

### Agency Purpose

The Public Defense Board is a judicial branch agency whose purpose is to provide quality criminal defense services to indigent defendants in the state of Minnesota through a cost effective and efficient public defender system. The public defense system is the largest customer of the courts and public defenders provide service in every courthouse in Minnesota, handling over 185,000 cases per year.

### Core Functions

The Judicial District Public Defender Offices provide quality trial court criminal defense services to indigent clients charged with crimes in felony, gross misdemeanor, misdemeanor and juvenile cases. The State Public Defender's Office (SPD) provides services to indigent prison clients.

### Operations

The ten Judicial District Public Defender Offices provide quality criminal defense services to indigent persons in felonies, gross misdemeanors, misdemeanors, juvenile delinquency, and Children In Need of Protective Services (CHIPS). This is accomplished through a system that relies heavily on part-time attorneys (65%). During FY 2003 the districts provided service for 185,000 cases. Public defenders carry more than double the Board and American Bar Association caseload standards. This program also includes partial funding for five non-profit public defense corporations. The corporations provide high quality, independent criminal and juvenile defense services primarily to minority indigents, who otherwise would need public defense services. The five corporations are the Neighborhood Justice Corporation (St. Paul), Legal Rights Center (Minneapolis), Duluth Indian Legal, and the Leech Lake and White Earth Criminal and Juvenile Defense Corporations.

The SPD provides services to indigent clients in state prisons 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; defendants in supervised release/parole revocation proceedings; individuals subject to community notification.

### Budget

During fiscal year 2005 the board was faced with a \$7.6 million budget reduction. If this reduction had occurred the board would have been forced to layoff 140 attorneys or about 25% of its staff. This would have brought the courts to a virtual standstill in many parts of the state. Over the summer Governor Pawlenty and the leaders of each of the four caucuses committed to funding this shortfall early in the 2005 session. It is unclear at this time how this shortfall will be handled for the 2006-2007 biennial budget. The FY 2004-05 budget totals \$99.8 million. Agency staff includes 540 full-time equivalent employees. This includes 380 attorney positions, most of which are part-time.

The entire agency is funded through the General Fund.

### At A Glance

#### Two Year State Budget:

- ◆ \$99.8 million - General Fund

#### Annual Caseloads

- ◆ 185,000 District Public Defense Cases
- ◆ 2,757 Parole Revocation Hearings
- ◆ 1,101 Appellate Files Opened
- ◆ 434 Community Notification Hearings

### Contact

State of Minnesota Board of Public Defense  
331 Second Avenue South, Suite 900  
Minneapolis, Minnesota 55401

John Stuart, State Public Defender  
E-mail: [www.pubdef.state.mn.us](http://www.pubdef.state.mn.us)  
Kevin Kajer, Chief Administrator- Board of Public Defense  
Phone: (612) 349-2565  
Fax: (612) 349-2568

Dollars in Thousands

	Current		Forecast Base		Biennium 2006-07
	FY2004	FY2005	FY2006	FY2007	
<b><u>Direct Appropriations by Fund</u></b>					
<b>General</b>					
Current Appropriation	53,763	46,082	46,082	46,082	92,164
<b>Forecast Base</b>	<b>53,763</b>	<b>46,082</b>	<b>46,227</b>	<b>46,275</b>	<b>92,502</b>
Change		0	145	193	338
% Biennial Change from 2004-05					-7.4%
<b><u>Expenditures by Fund</u></b>					
<b>Direct Appropriations</b>					
General	52,571	47,274	46,227	46,275	92,502
Gift	13	0	0	0	0
<b>Statutory Appropriations</b>					
General	323	638	500	500	1,000
Gift	63	58	0	0	0
<b>Total</b>	<b>52,970</b>	<b>47,970</b>	<b>46,727</b>	<b>46,775</b>	<b>93,502</b>
<b><u>Expenditures by Category</u></b>					
Total Compensation	34,031	29,836	28,769	28,817	57,586
Other Operating Expenses	5,082	5,127	4,951	4,951	9,902
Local Assistance	13,857	13,007	13,007	13,007	26,014
<b>Total</b>	<b>52,970</b>	<b>47,970</b>	<b>46,727</b>	<b>46,775</b>	<b>93,502</b>
<b><u>Expenditures by Program</u></b>					
Appellate Office	3,739	3,345	3,279	3,279	6,558
Administrative Services Office	1,838	1,924	1,800	1,800	3,600
District Public Defense	47,393	42,701	41,648	41,696	83,344
<b>Total</b>	<b>52,970</b>	<b>47,970</b>	<b>46,727</b>	<b>46,775</b>	<b>93,502</b>
<b>Full-Time Equivalents (FTE)</b>	<b>456.5</b>	<b>452.7</b>	<b>452.7</b>	<b>452.7</b>	

### Program Description

The Appellate Office provides services to indigent clients in criminal appeals, post conviction proceedings in the District Courts, and sex offender community notification and review hearings. It also provides representation to defendants in supervised release/parole revocation proceedings.

