

Table of Contents
2014-15 Revised Budget - Public Defense Board

Agency Profile - Board of Public Defense	1
Current, Base and Governor's Recommended Expenditures - Rev	3
Sources and Uses	4
Governor's Changes	5
All Funds FTE by Program - Rev	6
Appellate Office	7
Current, Base and Governor's Recommended Expenditures - Rev	9
Sources and Uses	10
Administrative Services Office	11
Current, Base and Governor's Recommended Expenditures - Rev	12
Sources and Uses	13
District Public Defense	14
Current, Base and Governor's Recommended Expenditures - Rev	16
Sources and Uses	17

Mission:

The Board of Public Defense is a Judicial Branch agency whose mission is to provide excellent criminal and juvenile legal defense services to indigent clients through an independent, responsible and efficient public defender system.

Statewide Outcome(s):

Public Defense, Board of supports the following statewide outcome(s).

People in Minnesota are safe.

Context:

The Board supports the work of public defenders, whose duty is to provide quality representation and zealous advocacy for their clients, and serve as the "quality control" function for the criminal justice system. Ensuring a fair and impartial justice system contributes to the safety and security of the entire state. The Board works with its 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 systemic contributions help maintain a capable and reliable justice system, reducing the possibility of wrongful convictions that would jeopardize the safety and security of people in Minnesota.

The Board of Public Defense provides legal services mandated by the Constitution and statute. The Board's attorneys and staff serve indigent people in felony, gross misdemeanor, misdemeanor, juvenile delinquency cases, and serve children over ten years of age in Children In Need of Protective Services (CHIPS) cases. It is also mandated to serve the following clients: indigent people in state prisons who appeal their criminal cases to the Minnesota Court of Appeals and Supreme Court; those who pursue post-conviction proceedings in the District Courts throughout the state; and defendants in supervised release/parole revocation proceedings.

The Board has established five goals to aid the agency to carry out its mission:

- client-centered representation,
- creative advocacy,
- continual training for all staff,
- recruitment and retention of excellent staff, and
- working as partners in the justice system.

Trial level public defenders provide representation in approximately 150,000 cases per year. It is estimated that public defenders represent about 85% of persons accused of felonies in Minnesota, and about 95 percent of juveniles accused of acts of delinquency, among their other cases. On the appellate level, defenders provide representation in over 2,000 cases per year.

The general fund provides approximately 97 percent of the Board's budget. The remaining three percent comes from a \$75 attorney registration fee that is levied by the Minnesota Supreme Court. This funding is scheduled to end June 30, 2013.

Strategies:

The Board has developed various tools to assist in its mission and goals and to support the idea of effective and efficient service delivery. These include:

- Development/implementation of quality representation guidelines on the trial and appellate levels
- Commitment to vertical representation
- Commitment to team defense
- Commitment to continual training of staff

-
- A cost effective model of representation that combines full and part time defenders
 - Strengthened internal controls
 - Development of an internal resource allocation policy to better target attorney resources

Measuring Success:

The criminal justice system is a core function of government driven largely by local decisions. The justice system is often pictured as a funnel. Public defense and in many cases the court itself have no control over who comes in at the top of the funnel. The control is exercised largely on the local level by police and prosecutors. A public defender may not reject a case, but must accept all the clients assigned to her or him (*Dziubak v. Mott*, 503 N.W.2nd 771 (Minn.1993.)). This means that the Board cannot control its caseload.

The practice of criminal law does not readily lend itself to measuring of “success”. This is especially true in the case of public defense where the client does not have a choice in who will represent him/her. A successful resolution of a case often involves a plea agreement. In these cases a successful outcome is often one where the client has felt that the public defender has had ample time to review their case listen to him/her, understand his/her story, and where the court took the time to listen to them. The Board has developed quality representation guidelines for individual cases. Many of the quality representation guidelines deal with communication between the attorney and the client. The quality guidelines are being incorporated into the individual attorney practice.

