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2016 - 17 Governor's Budget - Board of Public Defense

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<http://www.pubdef.state.mn.us/>

AT A GLANCE

- Provides mandated criminal defense services at the trial and appellate court level.
- 150,000 trial court cases opened annually.
- 4,000 appellate cases opened annually.
- Largest user of the Minnesota Court System.

PURPOSE

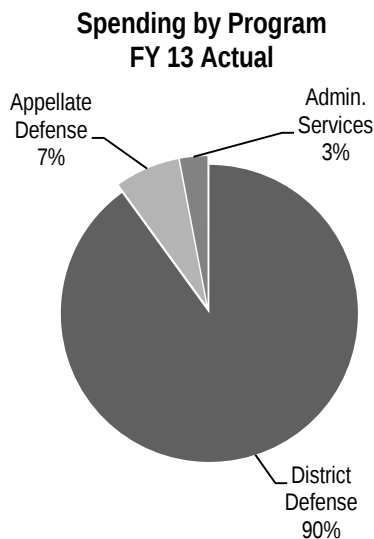
The Board of Public Defense (BOPD) is a judicial branch agency whose purpose is to provide legal services mandated by the Constitution and statute. The Board's mission is to provide excellent criminal and juvenile legal defense services to indigent clients through an independent, responsible and efficient public defender system.

We are committed to five major goals: client centered representation, creative advocacy, continual training for all staff, recruitment and retention of excellent staff, and being a full partner in the justice system.

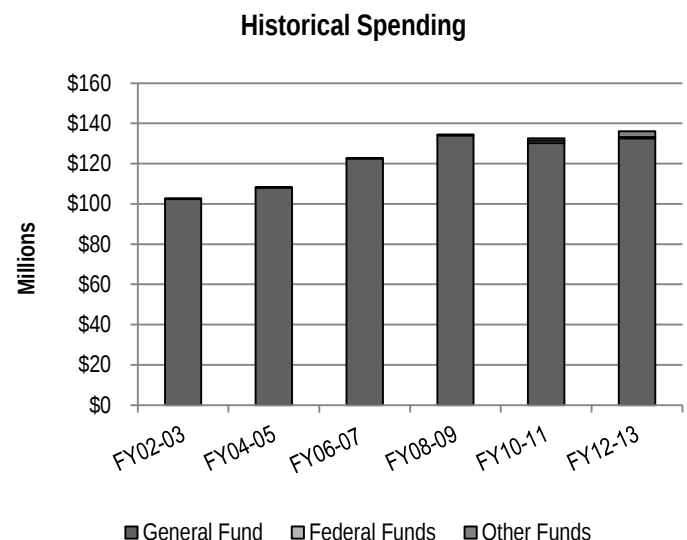
A well-funded and functioning public defender system insures that the constitutional rights of the indigent are protected. This helps to protect the rights of all of our citizens. It also helps to make sure that the work of the court system continues uninterrupted which helps ensure that **people in Minnesota are safe**.

Public defender services are almost exclusively financed by the general fund. In Hennepin County (the 4th Judicial District) there is a cost sharing between the State of Minnesota and Hennepin County.

BUDGET



Source: SWIFT



In 2010-2013 the board did receive funding through a temporary Attorney Registration Fee approved by the MN Supreme Court. The general fund is the predominant funding source.

Source: Consolidated Fund Statement

STRATEGIES

We have developed various tools to further our mission and goals and to provide effective and efficient service delivery. These include:

- Implementation of quality representation guidelines on the trial and appellate levels
- Commitment to vertical representation
- Commitment to team defense
- Commitment to continual training of all staff
- Use of a cost-effective model of representation that combines full and part time defenders
- Development of an internal resource allocation policy to better target attorney resources

M.S. 611 (<https://www.revisor.mn.gov/statutes/?id=611>) provides the legal authority for the BOPD.

Expenditures By Fund

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY13	FY14	FY15	FY16	FY17	FY16	FY17
1000 - General	62,973	69,583	70,749	74,331	73,912	73,912	77,862	83,415
2000 - Restricted Misc Special Rev	2,980	-128	108	3,132	0	0	0	0
2403 - Gift	20	26	47	83	0	0	0	0
3000 - Federal	419	257	349	276	0	0	0	0
Total	66,392	69,738	71,253	77,822	73,912	73,912	77,862	83,415
Biennial Change				12,945		(1,250)		12,203
Biennial % Change				10		(1)		8
Governor's Change from Base								13,453
Governor's % Change from Base								9

Expenditures by Program

Program: Appellate Office	4,501	5,077	5,032	4,644	4,643	4,643	4,992	5,482
Program: Administrative Services Office	1,420	1,611	1,849	2,024	1,920	1,920	2,012	2,126
Program: District Public Defense	60,471	63,049	64,372	71,154	67,349	67,349	70,858	75,807
Total	66,392	69,738	71,253	77,822	73,912	73,912	77,862	83,415

