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## Report of the Defense Research Institute – 1969

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## Report Of The Defense Research Institute—1969\*

JAMES D. GHIARDI  
DRI Research Director

### INTRODUCTION

Basic principles of the Defense Research Institute which have been established by pioneers of our organization, have now been elaborated and are being brought to full bloom through the arduous deliberation and uncounted man hours contributed by our many members. In addition to the educational, research and service functions of DRI, much time and effort has been spent in analyzing, critiquing and synthesizing proposals to change or modify the personal injury reparations system. The dissemination of materials, publicity and conferences have established DRI as a source for constructive thought and comment. Now an action program to implement the basic ideas outlined in "Justice In Court After The Accident" to reform and improve the present tort-insurance liability system is being developed. The following areas are receiving attention:

1. A program of legislation is being designed to improve highway safety through concentration upon the driver;
2. Recommendations for optional coverage of insureds on a first party basis are needed to meet the criticism that a number of persons who are injured in motor vehicle accidents receive no compensation for the economic loss they suffer;
3. DRI studies have already shown that court congestion and delay is not a national problem. Further studies will determine causes of court congestion and delay where it exists and will recommend measures needed for relief, including arbitration of lawsuits involving small claims;
4. To improve the economic situation for many insurance premium payers,

- modification of the rule that prevents the introduction of evidence as to multiple payments for the same injury that the claimant has received;
5. Expansion of the advance payments program is sought;
6. Developing methods to make the most efficient use of the legal effort is planned, not only to speed the process of litigation but for reasons of economy;
7. Regulation of the amount of the contingent fee system by appropriate judicial authority is recommended so that there will be a fair take home amount for the injured party;
8. Reassertion of the belief is expressed that pain and suffering is a legitimate item of compensation in personal injury litigation;
9. Elimination of the procedure whereby a specific *ad damnum* is stated in pleadings is a goal;
10. Contributory negligence as a defense is a matter for local determination; however, if change is contemplated, the Wisconsin comparative negligence rule and procedure should be adopted;
11. Penalties should be provided for unreasonable settlement offers or demands and also for the making of false or fraudulent claims.

While these mentioned elements of our positive action program do not encompass all of our efforts, they are nevertheless indicative as to why the Defense Research Institute has grown and expanded. This growth is reflected in many ways within our organization.

### MEMBERSHIP

As of June 15, 1969, individual and corporate membership reached an all-time high of 5,423 individuals and 369 corporations. During the reporting period, we have had a net gain of 76 individual mem-

\*This report covers the period from January 1 to June 30, 1969, and was adapted from a report prepared for the IAIC 1969 Annual Meeting and the summer meeting of the DRI Board of Directors, Los Angeles, California.

bers and seven corporate. In addition, there are 217 subscribers.

#### LOCAL DEFENSE GROUPS

A landmark was established April 4-5, 1969, when representatives of local defense groups throughout the country gathered at a meeting sponsored by the Illinois Defense Counsel in cooperation with the Defense Research Institute at Chicago, Illinois. At this meeting, the common problems faced by all were recognized and the groundwork was laid for future meetings and discussion. The second such meeting is planned for October at Miami, Florida.

In their own right, local defense groups are playing an increasingly important role through their seminars, institutes, law school and legislation programs. Concentration is, as it should be, upon no-fault compensation plans, products liability dangers, and explanations of the civil jury and insurance problems to the attorneys of tomorrow who are found in our law schools. Local defense groups continue their important role as distributors of DRI publications to state court judges. This distribution now numbers 2,980 in addition to the 370 federal judges who are on the DRI mailing list. At present, there are 64 active local defense groups, the same number as on January 1, 1969. Others are in formative stages, and statewide organizations are being contemplated by many.

