branch; and that his functions, and those of his staff, would be directed toward legal services and litigation. These responsibilities of state government are sufficiently awesome to justify the undivided attention of a primary state official (with supporting professional staff), highly trained, learned, and proficient in the law.

State Office of Human Rights

The protection of human rights bears a close affinity to functions of the Attorney General. However, the protection of human rights also necessitates considerable community organization work, educational effort, investigation, and conciliation. Prosecution is usually a last resort measure. Except for legal advice and prosecutions it is perhaps best that

the Attorney General's Office not become unduly involved in ordinary civil rights operations. For the foreseeable future, however, it does appear that human rights will not only constitute a burdensome task for government, but also an area of such sensitivity as to justify separate organizational identity for the state agency charged with its pursuit. The human rights agency should be organized in close juxtaposition to the Attorney General, and also be closely identified with the Office of the Governor. The proposed State Office of Human Rights is so situated on the accompanying chart. It should be headed by a Director appointed by the Governor, and it should perform all of the functions presently performed by the Department of Human Rights. The advisory Human Rights Board should be retained although the number of its members (15) might be reduced. Hopefully the State Office of Human Rights would never need to grow so large as to require full "departmental" status, even though it is now so designated.

Department of Public Safety

The rationale for a Department of Public Safety should not be difficult to perceive. The grouping together of all principal activities of the government which have a public safety purpose should permit better planning and coordination of effort in this important field. The existing executive elements proposed for consolidation into the new Department of Public Safety would be the Bureau of Criminal Apprehension, the Safety Division of the Department of Highways, chauffeur and school bus driver examining and licensing functions of the Secretary of State, the Fire

Marshal's Section of the Commerce Department, the Civil Defense Department, and the Department of Military Affairs.

The Department of Public Safety should be headed by a Commissioner appointed by the Governor. The department should be responsible for comprehensive law enforcement, public safety, and civil defense planning and administration and should consist of major units as follows: Bureau of Criminal Apprehension; Highway Safety Division; Fire Safety Division; Civil Defense Division; and Military Affairs Division.

The units enumerated above should be headed by officials appointed by the Commissioner of Public Safety under civil service procedures, except the Civil Defense Director and the Adjutant General who should be appointed by the Governor. ^{1/}

It should be noted that the above proposed combination of agencies into a single Department of Public Safety goes considerably beyond the proposals of the Minnesota Efficiency in Government Commission (1950), but only somewhat further than the more recent proposals of the Minnesota Self Survey (1956-58). Neither of these prior surveys proposed the inclusion of "military affairs" in a consolidated public safety agency. However, experience in recent years and the urgency of contemporary civil disturbances suggests the desirability of such an inclusion.

With further reference to the two prior surveys just alluded to, it should also be noted that both would have assigned to the Attorney General those public safety functions which they did propose be combined. In

^{1/} The suggested titles of bureau and division chiefs are shown on the accompanying chart.

the case of the Efficiency in Government Commission an appointive Attorney General would have headed a proposed "Department of Law". In the case of the Minnesota Self Survey, its proposed "Department of Law and Public Safety" would have been headed by an appointive Attorney General.

It cannot be said that such a course is faulty or unwise, and such a course will have its strong adherents. After all, excepting the U. S. Department of Defense, such a course would largely parallel the arrangement in the federal establishment. But counter to that course, there is at least as much justification in state government for distinguishing staff or auxiliary services (in this case, highly professional legal services) from the administrative and command complexities implicit in public safety operations. The latter are also highly professional pursuits -- but different. In the circumstances, it would appear to make better sense, and afford greater potential for excellence in both fields, if legal services and public safety operations were kept separate organizationally.

The status of the Minnesota State Armory Building Commission should be reviewed with a view to its possible abolition. It is possible that the state could, through ordinary financing procedures, bear the costs of armory construction without resort to a body which has separate bonding capability. In any case the location and approval of construction of armories should be subject to capital planning and budgeting procedures applicable to other state structures.

It is recommended that the Civil Defense Director, rather than the Adjutant General, be designated State Disaster Relief Coordinator.

Functions of Proposed Executive Units

Except as discussed above the proposed executive units concerned with law and justice, human rights, and public safety would perform functions similar or identical to those which they now perform. The proposed activities of each unit are enumerated below.