Expenditures by Category

Compensation	46,195	49,967	51,312	54,611	54,112	54,112	57,749	63,268
Operating Expenses	6,765	6,879	6,782	10,252	6,862	6,862	7,102	7,059
Other Financial Transactions	297	149	92	117	117	117	117	117
Grants, Aids and Subsidies	13,133	12,742	13,067	12,842	12,821	12,821	12,894	12,971
Capital Outlay-Real Property	1	0	0					
Total	66,392	69,738	71,253	77,822	73,912	73,912	77,862	83,415
Full-Time Equivalents	574.3	593.3	610.0	610.0	609.6	609.6	650.6	669.6

(Dollars in Thousands)

1000 - General

	Actual		Actual FY 14	Estimate FY15	Forecast Base		Governor's Recommendation	
	FY12	FY 13			FY16	FY17	FY16	FY17
Balance Forward In	208	3,601	125	418				
Direct Appropriation	65,976	65,976	70,698	73,612	73,612	73,612	77,562	83,115
Receipts	0			0	0	0	0	0
Net Transfers	373	358	345	300	300	300	300	300
Cancellations		227						
Expenditures	62,973	69,583	70,749	74,331	73,912	73,912	77,862	83,415
Balance Forward Out	3,584	125	418					
<i>Biennial Change in Expenditures</i>				12,524		2,745		16,198
<i>Biennial % Change in Expenditures</i>				9		2		11
<i>Gov's Exp Change from Base</i>								13,453
<i>Gov's Exp % Change from Base</i>								9
FTEs	569.8	592.7	609.3	608.8	608.8	608.8	649.8	668.8

2000 - Restricted Misc Special Rev

	Actual		Actual FY 14	Estimate FY15	Forecast Base		Governor's Recommendation	
	FY12	FY 13			FY16	FY17	FY16	FY17
Balance Forward In	2,633	1,511	3,215	3,132				
Receipts	3	6						
Net Transfers	1,817	1,563	24					
Expenditures	2,980	(128)	108	3,132	0	0	0	0
Balance Forward Out	1,474	3,209	3,132					
<i>Biennial Change in Expenditures</i>				388		(3,240)		(3,240)
<i>Biennial % Change in Expenditures</i>				14		(100)		(100)
<i>Gov's Exp Change from Base</i>								0
<i>Gov's Exp % Change from Base</i>								0

2403 - Gift

	Actual		Actual FY 14	Estimate FY15	Forecast Base		Governor's Recommendation	
	FY12	FY 13			FY16	FY17	FY16	FY17
Balance Forward In	20	41	74	83				
Receipts	41	58	56	0	0	0	0	0
Expenditures	20	26	47	83	0	0	0	0
Balance Forward Out	41	74	83					
<i>Biennial Change in Expenditures</i>				84		(130)		(130)
<i>Biennial % Change in Expenditures</i>				183		(100)		(100)

(Dollars in Thousands)

2403 - Gift

Gov's Exp Change from Base							0
Gov's Exp % Change from Base							0
FTEs	0.8	0.1	0.4	0.9	0.9	0.9	0.9

3000 - Federal

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY 13	FY 14	FY15	FY16	FY17	FY16	FY17
Balance Forward In	18	0	142	76				
Receipts	402	398	284	200	0	0	0	0
Net Transfers			0					
Expenditures	419	257	349	276	0	0	0	0
Balance Forward Out	0	142	76					
Biennial Change in Expenditures				(50)		(625)		(625)
Biennial % Change in Expenditures				(7)		(100)		(100)
Gov's Exp Change from Base								0
Gov's Exp % Change from Base								0
FTEs	3.8	0.6	0.4	0.4				

Board of Public Defense

FY16-17 Biennial Budget Change Item

Change Item: Public Defense as a Functioning Partner in the Justice System- Phase II

Fiscal Impact (\$000s)	FY 2016	FY 2017	FY 2018	FY 2019
General Fund				
Expenditures	3,950	9,503	9,503	9,503
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	3,950	9,503	9,503	9,503
FTEs	41	60	60	60

Recommendation:

The Governor recommends \$3.95 million in FY 2016 and \$9.503 million in FY 2017 to fund Phase II of a three biennium plan to address historic underfunding of public defense. It will provide the Board with the resources to become, and to maintain itself, as a capable justice system partner. The goal of the three biennium plan is to reach 130% of the Weighted Caseload Standard by the end of fiscal year 2019. In the 2014-2015 biennium the governor and legislature recognized the need to have public defense function as a capable justice system partner by partially funding the first phase of the three biennium plan.

The budget request for the 2016-2017 biennium would continue the progress that has been made in reaching the Board's goal of 130% of the Weighted Caseload Standards by 2019. Inherent in this request, is a recognition that 1) along with attorneys there is a need for support staff positions to assist the attorneys; 2) that in order to recruit and retain employees salary and benefit increases will need to occur over this time period in order to make compensation competitive with other public sector agencies.