Public Defense, Board of
Current, Base and Governor's Recommended Expenditures - Rev
(Dollars in Thousands, Biennial Totals)

	General Funds	Other State Funds	Federal Funds	All Funds
Current Biennium Expenditures (FY 2012-13)	\$132,919	\$6,850	\$551	\$140,320
Current Law Expenditures (FY 2014-15)	\$132,722	\$30	\$0	\$132,752
Governor's Recommended Expenditures (FY2014-15)	\$141,317	\$30	\$0	\$141,347
\$ Change from FY 2014-15 Current Law to Governor's Rec	\$8,595	\$0	\$0	\$8,595
% Change from FY 2014-15 Current Law to Governor's Rec	6%	0%	0%	6%

**Public Defense, Board of
Sources and Uses**

(Dollars in Thousands)

	Biennium FY14-FY15			
	General Funds	Other State Funds	Federal Funds	Total Funds
TRANSFERS IN	\$770	\$30		\$800
APPROPRIATION	\$140,547	\$0	\$0	\$140,547
SOURCES OF FUNDS	\$141,317	\$30	\$0	\$141,347
EXPENDITURES	\$141,317	\$30	\$0	\$141,347
PAYROLL EXPENSE	\$105,215	\$0		\$105,215
OPERATING EXPENSES	\$10,440	\$26	\$0	\$10,466
OTHER FINANCIAL TRANSACTIONS	\$20	\$4		\$24
GRANTS, AIDS AND SUBSIDIES	\$25,642			\$25,642
USES OF FUNDS	\$141,317	\$30	\$0	\$141,347

Public Defense, Board of

Governor's Changes

(Dollars in Thousands)

	FY 14	FY 15	FY 14-15 Biennium	FY 16	FY 17	FY 16-17 Biennium
--	-------	-------	----------------------	-------	-------	----------------------

Public Defense- Workloads and Staffing

The Governor recommends funding to maintain existing staff providing public defense services, additional funding to start bringing attorney caseloads closer to nationwide standards, and a modest increase for public defense corporations, which provide indigent defense services, primarily to the state's minority communities. Funding to maintain staffing would include compensation increases and partial funding for anticipated increases in employee health insurance.

Performance Measures:

The agency will be able to retain existing staff to provide public defense services for qualifying low-income Minnesotans. It will also be able to add staff to begin reducing caseloads currently exceeding 150% of caseload standards recommended by the American Bar Association.

General Fund	Expenditure	2,822	5,773	8,595	5,773	5,773	11,546
	Net Change	2,822	5,773	8,595	5,773	5,773	11,546
Net All Change Items	General Fund	2,822	5,773	8,595	5,773	5,773	11,546
	Net Change	2,822	5,773	8,595	5,773	5,773	11,546

Public Defense, Board of
All Funds FTE by Program - Rev

	Current	Forecast Base	Governor's Revised
Program	FY 2013	FY 2015	FY 2015
Program: Appellate Office	40.4	40.4	40.4
Program: Administrative Services Office	9.3	9.3	9.3
Program: District Public Defense	519.8	519.0	519.0
Public Defense, Board of	569.5	568.7	568.7

Public Defense, Board of Appellate Office

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

Statewide Outcome(s):

The Appellate Office supports the following statewide outcome(s).

People in Minnesota are safe.

Context:

By providing quality representation, the Appellate Office helps ensure that legislation and court decisions are based on sound constitutional principles thus protecting the rights of all of our citizens. The Appellate Office is dedicated to the principle that all clients are entitled to equal access to justice, and quality representation. 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 revocations hearings.

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 January 1, 2012 there were 9,345 inmates in the state's correctional facilities. This population is the majority of the client base for the Appellate Office.

The Appellate Office is funded completely by a general fund appropriation.

Strategies:

The five goals established by the Board of Public Defense to assist the program to carry out its mission are:

- client-centered representation,
- creative advocacy,
- continual training for all staff,
- recruitment and retention of excellent staff, and
- being partners in the justice system.

The Appellate Office has implemented quality representation guidelines, which are incorporated into attorney practice. A commitment to team defense includes the use of support staff, developing theories and arguments and developing oral arguments through mock hearings. The Office also sponsors an appellate practice workshop where attorneys bring actual cases they are working on and develop theories of the case.

The Appellate Office is also working with the Department of Corrections to achieve efficiencies in the conducting of supervised release revocation hearings without compromising the quality of representation.

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. This will include data on oral arguments as well as client visits. The office is also in the process of conducting a client satisfaction survey.

Between 2011 and 2012 the office experienced;

- A 14 percent increase in oral arguments
- An 11 percent increase in tried cases where a brief was filed
- An increase of 500 DOC hearings.