Office of the State Attorney General

The Attorney General's Office would:

1. Serve as legal advisor to executive agencies, and in the case of the Attorney General himself, be the principal legal advisor to the Governor.
2. Prepare legal opinions, and publish those of particular significance and interest to departments, the legal professions, and the public.
3. Conduct civil and criminal litigation in behalf of the state.
4. Cooperate with the Department of Public Safety and its Bureau of Criminal Apprehension in criminal planning and in the development of police and law enforcement standards.
5. Advise operating departments as to the legality of administrative rules and regulations, and provide counsel relative to inspectional and investigative activities.
6. Conduct or supervise intensive follow-up investigations, as necessary, in the preparation of cases for trial.
7. Draft proposed bills for executive agencies for submission to the Legislature.

State Office of Human Rights

This agency, as desirable with the advice of its attached Human Rights Board and with the assistance of designated review panels, would:

1. Foster the organization of community advisory and action groups designed to enhance human rights and improve ethnic group relationships.
2. Provide staff services and technical support to organized community human rights groups.
3. Through advice and technical support, assist private and public employers and labor unions in their efforts to eliminate discrimination in employment and in employee relationships.
4. Attempt by means of education, conciliation, and persuasion to eliminate unfair discriminatory practices.
5. Receive and investigate charges alleging discriminatory practices, including unfair practices relative to women.
6. Hold hearings, subpoena witnesses, administer oaths, take testimony, and examine evidence relative to alleged illegal discriminatory practices.
7. Seek temporary restraining orders from district courts when needed to abate unfair practices; and petition such courts to order respondents to comply with restraining orders of examiners or review panels.
8. Conduct research and disseminate information to public and private agencies and to the public with a view to improving ethnic group relationships.
9. Conduct compliance investigations on a contractual basis for the federal government in the enforcement of federal civil rights laws and regulations.
10. Cooperate in the implementation of community work training programs.
11. Cooperate and consult with federal, state, and local authorities in developing plans to effectively meet the needs of Indians.

Department of Public Safety

Upon the establishment of the Department of Public Safety, studies should be undertaken to ascertain the staff and service functions performed by its subunits which would be susceptible of central performance for the new department as a whole. The areas of particular inquiry should be program planning and budgeting, accounting and related fiscal affairs,

procurement and supply, personnel administrative services, and public informations.

Bureau of Criminal Apprehension. This bureau would:

1. Prescribe standards, rules, and regulations for police training upon recommendations by the Police Training Board and pursuant to the mandatory police training act.
2. File and index all case records of crimes committed in the state and maintain files of lost and stolen property.
3. Maintain identification and related files including those of fingerprints, photographs, handwriting, modus operandi, etc., and supply information from such files to federal, state, and local law enforcement officers.
4. Conduct and participate in criminal investigations.
5. Operate the state-wide teletype communications network and its tie-in with the FBI; and operate the computerized criminal information system when it becomes functional.
6. Operate the crime laboratory for the analysis of human and animal viscera; food, water, and feed for poison; microscopic examinations of fibers, hairs, blood stains, etc., and for firearm identification and ballistics purposes.
7. Conduct police officer training programs including recruit, refresher, and intermediate command training courses.
8. Collect, analyze, and report crime statistics for the state.

Highway Safety Division. This division would:

1. Patrol, direct traffic, and enforce laws on the trunk highways of the state.
2. Assist sheriffs and other police officers in the enforcement of laws when violations occur on trunk highways or when continuing pursuit permits.
3. Administer a state-wide program of written and practical driver testing and tests of visual acuity.
4. Issue ordinary driver licenses; and examine and license, chauffeurs and school bus drivers; maintain license and driver accident records; and furnish information from license and driver record files to authorized public officers.

5. Hold driver hearings; suspend licenses when such suspension seems justified; and revoke licenses when required by law.
6. Conduct driver training clinics; regulate and license commercial driver training schools; and conduct highway safety programs.
7. Conduct inspections of vehicles to determine their condition as to safety, and order needed repairs when defects are discovered.
8. Assist in the administration of the vehicle equipment interstate safety compact.
9. Approve lamps, brake fluid, glass, mufflers, and other manufactured products for sale to vehicle owners and operators in the state.

Fire Safety Division. This division would:

1. Enforce laws, rules, and regulations pertaining to fire prevention and protection.
2. Conduct building inspections for fire hazards.
3. Investigate suspected arson.
4. Conduct training schools for local firefighters.

Civil Defense Division. This division would:

1. Prepare and continuously update state emergency plans, and coordinate corresponding planning by localities, consistent with and as an integral part of the national security program.
2. Provide for continuity of government and direct survival operations during periods of emergency or disaster.
3. Plan, establish, train personnel for, and operate state and area emergency operating centers and state and local warning systems.
4. Provide technical assistance and training in the development and use of emergency shelters.
5. Coordinate the development, operation, and maintenance of a comprehensive radiological fallout monitoring system.
6. Conduct training as a part of a comprehensive resource management program for use during periods of emergency.
7. Coordinate the use and accounting for of state and federal funds allocated by the state and national government for disaster relief purposes.