### Program at a Glance

- ◆ 1,101 appellate cases opened in FY2003
- ◆ 434 Sex offender notification hearings in CY 2004, 757 parole revocation cases opened in CY 2004

### Population Served

In recent years, there has been a major legislative effort to increase penalties for existing crimes. In addition, new statutory penalties have been enacted to deal with specific populations or issues. 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 there are 7,568 inmates in the state's correctional facilities, a 38% increase over the 1999 population. This population is the client base for the Appellate Office. Appellate cases have increased substantially in recent years. From CY 2003 to CY 2004, the number of appellate files opened is expected to increase by 27%. Sex offender notification hearings are expected to increase 61% and parole revocation hearing to increase 17%.

A recent U.S. Supreme Court decision (Blakely v. Washington) has called into question upward departures from presumptive sentences imposed under the Minnesota Sentencing Guidelines. At a minimum, all cases that were not "final" at the time Blakely was decided are seemingly subject to it. This could be as many as 500 cases. It is also very possible that Blakely will be ruled retroactive at least to the date of Apprendi v. New Jersey, the case upon which Blakely was based. This would mean that there are more than 4,000 cases subject to resentencing under Blakely.

In 1996, the legislature enacted the community notification law for sex offenders. The law requires a review process for classifying sex offenders. Indigent offenders have the right to representation by the (OSPD). In the past the OSPD has only represented those individuals recommended for Level II or III. (About 40% of offenders.) Given recent events it is believed that this percentage will increase to 50%. This could result in 25-30 more cases per year. The Department of Human Services (DHS) is also now doing a substantial number of these hearings. Parole violations will also increase the workload. If a risk level I or II offender is returned to prison, the committee can elect to increase their risk level. This could mean more than 175 new cases per year. Finally, all level III offenders are now automatically referred for possible commitment. Because of the greatly increased consequences, most of those recommended for a level III will want to vigorously contest that designation, including requesting administrative review.

### Services Provided

The Appellate Office provides 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; to defendants in supervised release/parole revocation proceedings; to individuals subject to community notification.

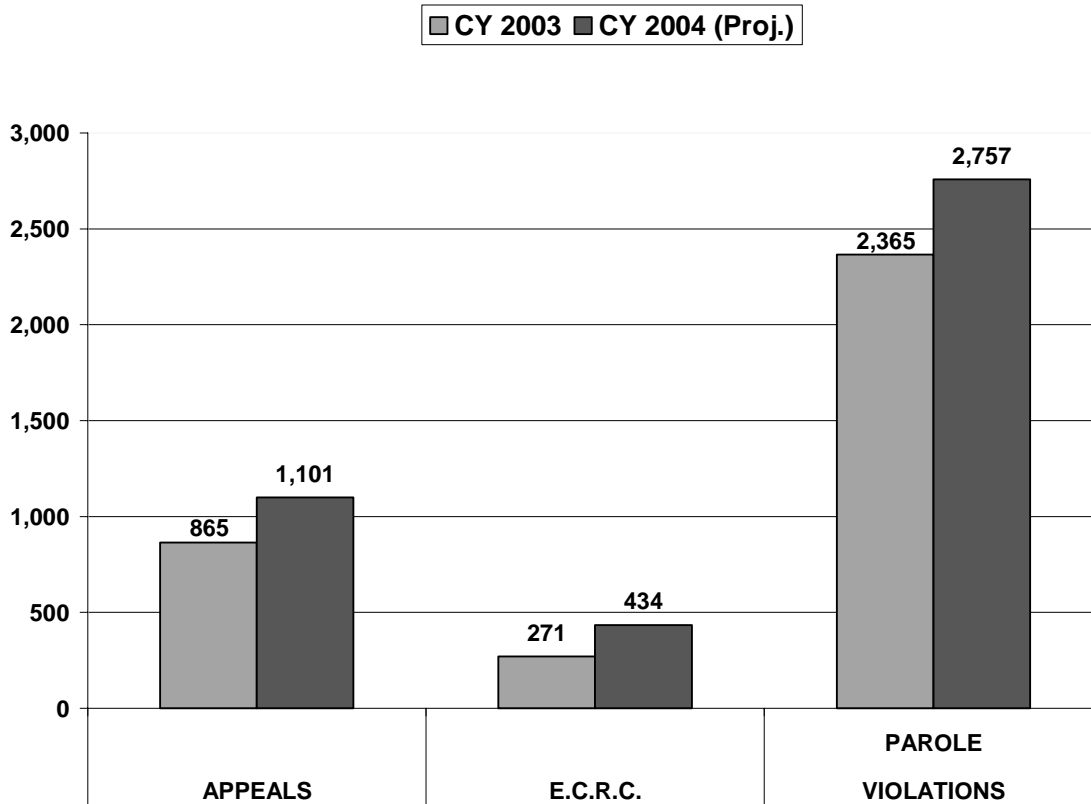
### Historical Perspective

There is a constitutional right to counsel at public expense for indigent prisoners' appeals and parole revocation hearings. In Minnesota the prisoners' indigency rate is approximately 90%. As sentence lengths increase, prisoners have more motivation to go through the appellate process, which takes about a year. They also have longer periods of supervised release, leading to more parole revocation hearings.