Performance Measures	2008	2012	Trend
Appellate Files Opened	918	1,000	Increasing
Appeals with Brief Filed	464	456	Decreasing as a percent
Parole Revocation Hearings	3,481	3,954	Increasing

Performance Measures Notes:

Program: Appellate Office**Current, Base and Governor's Recommended Expenditures - Rev**

(Dollars in Thousands, Biennial Totals)

	General Funds	Other State Funds	Federal Funds	All Funds
Current Biennium Expenditures (FY 2012-13)	\$9,080			\$9,080
Current Law Expenditures (FY 2014-15)	\$9,000			\$9,000
Governor's Recommended Expenditures (FY2014-15)	\$9,674			\$9,674
\$ Change from FY 2014-15 Current Law to Governor's Rec	\$674			\$674
% Change from FY 2014-15 Current Law to Governor's Rec	7%			7%

Program: Appellate Office**Sources and Uses**

(Dollars in Thousands)

Biennium FY14-FY15				
	General Funds	Other State Funds	Federal Funds	Total Funds
APPROPRIATION	\$9,674		\$0	\$9,674
SOURCES OF FUNDS	\$9,674		\$0	\$9,674
EXPENDITURES	\$9,674			\$9,674
PAYROLL EXPENSE	\$7,933			\$7,933
OPERATING EXPENSES	\$1,741			\$1,741
USES OF FUNDS	\$9,674			\$9,674

Public Defense, Board of Administrative Services Office

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

Statewide Outcome(s):

The Administrative Services Office supports the following statewide outcome(s).

People in Minnesota are safe.

Context:

The Administrative Services Office (ASO) 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.

The ASO implements Board of Public Defense policies and provides staff support and training for all public defense functions statewide. In addition, the ASO develops and manages agency systems in the areas of caseloads, budget, personnel, and agency assets. Over 500 people in the BOPD's 28 offices and our part-time lawyers' offices and Public Defense Corporation offices rely on ASO technology staff for hardware and software assistance and management of accounts used to access government-held records as well as nonpublic data. The office is funded by the general fund and runs on approximately three percent of the agency.

Strategies:

The Board through its Administrative Services Office has developed and implemented policies covering personnel, compensation, budgeting, training, conflict cases, internal controls, and management information systems. The Board has recently reviewed its caseload standards, quality representation guidelines, and an internal resource allocation policy to better target attorney resources.

The office works with its 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 maintain a capable and reliable justice system. Ensuring a fair and impartial justice system contributes to the safety and security of the entire state.

Results:

- Recruitment and retention of diverse work force attorney staff 40 percent women and ten percent attorneys of color.
- Introduced improved internal control procedures.
- Streamlined accounts payable process.
- 750 trainees receive training at nine statewide events not including district specific training events.
- 241 technology requests for assistance per month with initial response times always within one business day.
- 99 percent up-time on internal systems.
- Maintenance of 96 servers, 325 desktop computers and 115 laptop computers.
- Implemented a model for immigration law support as required by United States Supreme Court.
- Streamlined entry of case opening data and shifted it away from attorney staff.
- Introduced a streamlined fixed asset management system.

Performance Measures	2010	2012	Trend
Uptime on internal systems	99%	99%	Stable
Recruitment and retention of diverse attorney staff	40% women 10% attorneys of color	40% women 10%attorneys of color	Stable

Performance Measures Notes:

Program: Administrative Services Office

Current, Base and Governor's Recommended Expenditures - Rev

(Dollars in Thousands, Biennial Totals)

	General Funds	Other State Funds	Federal Funds	All Funds
Current Biennium Expenditures (FY 2012-13)	\$3,740			\$3,740
Current Law Expenditures (FY 2014-15)	\$3,840			\$3,840
Governor's Recommended Expenditures (FY2014-15)	\$4,009			\$4,009
\$ Change from FY 2014-15 Current Law to Governor's Rec	\$169			\$169
% Change from FY 2014-15 Current Law to Governor's Rec	4%			4%

Program: Administrative Services Office

Sources and Uses

(Dollars in Thousands)

Biennium FY14-FY15				
	General Funds	Other State Funds	Federal Funds	Total Funds
APPROPRIATION	\$4,009			\$4,009
SOURCES OF FUNDS	\$4,009			\$4,009
EXPENDITURES	\$4,009			\$4,009
PAYROLL EXPENSE	\$2,501			\$2,501
OPERATING EXPENSES	\$1,508			\$1,508
USES OF FUNDS	\$4,009			\$4,009

Public Defense, Board of District Public Defense

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

Statewide Outcome(s):

The District Public Defense program supports the following statewide outcome(s).