Military Affairs Division. This division would:

1. Provide for the recruitment, organization, and administration of the military forces of the state.
2. Direct the training, equipping, supplying, and housing of military forces for regular military purposes, for civil defense, and for use during civil disorders.
3. Direct the maintenance and operation of state owned and controlled armories.
4. Maintain and operate the Camp Ripley Reservation, the Army Air Base in St. Paul, the state owned air base used by the Air National Guard in Duluth, and the air base at the Minneapolis-St. Paul International Airport.
5. Account for and maintain military property loaned to the state by the federal government.
6. Prepare plans for the activation, in case of need, of the State Guard.

Staffing

If existing staffing patterns for the executive functions covered by this memorandum were maintained, the staff complement of the proposed law and justice, human rights, and public safety agencies would be as follows:

<u>Office of the State Attorney General</u>	60 <u>a/</u>
<u>State Office of Human Rights</u>	16 <u>b/</u>
<u>Department of Public Safety</u>	
Bureau of Criminal Apprehension	65
Highway Safety Division	875 <u>c/</u>
Fire Safety Division	21 <u>d/</u>
Civil Defense Division	42
Military Affairs Division	<u>1,158 <u>e/</u></u>
Sub-total, Public Safety	<u>2,161</u>
Grand Total - Law & Justice, Human Rights, and Public Safety	2,237

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- a/ 39 attorneys are assigned to and paid by operating departments.
- b/ This number is expected to be increased at least to 20 by the close of 1968.
- c/ Includes personnel as follows now in the Safety Division, Department of Highways: Office of Assistant Commissioner (Safety) 4; Office of Highway Patrol 528; Office of Driver License 318; Safety Research Section 3; Vehicle Equipment Safety Section 2; Office of Driver Training 3; Safety Information Section 14; Financial Control Unit 3.
- d/ From the Fire Marshal's Section, Insurance Division, Department of Commerce.
- e/ Exclusive of military forces.

ADDENDUM

Working Memorandum Number 5

LAW AND JUSTICE, HUMAN RIGHTS, AND PUBLIC SAFETY

(Steering Committee Meeting, July 17, 1968)

There was general consensus that the proposal for a Department of Public Safety was sound and that it should be headed by a Commissioner appointed by the Governor. There was little or no support for a "Department of Justice" with the Attorney General serving as its head and as the principal law enforcement and/or public safety officer of the state. Instead, the proposal that the Attorney General be appointive by the Governor and head an Office of the State Attorney General for the provision of litigation and legal services was generally endorsed. A separate State Office of Human Rights, with an attached Human Rights Board, was also endorsed.

The inclusion of "Military Affairs" within the Department of Public Safety, to be headed by the Adjutant General, was favorably received.

There was considerable discussion as to whether "Fire Safety" under a State Fire Marshal was worthy of separate identity as a division within the proposed Department of Public Safety. A possible alternative of substituting therefor a "Public Safety Training Division", but to encompass training for local police as well as local firefighters, was considered. It was suggested also that fire inspections might be made by inspectors of the proposed Commerce and Consumer Protection Department. Both possible courses were abandoned in favor of the Fire Safety Division -- as proposed in the memorandum.

A question was raised as to whether the Fire Safety Division or the Bureau of Criminal Apprehension should bear primary responsibility for arson investigations. It was generally agreed the former, under the direction of the Fire Marshal, should retain this responsibility -- as was proposed in the memorandum (see page 13, Fire Safety Division, item #3). It was suggested that a better wording of item #1, Fire Safety Division, page 13, would be: "Promote improved codes and standards and assist in the enforcement of laws, rules, and regulations pertaining to fire prevention and protection."

It was noted (item #2, Fire Safety Division, page 13) that the Fire Marshal's staff inspected principally state buildings for fire hazards.

It was agreed that the Minnesota State Armory Building Commission should be retained (see page 9, paragraph 3) and that references in the memorandum proposing its possible abandonment, or alteration in its duties, were inappropriate.

It was agreed that the Adjutant General rather than the Civil Defense Director should continue as State Disaster Relief Coordinator (see page 9, last paragraph) and that references proposing the transfer of this function to Civil Defense were inappropriate. Item #7, Civil Defense Division, page 13, should (in consequence) be returned as a function to Military Affairs.

In later discussions relative to Working Memorandum Number 9, "Revenue Administration", it was agreed that motor vehicle licensing should be made a responsibility of a separate division in the Department of Public Safety and not be a responsibility of the Revenue Department as is proposed in Working Memorandum Number 9.