### Key Measures

- ⇒ Appellate cases increased 27% from CY 2003 to CY 2004.
- ⇒ Potential of 3,000-4,000 new cases as a result of Blakely decision.
- ⇒ Community notification hearings estimated increase of 61% CY 2003 to CY 2004
- ⇒ Parole revocation hearings increased 17% from CY 2003 to CY 2004.

**BOARD OF PUBLIC DEFENSE- APPELLATE OFFICE CASELOADS**



**Program Funding**

The State Public Defender has attempted to keep up with the ever-increasing caseload within its limited resources by using law clerks where possible. Currently, the office staff has 28.5 FTE attorneys, a budget of approximately \$3.8 million. Approximately 8% of the budget is used to pay for the cost of trial transcripts. The increasing caseloads continue to make it difficult for the office to meet court-imposed deadlines for appellate matters.

**Contact**

Kevin Kajer  
 Phone: 612) 349-2565  
 E-mail: [Kevin.kajer@.state.mn.us](mailto:Kevin.kajer@.state.mn.us)  
 Web site: <http://www.pubdef.state.mn.us/htm>

**PUBLIC DEFENSE BOARD**  
 Program: APPELLATE OFFICE

Program Summary

*Dollars in Thousands*

	Current		Forecast Base		Biennium
	FY2004	FY2005	FY2006	FY2007	2006-07
<b><u>Expenditures by Fund</u></b>					
<b>Direct Appropriations</b>					
General	3,739	3,345	3,279	3,279	6,558
<b>Total</b>	<b>3,739</b>	<b>3,345</b>	<b>3,279</b>	<b>3,279</b>	<b>6,558</b>
<b><u>Expenditures by Category</u></b>					
Total Compensation	2,964	2,570	2,504	2,504	5,008
Other Operating Expenses	775	775	775	775	1,550
<b>Total</b>	<b>3,739</b>	<b>3,345</b>	<b>3,279</b>	<b>3,279</b>	<b>6,558</b>
<b><u>Expenditures by Activity</u></b>					
Appellate Office	3,739	3,345	3,279	3,279	6,558
<b>Total</b>	<b>3,739</b>	<b>3,345</b>	<b>3,279</b>	<b>3,279</b>	<b>6,558</b>
<b>Full-Time Equivalents (FTE)</b>	<b>38.5</b>	<b>38.5</b>	<b>38.5</b>	<b>38.5</b>	

**Program Description**

The Board's Administrative Services Office under the direction of the State Public Defender and Chief Administrator provides policy implementation for the agency's programs, and overall management of its activities.

**Population Served**

The Administrative Services Office provides staff support to all public defender organizations.

**Services Provided**

The Administrative Services Offices provides staff support to all public defender organizations, as well as implements the board's policies. In addition, it is responsible for management of the agency systems related caseloads, budget, personnel, and information systems. It accomplishes this with the smallest administrative staff of any state agency of comparable size. The Administrative Services Office operates on 3% of the agency's budget.

<u><b>Program at a Glance</b></u>	
◆	Budget, information systems, policy and human resources work for 500+ state employees and 200 county employees.
◆	Sets standards and policies for provision of public defense services statewide.
◆	Information system support for 29 regional offices around the state.
◆	Budget support for 10 district offices, appellate office and five public defense corporations.

Over the past few years, the board has been working to complete state assumption of public defense services, and implement the policy changes and mandates that the legislature has passed. Specifically, the board has developed and implemented policies covering personnel, compensation, budgeting, training, client eligibility, conflict cases, and MIS systems. Caseload standards have also been adopted. During FY 2004 the board completed negotiations with two bargaining units representing attorneys and support staff. The board has also completed work on a strategic plan, a training plan, and an information systems plan and is going about the task of implementing these plans. The board is also implementing a change in the status of personnel in the Second and Fourth Judicial District Public Defender Offices. All new hires in these Judicial Districts as of 1-1-99 are state employees.