Rationale/Background:

The Office of the Legislative Auditor's conclusion in the 2010 Evaluation Report of public defense was this: **"High public defender workloads have created significant challenges for Minnesota's criminal justice system."** Public defense, as seen in the Report, needs to be better funded and better staffed not merely to improve services to its clients, but also to be a functional part of the criminal justice system of Minnesota.

During their site visits, the auditor's staff observed that "due to time pressures public defenders often had about 10 minutes to meet their client for the first time, evaluate the case, explain the client's options and the consequences of a conviction or plea, discuss a possible deal with the prosecuting attorney, and allow the client to make a decision on how to proceed". These workloads and time constraints impair the ability of public defenders to provide effective representation and to protect the constitutional rights of their clients.

The United States Supreme Court has held that criminal defendants have a Sixth Amendment right to effective assistance of counsel during plea negotiations (99% of all cases). In these cases the Court found that the right to effective assistance of counsel extends to the consideration of plea offers that lapse or are rejected. Contrast this with the auditor's other findings: "high public defender workloads have created significant challenges for Minnesota's criminal justice system; heavy workloads have hurt public defenders' ability to represent clients, and decreased court efficiency".

Besides the obvious detriment to indigent accused Minnesotans, and the obvious distress to public defender staff, there are several predictable hardships to the administration of justice which have resulted from this history of budget reductions: 1) nearly one-half of the counties in Minnesota where public defenders are not at first appearances with their clients; 2) the inability to handle certain case types in a timely manner; 3) aggravation of jail overcrowding; 4) postponement of trial settings, which are already far enough out to impinge on the right to a speedy trial; and 5) increased strain on all the other participants in the justice system.

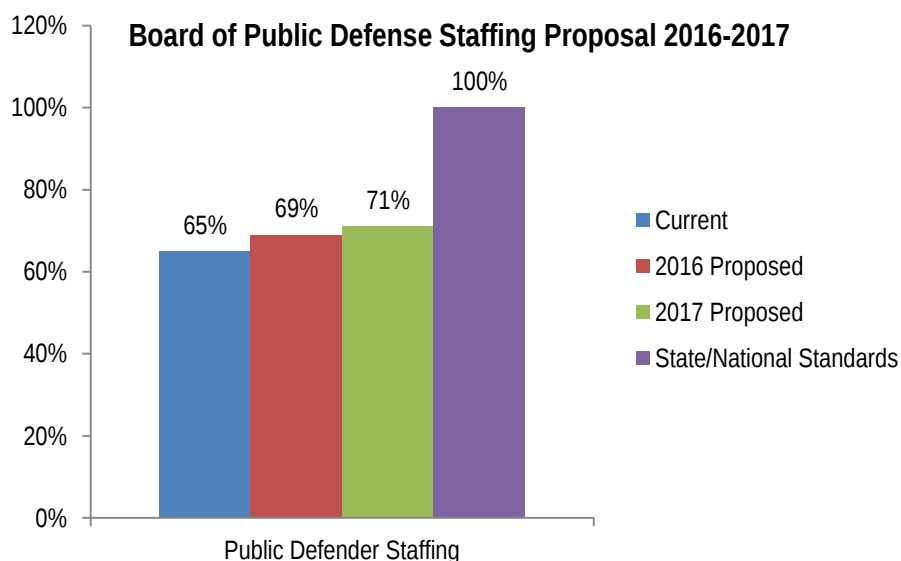
Beyond high caseloads, the increased complexity of cases, fewer staff, and changes in court and prosecution practices, have made it more difficult for public defenders to provide quality representation to clients and meet the expectations of the courts.

A consequence of uncontrollable public defender caseloads for the entire criminal justice system is that frequently courtrooms--each with a presiding judge, court staff, prosecutors, probation officers, victim/witness assistants, victims, witnesses, family members and the public--are unable to conduct business in a timely manner because the public defenders needed for the resolution of cases are tied up elsewhere.

On the appellate level, increases in case filings have meant significant delays in the state's appellate courts. Delays have also occurred at the trial and appellate court levels in post-conviction cases (appeals of cases that were not tried, guilty plea withdrawals, sentencing, and conditional release cases, parole revocations, and cases where new evidence may be found). Staff shortages have caused delays in sentencing appeal cases and appeals of plea withdrawal and conditional release.

Proposal:

To continue the progress toward the 2019 goal of caseloads at 130% of the Weighted Caseload Standard, the request would include an additional 24 FTE attorneys in fiscal year 2016 and 17 new attorneys in fiscal year 2017. Two of these additional attorneys would be in the Appellate Office to address the increase in appeals and post-conviction cases. If funded, the additional attorney positions would bring the caseloads to 145% of the Weighted Caseload Standard in 2016 and 140% of the standard for 2017. Put another way, attorney staffing would be 69% of the recommend staffing levels in 2016 and 71% of the recommended staffing levels in 2017.