#### PUBLICATIONS AND FOR THE DEFENSE

Scholarship and practicality continue to be the keynote characteristics of the publications program. Commentary grows regarding the quality of our publications and extensive reprinting of the legal thoughts expressed indicate high regard for our program. During the past six months, 12 publications have been prepared and distributed: The Defense Memo, five issues; Current Decisions: 1968; Economist Testimony—Expanded and Updated; Brief Bank Index—1966-68 Supplement; Analysis and Critique of AIA Plan; LAB, Vol. IV, No. 1; Liability of Architects and Engineers; Special Bulletin No. 9. Publications in progress include: FOR THE DEFENSE Index; Punitive Damages; Brief Bank Index—July, 1969 Supplement; LAB, Vol. IV, No. 2. Publications in the planning stage include: DRI Membership Roster Supple-

ment; Unit of Time Arguments; Medical Payments Coverage; Special Bulletin No. 10; Defense Memos (nine issues); and Efficient Use of Legal Effort (update).

Four Special Reports have been prepared and sent to officers and corporate members. Topics included in these reports were products liability and federal investigations, automobile accident reparations, accident and health insurance, and a report on products liability seminars.

During the reporting period, six issues of FOR THE DEFENSE were prepared, published and distributed. Circulation of the newsletter has increased to 12,329 copies as of June 30, 1969.

A total of 825 orders were handled by the Defense Research Institute for copies of a special edition of William Knepper's book, "Liability of Corporate Officers and Directors," published by the Allen Smith Company.

#### LAW SCHOOL PROGRAMS

A total of 40 law school programs have been completed since DRI commenced this most important facet of its program. Since January 1, 1969, six programs have been presented. Cooperating in these law school programs which were arranged by DRI Regional Vice Presidents and State and Area Chairmen were local defense groups and the insurance industry. Law school programs and their importance to the defense effort is the key theme of the July issue of LAB.

#### LAW INSTITUTES

A highly successful institute, for corporate executives, which was programmed in cooperation with the Materials Handling Institute and which was held in Pittsburgh, Pennsylvania, will help to set the pattern for future planning by the committee. Topical outlines have been developed for half-day or full-day institutes in the fields of automobile liability, and products liability for audiences both legal and non-legal. Relationships are being established with defense attorney organizations as well as other groupings by DRI to promote future institutes.

#### SPEECH BANK AND SPEAKERS BUREAU

DRI members continue to have impact through participation in speaking engage-

ments, both panel and individual, throughout the country. Since January 1, 1969, DRI speakers have participated in 65 events. There are now 255 speeches which have been summarized and made a part of the Speech Bank. Requests for these speeches continue to be heavy. A program to expand the Speakers Bureau Panel is in progress.

#### LEGISLATION AND LIAISON

Activity of the Legislation Committee of DRI has been one of the highlights of the first six months of this year. Sample bills and supporting research have been completed for the topics of advance payments, multiple payments, voluntary dismissal, split trials, supersedeas bond, *ad damnum*, summary judgment, waiver of medical privilege, contingent fees, comparative negligence, demand to admit genuineness of documents or facts, offer of judgment and offer of damages. In progress also are sample statutes aimed to improve highway safety through concentration upon the driver himself and the arbitration of small claims. Closer liaison with IAIC, FIC and AIA committees has been gained inasmuch as they furnish suggestions for future sample legislation which will be pertinent to the DRI program. These committees also aid in researching and gathering of raw materials necessary to the drafting of such statutes. When approved, the sample legislation is made available to the membership, local defense groups and other interested parties for application on the state level.

With the aid of the Congressional Liaison Committee, the Executive Committee was able to discuss problems and issues with Dr. Paul Cherington, assistant secretary of the Department of Transportation at its May meeting in Washington, D. C. This committee continues to be the watchdog to advise DRI officers and directors of Congressional activities which concern our organization.

Coordination is also gained between DRI and defense lawyer groups at the meetings of the Coordinating Committee and through sessions with insurance industry representatives. DRI's cooperative efforts continue with the American Medical Association, the Association of American Railroads Claims Bureau, the Association of Railroad Trial Counsel, the Allen

Smith Company and the Insurance Information Services at state and national levels. A meeting of DRI and Insurance Information Services is scheduled for September in Hartford, Connecticut.

