

10/26/81

Memorandum 81-69

Subject: Research Contract

The 1981 legislative session authorized the Law Revision to study (on a priority basis) the statutes of limitation applicable to felonies.

Although the statute directing the study of this new topic will not be effective until January 1, 1982, we believe that an expert consultant should be retained as soon as possible to prepare a background study on this topic. The contract with the consultant would become effective on January 1, 1982. It takes some time to process the contract and we need to obtain a commitment of the consultant's time during 1982 by making the contract now.

The staff recommends that John B. Mitchell, now serving as a visiting professor at the University of Puget Sound Law School, be retained as the consultant. In response to our request for suggestions as to a person who might serve as a consultant, Professor Kaplan of Stanford recommended Mitchell. The office of the Attorney General recommended several assistant district attorneys as possible consultants, but the Office of Attorney General also indicated that they had checked with a source in the State of Washington and received an outstanding recommendation concerning Mr. Mitchell. Mitchell has practical experience; he represented over 600 criminal defendants during the past nine years. He is the author of a very readable article published in the January 1980 issue of the Stanford Law Review. Mitchell, The Ethics of the Criminal Defense Attorney--New Answers to Old Questions, 32 Stanf. L. Rev. 293 (1980). See the attached resume for additional background information.

The staff recommends that the Commission approve, and direct the Executive Secretary to make, a contract with Professor John B. Mitchell according to the following terms:

- (1) Compensation for the background study concerning the statute of limitations on felonies in California--\$4,000.
- (2) Additional amount for travel in attending Commission meetings and legislative hearings (at Commission request)--maximum \$1,000.
- (3) Contract to become effective on January 1, 1982, and background study to be completed and delivered to the Commission not later than January 1, 1983.

(4) Contract to terminate on June 30, 1984.

(5) Contract to follow terms of standard form of contracts with consultants who prepare background studies.

Professor Mitchell has indicated that he is willing to undertake to prepare this background study, primarily because of his continuing interest in this field. He is strongly recommended and the staff believes that we are fortunate to secure his services. We would like to make the contract as soon as possible so that we can respond satisfactorily to legislative inquiries concerning our progress on the topic.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

RESUME

John B. Mitchell
716 North "J" St., Apt. E
Tacoma, WA 98403
(206) 756-3470

Birthdate: October 16, 1944
Birthplace: Germantown, PA

UNDERGRADUATE EDUCATION: University of Wisconsin, Madison, B.A., 1967
Philosophy major; upper 5%, class of 7,000

LEGAL EDUCATION: Stanford Law School, J.D., 1970
Law Review Editor; upper 2% of class

LEGAL PRACTICE:
1/75 to present

Private Criminal Law Consultant. Consultant on trial and motion strategies to public defense projects (including Bayview/Hunter's Point Criminal Defender) and to several dozen private criminal practitioners; prepared hundreds of motions, writs, and appeals; organized and supervised several law clerk programs; developed brief banks; attorney of record in extensive civil rights (prison) litigation.

1/73 to 12/74

Law Offices of Barry Tarlow, Los Angeles. Wrote briefs for numerous federal criminal appeals; prepared trial motions; principal contributor to two law review articles.

1/71 to 12/73

Mitchell, Alhadeff & Ryan. Founded law firm with offices in San Francisco and Palo Alto; engaged in criminal trial practice including six month murder trial and insanity defense of skyjacker.

TEACHING EXPERIENCE:
9/81 to 6/82

Visiting Professor, University of Puget Sound School of Law, Tacoma, WA. Teaching Criminal Law, Criminal Procedure, Criminal Trial Advocacy, and Professional Responsibility.

9/77 to 6/78

Visiting Professor, Boalt Hall, University of California, Berkeley. Taught classes in Criminal Law, Criminal Procedure, and Ethics.

PUBLICATIONS:

J. Mitchell, "The Ethics of the Criminal Defense Attorney - New Answers to Old Questions"
32 Stanford L. Rev 293 (1980)

COMMITTEE MEMBERSHIP:

California State Bar Standing Committee on Human Rights

REFERENCES:

Available upon request