New developments in the justice system have created demand for more services to clients. These include the increased severity of consequences for certain crimes; civil consequences to criminal charges or convictions; additional hearings required by new legal requirements; language and cultural barriers which add to the time needed to represent clients; courts taking more responsibility for clients with mental illness and chemical dependency than in the past; U.S. Supreme Court decisions which have impacted the practice of law; and the emerging critique of "scientific" evidence that requires that forensic evidence be closely scrutinized by highly trained individuals.

In addition, the Judicial Branch is moving rapidly toward an all-electronic way of doing business. The Minnesota eCourt initiative follows similar transitions already made by law enforcement and prosecutors. Reports and digital photos already flow electronically from police to prosecutors, then to the court. A number of prosecutor offices have moved to electronic transmission and storage of disclosure and files. In addition, private businesses with security concerns have developed tools that assist law enforcement and prosecutors, such as surveillance video. These issues are significant enough for full-time staff and offices, but are compounded by the fact that almost one-half of the public defenders in Minnesota are part-time, and currently provide their own office overhead.

Staffing in public defender offices must change to accommodate these changes. Job responsibilities are no longer so easily divided among positions. The differences in court procedures and practices require that support staff be available to support lawyers with different tasks depending on the case type and the jurisdiction. These could include trial support, client contact, brief writing, investigation, legal research; courtroom tech support; and facilitating brainstorming, just to name a few functions. The budget request would fund twelve multi-function professional positions in the judicial districts outside of the metro areas. These positions would provide multiple functions across several counties. These positions are especially important for these districts, which do not have access to law clerks.

Many public defender clients struggle with mental health and chemical dependency issues. In addition, criminal penalties and collateral consequences have increased dramatically, all of which point toward a need for sentencing alternatives that dispositional advisors provide. The request would also provide for seven dispositional advisor positions. The Board has about one-half of the number of dispositional advisors that are recommended by the Weighted Caseload and national standards.

The current salary structure for attorneys includes 19 "Steps," with the theory being that individuals would progress through the salary structure on their anniversary date taking nineteen years to reach the top. Due to past funding issues there have not been consistent step or progression increases, and during the 2010-2011 contract period there was a total salary freeze. Salaries continue to lag behind those of prosecutors. In the counties where there are District Management Offices on average the salary range for public defenders is 5%(top of the range)-12%(starting salary) below that of the prosecutors.

In order to recruit and retain attorney staff there is a need to compensate staff as they gain experience and improve their skills. Board staff has been meeting with representatives of Teamsters Local 320 to discuss a number of issues, including compensation. There is recognition that even under the best of circumstances nineteen years is too long to move through the scale, and that there is a need to reward individuals as their skills are developed. Discussions on a different or modified compensation structure and other issues will continue over the next few months. The request includes funding to provide for estimated salary increases over the next biennium (contract period), as well as the mandated increases in the cost of insurance and retirement.

Approximately ninety (90%) of the Board's budget is personnel, with another five (5%) contractually obligated. Failure to fund these increases in personnel costs is the equivalent of staffing reductions. Under the current projection from MMB a 1.8% increase in personnel costs in 2016 and 2017 would mean a reduction of 23 FTE positions in 2016 and 46 positions in 2017.

Results:

The Board does not and cannot control its caseload. It must provide the services specified in statute. The Minnesota State Supreme Court in the case (Dzubiak v Mott) has recognized that a public defender "may not reject a client..."

As the auditor noted:

- high public defender caseloads are dragging down the justice system
- 72% of the state's judges say a lack of defenders is causing delays
- courtrooms are idle because the public defender is tied up someplace else
- public defenders often have just 10 minutes to meet the client, evaluate the case, explain the consequences of various options, and get a decision from the client.
- public defender schedules require some counties to set out-of-custody trials a year out.

The request is meant to address the quality of representation and ultimately efficiency, and to meet constitutional standards of representation. A properly funded public defender system will allow for thorough review of cases. It will mean additional time spent with clients. Time is needed to build trust. Client trust is essential in providing quality representation and ensuring efficient resolution of cases, especially in cases where there is a plea agreement (99% of cases).

Acceptance of a sentence or conditions of probation by the client is often dependent on whether the client perceives that they have been listened to, and "had their "day in court." This means a thorough review of their case by competent counsel who has had the time to listen to them and their story. Time is needed to review cases and prepare where mental health and chemical dependency play a role in the case.

As a part of the process to make the Board a fully functioning partner, the Board looked not only at the budget but also the services and value public defenders can provide if adequate resources are available. These include:

- Provide coverage at first appearances
- Cover all hearings where clients appear.
- Reduce situations where one lawyer covers multiple courtrooms

Finally, the request would provide a modest increase to the four public defense corporations (through the grant process established in M.S. 611.216) to maintain their viability. The four public defense corporations provide legal defense services primarily to the state's minority communities. These cases (approximately 4,000) would otherwise be public defender cases. State funding represents roughly one-half of the corporation funding. The request would provide for a 5% increase in each year of the biennium.