#### COMMITTEES—PUBLICATION AND EDUCATION

Through the work of numerous committees not previously mentioned, the publications and educational program continues to grow in quality and quantity. The Products Liability Committee has been active in developing materials for publication, particularly in respect to Defense Memos in FOR THE DEFENSE. This subject has gained national attention, adding to the enhanced stature of DRI. Materials are also being prepared for publication by the Professional Liability and the Aerospace Committees. The latter committee is engaged in a project to solicit memberships for DRI in the air transport field. "FOR THE DEFENSE" continues in FOR THE DEFENSE, written by members of the Practice and Procedure Committee. Through the efforts of DRI's medical consultant, Dr. Norbert Enzer, content of FOR THE DEFENSE has been enriched by numerous columns which have been produced in conjunction with the Medical-Legal Committee.

The previous activity of the ALI Liaison Committee which placed the views of the Defense Research Institute regarding 402A Restatement (Second) Torts before the Council of the American Law Institute is now being followed with an article prepared in the name of the Committee Chairman, Fred Helms, for possible publication in the *American Bar Journal*.

Liaison with the American Bar Association and its Special Committee on Automobile Accident Reparations continues, with the viewpoints of DRI and other defense attorney organizations being presented to the Association and the Committee.

Members continue to be added to the Senior Advisory Council which is composed of former regularly elected directors and officers. Through this means, the rich knowledge and experience of former DRI officers and directors act as a catalyst to the continued effectiveness of our program.

The Projects and Objectives Committee continues to screen past and present efforts

of the Defense Research Institute and to make valuable suggestions in a wide variety of areas.

#### PUBLIC INFORMATION

Effectiveness of the information program continues to increase, particularly in the area of legal and trade publications. Cooperation with Insurance Information Services continues at a high level. In addition to routine success in the legal and trade press, discussion is underway which may lead to national airing of DRI themes on educational television.

#### DEFENSE INFORMATION OFFICE

Growth in activity of the Defense Information Office since the first of the year has been phenomenal. Attorney Fred Bardenwerper was added to the DRI staff April 1 as Director of DIO. During the first six months of the year, DIO has handled 465 requests for assistance. There have been 181 requests for briefs; 84 requests for expert witnesses; 77 requests for economists transcripts; and 123 individual inquiries for DIO materials. The DIO Brief Bank now contains more than 2,300 cases, 161 of which were added since January 1, 1969. Support for DIO is furnished by the American Insurance Association, American Mutual Insurance Alliance and the National Association of Independent Insurers. The expert witness index increased to 1047 names with the addition of 285 individuals since January 1, 1969.

#### ARBITRATION

1969 has seen considerable growth of the DRI Arbitration program. During this time, six disputes have been submitted. To date, 14 arbitrations have been concluded and four are in process. This pro-

gram is intended to provide a vehicle for insurance company members to solve coverage disputes expeditiously and economically.

#### ADMINISTRATION

New officers, Regional Vice Presidents and members of the Board were elected at the Annual Meeting last January. Since then, the Board of Directors has met once and the Executive Committee had an additional meeting in Washington, D. C. New State and Area Chairmen and Committees were appointed in February and have been extremely active since. The DRI staff now includes 13 full-time employees, three part-time consultants and student assistants.

#### CONCLUSION

DRI, which started with an IAIC idea, is now rapidly approaching maturity. Our impact is recognized nationally. Our service is considered as valuable. This could not have been achieved without the unselfish efforts of our many defense attorneys and members who have given unstintingly of their time and energy. The wholehearted support of the International Association of Insurance Counsel, the Federation of Insurance Counsel and the Association of Insurance Attorneys remains the cornerstone of our achievements. The need for improved and expanded services continues, new problems arise and must be faced, but the conglomerate of DRI membership with the assistance of the national, regional and local defense organizations are capable of meeting the needs and challenges. However, this calls for unity of purpose, elimination of possible irritants, greater two-way coordination and the judicious use of the economic resources available to the defense effort.