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**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.

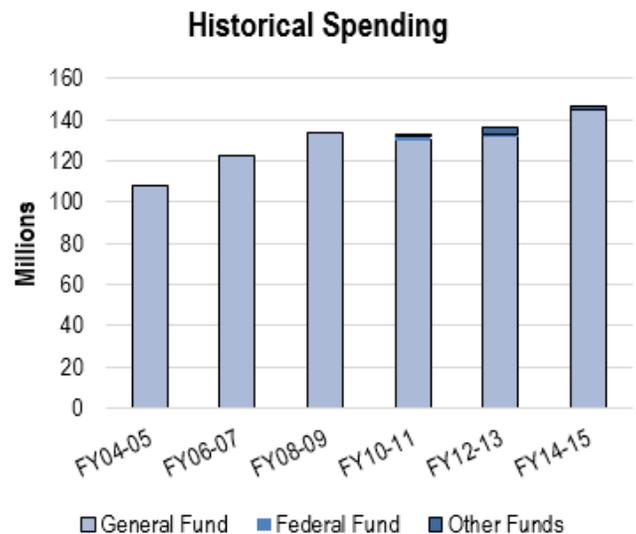
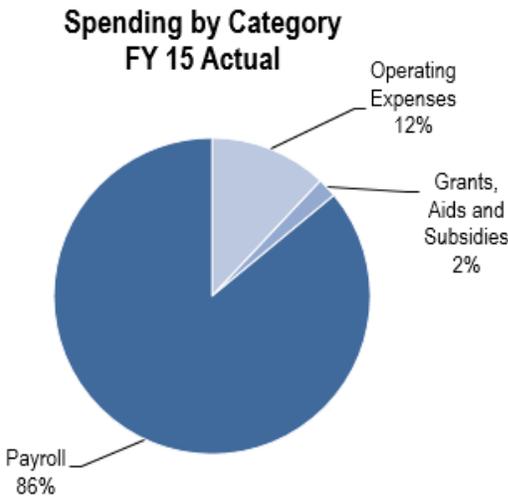
The Board's mission is to provide excellent criminal and juvenile legal defense services to indigent clients through an independent, responsible and efficient public defender system.

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**



*Payroll includes funding of county employees in the 2<sup>nd</sup> and 4<sup>th</sup> Judicial Districts; however, this shows as grants, aids, and subsidies funding on the fiscal pages.*

Source: BPAS

## 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
- Development of an electronic content management system
- Commitment to vertical representation
- Commitment to team defense
- Commitment to continual training of all staff
- Using 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

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

**Program: Appellate Office**

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**AT A GLANCE**

- 3,936 appellate files opened in 2015
- 3,982 parole revocation hearings in 2015
- 535 appeals with briefs filed in 2015

**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, jails, and individuals on supervision. The Minnesota Department of Corrections (DOC) records indicate that as of 1-1-2016 there were 10,105 inmates in the state's correctional facilities, 6,900 individuals in county facilities, and 122,000 individuals on supervised release, probation, or parole.

**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 has incorporated quality representation guidelines into attorney practice.

<i>Type of Measure</i>	<i>Name of Measure</i>	<i>Previous</i>	<i>Current</i>	<i>Dates</i>
Quantity	Appellate Files Opened	2,682	3,936	2011-2015
Quantity	Appeals with Brief Filed	409	535	2011-2015
Quantity	Parole Revocation Hearings	3,450	3,982	2011-2015

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**Program: Administrative Services Office**

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**AT A GLANCE**

- Launching an 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.

**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 that flow to and from our justice partners.

Over 700 people in the agency's 29 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 attorneys to provide more flexibility in the provision of services and to address the 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 an upgraded "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.
- Developing an electronic content management system to integrate with the Courts E-court project and prosecutors statewide. (first test district goes live this fall).
- Streamlined entry of case opening data and shifted it away from attorney staff.

**RESULTS**

We have also continued our work in 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 received training at 9 statewide/district training.
- 360 technology requests for assistance per month with initial response times always within one business day.
- 99% up-time on internal systems.
- Maintenance of 148 servers, 164 desktop computers and 429 surfaces/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 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.

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Program: District Public Defense

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**AT A GLANCE**

- 144,000 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 144,000 cases per year (80%-90% of all criminal cases).

This program also includes statutory (M.S. 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 is operating with approximately 70% of the attorney staff that 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.

Public defense has not been a fully functioning partner in the criminal justice system. 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 four hours of work for the same cases.

In 2014 in approximately 50% of Minnesota's counties public defenders were not with the client at their first court appearance. While that number has increased to approximately 75%, high workloads, time demands and court imposed deadlines for resolving cases continue to hamper efforts to provide quality representation. 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.

Several factors have made the practice of law much more complicated over the last several years. These include the increased use of scientific evidence. Such evidence must be analyzed for the ways in which this forensic evidence is collected, processed, analyzed, and reported. This includes computer forensics, drug analysis, fingerprint analysis, DNA, ballistics, arson reports, and other forensic evidence.

The criminal justice system as a whole has also had to deal with an increased number of defendants who suffer from mental illness and/or drug and alcohol addiction. It is estimated that anywhere from 30%-50% of inmates in county jails suffer from some form of mental illness. According to the Minnesota Department of Health alcohol/drug abuse is a factor in 80%-90% of Minnesota's criminal cases.

\* State and national standards v Office of Legislative Auditor observed during field visits.

<b><i>Type of Measure</i></b>	<b><i>Name of Measure</i></b>	<b><i>Previous</i></b>	<b><i>Current</i></b>	<b><i>Dates</i></b>
Quantity	Trial Rates for All Case Types	.61%	.93%	2013-2016
Quality	Counties with public defender at first appearance	50%	75%	2013-2016

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