<i>Type of Measure</i>	<i>Name of Measure</i>	<i>Previous</i>	<i>Current</i>	<i>Dates</i>
Quantity	Attorney staffing as a Percent of National and Board Standards	58%	65%	2011/2013
Quality	Cover all hearings where clients appear (100% of counties by 2019)	½ of counties	½ of counties	2008/2013

Statutory Change(s):

Not applicable.

Program: Appellate Office
<http://www.pubdef.state.mn.us/>
AT A GLANCE

- 1,248 appellate files opened in 2013
- 3,861 parole revocation hearings 2013
- 528 briefs filed in appellate cases 2013

PURPOSE & CONTEXT

The Appellate Office provides services to indigent clients in criminal appeals, post-conviction proceedings in the District Courts, and supervised release/parole revocation proceedings.

The goals for the Appellate Office are to provide excellent client-centered representation to clients in criminal appeals, post-conviction proceedings in the District courts, and supervised release/parole revocation hearings. The Appellate Office is dedicated to the principle that all clients are entitled to equal access to justice, and quality representation.

By providing quality representation, the Appellate Office helps ensure that legislation and court decisions are based on sound constitutional and legal principles, thereby ensuring that the rights of all citizens are protected.

Increased penalties and stronger enforcement have resulted in a significant increase in the population of the state's prisons and jails. The Minnesota Department of Corrections (DOC) records indicate that as of July 1, 2013 there were 9,772 inmates in the state's correctional facilities, an increase of 500 inmates over the last five years. This population is the majority of the client base for the Appellate Office

SERVICES PROVIDED

The Appellate Office provides mandated services to indigent prisoners who appeal their criminal cases to the Minnesota Court of Appeals and Supreme Court; or who pursue post-conviction proceedings in the District Courts throughout the state; and to defendants in supervised release/parole revocation proceedings.

RESULTS

The practice of criminal law does not readily lend itself to numerical results. However, the Appellate Office is in the process of incorporating quality representation guidelines into attorney practice including client visits and oral arguments.

<i>Type of Measure</i>	<i>Name of Measure</i>	<i>Previous</i>	<i>Current</i>	<i>Dates</i>
Quantity	Appellate Files Opened	480	779	2011 2013
Quantity	Appeals with Brief Filed	176	321	2011 2013
Quantity	Parole Revocation Hearings	3,450	3,861	2011 2013
Quality	Oral Arguments-Tried Cases	13	22	10/12 4/14
Quality	Client Visits-Tried Cases	46	92	10/12 4/14

M.S. 611 <https://www.revisor.mn.gov/statutes/?id=611> provides the legal authority for the Appellate Office.

Expenditures By Fund

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY13	FY14	FY15	FY16	FY17	FY16	FY17
1000 - General	4,501	5,077	5,032	4,644	4,643	4,643	4,992	5,482
Total	4,501	5,077	5,032	4,644	4,643	4,643	4,992	5,482
Biennial Change				98		(390)		798
Biennial % Change				1		(4)		8
Governor's Change from Base								1,188
Governor's % Change from Base								13

Expenditures by Budget Activity

Budget Activity: State Public Defender	4,501	5,077	5,032	4,644	4,643	4,643	4,992	5,482
Total	4,501	5,077	5,032	4,644	4,643	4,643	4,992	5,482

Expenditures by Category

Compensation	3,594	3,715	3,682	3,479	3,478	3,478	3,821	4,299
Operating Expenses	907	1,361	1,350	1,165	1,165	1,165	1,171	1,183
Other Financial Transactions	0		0					
Capital Outlay-Real Property	0							
Total	4,501	5,077	5,032	4,644	4,643	4,643	4,992	5,482
Total Agency Expenditures	4,501	5,077	5,032	4,644	4,643	4,643	4,992	5,482
Expenditures Less Internal Billing	4,501	5,077	5,032	4,644	4,643	4,643	4,992	5,482

<u>Full-Time Equivalents</u>	40.5	40.8	40.3	40.1	40.1	40.1	42.1	42.1
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(Dollars in Thousands)

1000 - General

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY 13	FY 14	FY15	FY16	FY17	FY16	FY17
Balance Forward In		99		1				
Direct Appropriation	4,500	4,500	4,643	4,643	4,643	4,643	4,992	5,482
Net Transfers	100	500	390					
Cancellations		23						
Expenditures	4,501	5,077	5,032	4,644	4,643	4,643	4,992	5,482
Balance Forward Out	99		1					
<i>Biennial Change in Expenditures</i>				98		(390)		798
<i>Biennial % Change in Expenditures</i>				1		(4)		8
<i>Gov's Exp Change from Base</i>								1,188
<i>Gov's Exp % Change from Base</i>								13
FTEs	40.5	40.8	40.3	40.1	40.1	40.1	42.1	42.1

Program: Administrative Services Office

<https://www.home.pubdef.state.mn.us/>

AT A GLANCE

- Developing electronic content management system to accept, store and retrieve documents, audio and video files electronically.
- Developing new efficiencies in administration and case handling.
- 1,000 employees receive training at statewide/district events.
- 99% up-time on internal systems.