People in Minnesota are safe.

Context:

The District Public Defense Program provides excellent client-centered representation to clients at the trial level.

The District Public Defense Program provides legal services required by the Constitution and statutes to indigent persons in felony, gross misdemeanor, misdemeanor, juvenile delinquency, and children over ten years of age in Children In Need of Protective Services (CHIPS) cases. This is accomplished through a system that relies on a mix of full-time and part-time attorneys (50 percent of the staff is part-time), as well as support staff. Trial level public defenders provide service in 150,000 cases per year (80-90 percent of all criminal cases). The program is funded by the general fund (98 percent) and funding from a \$75 attorney registration fee imposed by the Minnesota Supreme Court. This funding is scheduled to end June 30, 2013.

This program also includes part of the cost of four nonprofit public defense corporations. The corporations provide quality, independent criminal and juvenile defense services primarily to minority indigent defendants, who otherwise would need public defense services.

Strategies:

The District Chief Public Defenders have implemented various tools to assist in furthering the goal of excellent client-centered representation. These include:

- team defense;
- integrating quality representation guidelines into the individual practice of attorneys;
- committing to vertical representation which builds trust with clients;
- a commitment to staff training; and
- implementing a cost effective model of representation that combines full and part time defenders.

Results:

The Legislative Auditor's (OLA) summary of their 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."

According to the OLA the most immediate cause of high public defender workloads, was the staffing cuts sustained in 2008/2009. However, 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 also have served to increase the workload for public defenders are recent U.S. Supreme Court decisions and the needed review of scientific evidence.

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 cases make it incumbent upon public defenders spend more time with clients and to document conversations more carefully.

Scientific evidence is more frequently being presented to trial courts, and from what was 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.

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 ten 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. This jeopardizes the right to effective assistance of counsel as outlined by the United States Supreme Court in the cases referenced above. 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, especially in cases where there is a plea agreement, which is the vast majority (98 percent) of cases.

Performance Measures	2008	2012	Trend
Trial Rates for All Case Types	1.03%	0.72%	Decreasing
Cases Pled as Charged	5.67%	6.28%	Increasing
Attorney time necessary to effectively represent a client on a typical misdemeanor case vs. time spent as observed by the Office of the Legislative Auditor State.	4 hours - State/National Standards	10 minutes - OLA Observed	

Performance Measures Notes:

Office of the Legislative Auditor Program Evaluation Public Defender System February 2010.

Program: District Public Defense**Current, Base and Governor's Recommended Expenditures - Rev**

(Dollars in Thousands, Biennial Totals)

	General Funds	Other State Funds	Federal Funds	All Funds
Current Biennium Expenditures (FY 2012-13)	\$120,099	\$6,850	\$551	\$127,500
Current Law Expenditures (FY 2014-15)	\$119,882	\$30	\$0	\$119,912
Governor's Recommended Expenditures (FY2014-15)	\$127,634	\$30	\$0	\$127,664
\$ Change from FY 2014-15 Current Law to Governor's Rec	\$7,752	\$0	\$0	\$7,752
% Change from FY 2014-15 Current Law to Governor's Rec	6%	0%	0%	6%

Program: District Public Defense**Sources and Uses**

(Dollars in Thousands)

Biennium FY14-FY15				
	General Funds	Other State Funds	Federal Funds	Total Funds
TRANSFERS IN	\$770	\$30		\$800
APPROPRIATION	\$126,864	\$0	\$0	\$126,864
SOURCES OF FUNDS	\$127,634	\$30	\$0	\$127,664
EXPENDITURES	\$127,634	\$30	\$0	\$127,664
PAYROLL EXPENSE	\$94,781	\$0		\$94,781
OPERATING EXPENSES	\$7,191	\$26	\$0	\$7,217
OTHER FINANCIAL TRANSACTIONS	\$20	\$4		\$24
GRANTS, AIDS AND SUBSIDIES	\$25,642			\$25,642
USES OF FUNDS	\$127,634	\$30	\$0	\$127,664