PURPOSE & CONTEXT

The Administrative Services Office Provides district and appellate defenders with the resources they need to provide high quality legal assistance to indigent Minnesotans, and to do so in a cost effective manner.

We implement board policies and provide staff support and training for all public defense functions statewide. In addition, we develop and manage agency systems in the areas of caseloads, budget, personnel, and agency assets.

We are currently in the process of developing an Electronic Content Management system (ECM). The ECM will allow for the transmission, review, and storage of electronic records (including text, audio and video files) that flow to and from our justice partners.

Over 500 people in agency's 26 offices, our part-time lawyers' offices and Public Defense Corporation offices rely on our technology staff for hardware and software assistance and the management of accounts used to access agency systems that are needed in the representation of clients.

SERVICES PROVIDED

We have developed and implemented policies covering personnel, compensation, budgeting, training, conflict cases, internal controls, and management information systems. We have recently reviewed and implemented quality representation guidelines, and an internal resource allocation policy to better target attorney resources.

We have and are continuing to work on improving efficiency in case handling:

- Merged administration of the 7th and 8th Judicial Districts allowing for better cross district sharing of resources
- Developed and implemented a new class of full time attorney to provide more flexibility in the provision of services and to coming retirements of "baby boomer" part time defenders
- Developed and implemented a new multi-function class of support staff that will give the Board more flexibility by providing various support functions to attorneys.
- Implemented a model for immigration law support as required by the United States Supreme Court
- Developed a "defender dashboard" on the case management system to allow defenders to more effectively use additional features of the case management system.
- Worked with the Court to provide automatic scheduling and scheduling updates.
- Working with the Court to implement a "public defender" radial button in MNCIS, this will allow for the electronic transfer of case data automatically to the public defender case management system
- Developing an electronic content management system to integrate with the Courts E-court project and prosecutors statewide.
- Streamlined entry of case opening data and shifted it away from attorney staff.

Expanded the statewide trial team to better assist public defenders throughout Minnesota with difficult cases.

RESULTS

Our work continues on meeting the goals set out by the Board.

- Recruitment and retention of diverse work force- 45% women and 11% people of color.
- 1,000 trainees receive training at 9 statewide/district trainings.
- 297 technology requests for assistance per month with initial response times always within one business day.
- 99% up-time on internal systems.
- Maintenance of 107 servers, 325 desktop computers and 115 laptop computers.

We also continue to work with our justice partners to improve and increase the effectiveness of the criminal justice system. This work includes participation in the Chief Justice's Criminal Justice Task Force, regular meetings with county attorneys, working with district chief public defenders and county attorneys to develop a systematic approach to the use of electronic disclosure in criminal cases. These contributions help to improve efficiency and maintain a capable and reliable justice system.

M.S. 611 <https://www.revisor.mn.gov/statutes/?id=611> provides the legal authority for the Administrative Services Office.

Expenditures By Fund

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY13	FY14	FY15	FY16	FY17	FY16	FY17
1000 - General	1,420	1,611	1,849	2,024	1,920	1,920	2,012	2,126
Total	1,420	1,611	1,849	2,024	1,920	1,920	2,012	2,126
Biennial Change				841		(33)		265
Biennial % Change				28		(1)		7
Governor's Change from Base								298
Governor's % Change from Base								8

Expenditures by Budget Activity

Budget Activity: Administrative Services Office	1,420	1,611	1,849	2,024	1,920	1,920	2,012	2,126
Total	1,420	1,611	1,849	2,024	1,920	1,920	2,012	2,126

Expenditures by Category

Compensation	1,070	1,128	1,165	1,335	1,230	1,230	1,322	1,436
Operating Expenses	344	476	654	674	675	675	675	675
Other Financial Transactions	6	7	30	15	15	15	15	15
Grants, Aids and Subsidies			0					
Total	1,420	1,611	1,849	2,024	1,920	1,920	2,012	2,126
Total Agency Expenditures	1,420	1,611	1,849	2,024	1,920	1,920	2,012	2,126
Expenditures Less Internal Billing	1,420	1,611	1,849	2,024	1,920	1,920	2,012	2,126
Full-Time Equivalents	9.6	10.0	10.5	10.5	10.5	10.5	10.5	10.5

Program: Administrative Services
Office

Program Financing by Fund

(Dollars in Thousands)

1000 - General

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY 13	FY 14	FY15	FY16	FY17	FY16	FY17
Balance Forward In		401		104				
Direct Appropriation	1,920	1,920	1,920	1,920	1,920	1,920	2,012	2,126
Net Transfers	(100)	(690)	33					
Cancellations		19						
Expenditures	1,420	1,611	1,849	2,024	1,920	1,920	2,012	2,126
Balance Forward Out	400		104					
<i>Biennial Change in Expenditures</i>				841		(33)		265
<i>Biennial % Change in Expenditures</i>				28		(1)		7
<i>Gov's Exp Change from Base</i>								298
<i>Gov's Exp % Change from Base</i>								8
FTEs	9.6	10.0	10.5	10.5	10.5	10.5	10.5	10.5

Program: District Public Defense

<http://www.pubdef.state.mn.us/>

AT A GLANCE

- 150,000 cases opened annually
- Largest user of the trial court system
- Caseloads far in excess of American Bar Association Standards
- 40,000 uncompensated part-time public defender hours

PURPOSE & CONTEXT

The District Public Defense Program provides legal services required by the Constitution and statutes to indigent persons in Minnesota's trial courts.

This is accomplished through a system that relies on a mix of full-time and part-time attorneys as well as support staff.

Trial level public defenders provide service in approximately 150,000 cases per year (80%-90% of all criminal cases).

This program also includes statutory M.S. 611.215 <https://www.revisor.mn.gov/statutes/?id=611.215> funding for four nonprofit public defense corporations. The corporations provide criminal and juvenile defense services primarily to minority indigent defendants, who otherwise would need public defense services.

SERVICES PROVIDED

Under Minnesota law, all individuals accused of a felony, gross misdemeanor, misdemeanor or juvenile crime are entitled to be represented by an attorney. The District Defense Program provides quality mandated criminal defense services to indigent persons in these cases. We also provide representation to children under ten (10) years of age in Children in Need of Protective Services (CHIPS) cases.

The public defense corporations are nonprofit corporations that provide criminal and juvenile defense services primarily to minority indigent defendants, who otherwise would need public defense services. The four corporations are the Neighborhood Justice Center (St. Paul); Legal Rights Center (Minneapolis), Duluth Indian Legal, and the Regional Native Public Defense Corporation (serving Leech Lake and White Earth).

RESULTS

The Office of the Legislative Auditor's first conclusion in the 2010 Evaluation Report of public defense is this: "High public defender workloads have created significant challenges for Minnesota's criminal justice system."

The public defender system operates with approximately 65% of the attorney staff that the American Bar Association and Board of Public Defense Weighted Caseload Standards recommend.

According to the Legislative Auditor the most immediate cause of high public defender workloads, was the staffing cuts sustained in 2008/2009. The report described several other factors that make settlement of cases more difficult and time consuming. These include: legislation that has increased the severity of consequences for certain crimes; criminal charges or convictions that have civil consequences; additional hearings mandated by new legal requirements; language and cultural barriers; and more clients with mental illness and chemical dependency. Two other factors that have served to increase the workload for public defenders are recent U.S. Supreme Court decisions, and the needed review of scientific evidence.

In its report, the OLA observed that due to time pressures public defenders often had about 10 minutes to meet each client for the first time to evaluate the case, explain the client's options and the consequences of a conviction or plea, to discuss a possible deal with the prosecuting attorney, and allow the client to make a decision on how to proceed. State and national standards recommend 4 hours of work for the same cases.

In approximately 50% of Minnesota's counties, public defenders are not with the client at their first court appearance. This does not serve to build a level of trust with clients. Client trust is essential in providing quality representation and ensuring efficient resolution of cases. This is especially true in cases where there is a plea agreement, which is the vast majority (99%) of cases.

This situation also jeopardizes the right to effective assistance of counsel as outlined by the United States Supreme Court.

The United States Supreme Court held in *Missouri v. Frye* and *Lafler v. Cooper*, that criminal defendants have a Sixth Amendment right to effective assistance of counsel during plea negotiations. The Court in *Padilla v. Kentucky* determined that the immigration consequences of a guilty plea are an integral part of the punishment that could result from a criminal conviction and thus are within the scope of the Sixth Amendment's right to counsel. These decisions make it incumbent upon public defenders to spend more time with clients and to document conversations more carefully.

Scientific evidence is more frequently being presented to trial courts. From what we learned in the experience with the St. Paul Crime Lab, such evidence must be reviewed carefully. In 2009, the National Academy of Sciences released a report explaining that the scientific basis of much of this "evidence" is questionable. The recent failures of St Paul's Crime Lab came to light because of work by public defenders trained in forensic science and with access to expert witnesses.

<i>Type of Measure</i>	<i>Name of Measure</i>	<i>Previous</i>	<i>Current</i>	<i>Dates</i>
Quantity	Trial Rates for All Case Types	1.03%	.61%	2008 2013
Quality	Counties in which public defenders are at first court appearance with their client	Approx. 50%	Approx. 50%	2008 2013

M.S. 611 <https://www.revisor.mn.gov/statutes/?id=611&format=pdf> provides the legal authority for District Public Defense.

Expenditures By Fund

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY13	FY14	FY15	FY16	FY17	FY16	FY17
1000 - General	57,052	62,895	63,869	67,663	67,349	67,349	70,858	75,807
2000 - Restricted Misc Special Rev	2,980	-128	108	3,132	0	0	0	0
2403 - Gift	20	26	47	83	0	0	0	0
3000 - Federal	419	257	349	276	0	0	0	0
Total	60,471	63,049	64,372	71,154	67,349	67,349	70,858	75,807
Biennial Change				12,005		(827)		11,140
Biennial % Change				10		(1)		8
Governor's Change from Base								11,967
Governor's % Change from Base								9

Expenditures by Budget Activity

Budget Activity: District Public Defense	60,471	63,049	64,372	71,154	67,349	67,349	70,858	75,807
Total	60,471	63,049	64,372	71,154	67,349	67,349	70,858	75,807

Expenditures by Category

Compensation	41,531	45,123	46,465	49,798	49,404	49,404	52,606	57,533
Operating Expenses	5,514	5,042	4,778	8,412	5,022	5,022	5,256	5,201
Other Financial Transactions	291	142	62	102	102	102	102	102
Grants, Aids and Subsidies	13,133	12,742	13,067	12,842	12,821	12,821	12,894	12,971
Capital Outlay-Real Property	1	0	0					
Total	60,471	63,049	64,372	71,154	67,349	67,349	70,858	75,807
Total Agency Expenditures	60,471	63,049	64,372	71,154	67,349	67,349	70,858	75,807
Expenditures Less Internal Billing	60,471	63,049	64,372	71,154	67,349	67,349	70,858	75,807

<u>Full-Time Equivalents</u>	524.3	542.5	559.2	559.4	559.0	559.0	598.0	617.0
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Program: District Public Defense

Program Financing by Fund

(Dollars in Thousands)

1000 - General

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY 13	FY 14	FY15	FY16	FY17	FY16	FY17
Balance Forward In	208	3,101	125	314				
Direct Appropriation	59,556	59,556	64,135	67,049	67,049	67,049	70,558	75,507
Receipts	0			0	0	0	0	0
Net Transfers	373	548	(77)	300	300	300	300	300
Cancellations		185						
Expenditures	57,052	62,895	63,869	67,663	67,349	67,349	70,858	75,807
Balance Forward Out	3,084	125	314					
<i>Biennial Change in Expenditures</i>				11,584		3,167		15,134
<i>Biennial % Change in Expenditures</i>				10		2		12
<i>Gov's Exp Change from Base</i>								11,967
<i>Gov's Exp % Change from Base</i>								9
FTEs	519.7	541.9	558.5	558.2	558.2	558.2	597.2	616.2

2000 - Restricted Misc Special Rev

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY 13	FY 14	FY15	FY16	FY17	FY16	FY17
Balance Forward In	2,633	1,511	3,215	3,132				
Receipts	3	6						
Net Transfers	1,817	1,563	24					
Expenditures	2,980	(128)	108	3,132	0	0	0	0
Balance Forward Out	1,474	3,209	3,132					
<i>Biennial Change in Expenditures</i>				388		(3,240)		(3,240)
<i>Biennial % Change in Expenditures</i>				14		(100)		(100)
<i>Gov's Exp Change from Base</i>								0
<i>Gov's Exp % Change from Base</i>								0

2403 - Gift

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY 13	FY 14	FY15	FY16	FY17	FY16	FY17
Balance Forward In	20	41	74	83				
Receipts	41	58	56	0	0	0	0	0
Expenditures	20	26	47	83	0	0	0	0
Balance Forward Out	41	74	83					
<i>Biennial Change in Expenditures</i>				84		(130)		(130)
<i>Biennial % Change in Expenditures</i>				183		(100)		(100)
<i>Gov's Exp Change from Base</i>								0

Program: District Public Defense

Program Financing by Fund

(Dollars in Thousands)

2403 - Gift

<i>Gov's Exp % Change from Base</i>								0
FTEs	0.8	0.1	0.4	0.9	0.9	0.9	0.9	0.9

3000 - Federal

	Actual		Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY12	FY 13	FY 14	FY15	FY16	FY17	FY16	FY17
Balance Forward In	18	0	142	76				
Receipts	402	398	284	200	0	0	0	0
Net Transfers			0					
Expenditures	419	257	349	276	0	0	0	0
Balance Forward Out	0	142	76					
<i>Biennial Change in Expenditures</i>				(50)		(625)		(625)
<i>Biennial % Change in Expenditures</i>				(7)		(100)		(100)
<i>Gov's Exp Change from Base</i>								0
<i>Gov's Exp % Change from Base</i>								0
FTEs	3.8	0.6	0.4	0.4				