The Information Systems (IS) Office designs, implements, and maintains systems in 12 main offices and 16 satellite offices. Over 700 public defender staff people use these systems statewide. They are currently accomplishing this with five staff people. Significant time and effort is dedicated to maintaining and enhancing existing systems such as e-mail, virus protection, web site resources, case and client statistics, asset tracking, attorney timekeeping, online legal brief, and transcript banks. Currently, most of the IS team's time is spent integrating systems with the Minnesota Supreme Court's new Minnesota Court Information System (MNCIS) Changes in criminal justice information systems directly impact the public defender system. The overall goals of Minnesota's criminal justice system cannot be reached if the needs of the public defender system (the largest single user of the criminal justice system) are not recognized and provided for.

**Key Measures**

- ⇒ 12 main offices and 16 regional offices supported by five Information Technology (IT) staff.
- ⇒ A staff of 12 and 3% of the budget supports a system of 500 state employees and 200 county employees.

**Program Funding**

The board is accomplishing its mission and supporting district and appellate public defender programs with a minimal staff. Currently, 3% of the budget is expended on central administration and information systems. There are 12 staff people that support an annual budget \$47 million and affecting 500 state and over 200 county employees.

**Contact**

Kevin Kajer  
Phone: (612) 349-2565  
E-mail: [Kevin.kajer@.state.mn.us](mailto:Kevin.kajer@.state.mn.us)  
Web site: <http://www.pubdef.state.mn.us/htm>

**PUBLIC DEFENSE BOARD**

Program: ADMINISTRATIVE SERVICES OFFICE

Program Summary

*Dollars in Thousands*

	Current		Forecast Base		Biennium
	FY2004	FY2005	FY2006	FY2007	2006-07
<b><u>Expenditures by Fund</u></b>					
<b>Direct Appropriations</b>					
General	1,838	1,924	1,800	1,800	3,600
<b>Total</b>	<b>1,838</b>	<b>1,924</b>	<b>1,800</b>	<b>1,800</b>	<b>3,600</b>
<b><u>Expenditures by Category</u></b>					
Total Compensation	1,117	1,271	1,271	1,271	2,542
Other Operating Expenses	721	653	529	529	1,058
<b>Total</b>	<b>1,838</b>	<b>1,924</b>	<b>1,800</b>	<b>1,800</b>	<b>3,600</b>
<b><u>Expenditures by Activity</u></b>					
Administrative Services Office	1,838	1,924	1,800	1,800	3,600
<b>Total</b>	<b>1,838</b>	<b>1,924</b>	<b>1,800</b>	<b>1,800</b>	<b>3,600</b>
<b>Full-Time Equivalent (FTE)</b>	<b>12.3</b>	<b>12.3</b>	<b>12.3</b>	<b>12.3</b>	

**Program Description**

The ten Judicial District Public Offices provide quality criminal defense services to indigent persons in felonies, gross misdemeanors, misdemeanors, juvenile delinquency, and Children in Need of Protective Services (CHIPS). Under Minnesota law, all individuals accused of a felony, gross misdemeanor, misdemeanor or juvenile crime are entitled to be represented by an attorney before, during, and after their trial. If an individual who is accused in one of the above proceedings cannot afford the services of a private attorney, the court will appoint a public defender to represent that individual. This is accomplished through a system that relies on a mix of full-time and part-time attorneys (65%), as well as support staff. During 2003, the districts provided service in 167,000 cases. Currently, public defenders carry more than double the number of case units that is recommended under the board's Weighted Caseload Standards and American Bar Association Standards.

**Program at a Glance**

- ◆ 185,000 cases opened in 2004
- ◆ Largest user of court system
- ◆ Presence in every county in the state
- ◆ Caseloads in excess of double A.B.A. standards
- ◆ 30,000 Excess Part-Time Hours

**Population Served**

Trial level public defense serves the attorney needs of 185,000 indigent Minnesotans.

**Services Provided**

The public defender system provides trial level representation in criminal defense cases, including investigation, expert witnesses and support services. This program also includes part of the cost of five nonprofit public defense corporations. The corporations provide high quality, independent criminal and juvenile defense services primarily to minority indigent defendants, who otherwise would need public defense services.

**Historical Perspective**

In the last 10 years, the state has assumed the cost of providing these services from the counties. This process was completed on 1-1-95. As of 1-1-99, all new hires in the Second (Ramsey) and Fourth (Hennepin) Judicial District public defender offices are state employees. In the Second Judicial District, the state provides full funding for the public defender office. In the Fourth Judicial District, there is a cost sharing between the state and Hennepin County. A major reason for state assumption of public defense costs was to bring about equity within the judicial system. It was (and is) believed that the quality of representation should not be determined by the property values in a particular judicial district or county. Over the last several years increase enforcement of complicated felony cases, statutory changes, new judgeships, changes in court proceedings, and regional demographic changes, have all combined to push the public defender system to the brink of collapse. Caseloads continue to exceed more than double the Board's and A.B.A. caseload standards. There were eighteen new judgeships created in the last four years without corresponding increases for public defender staff. Finally, the increased demands for representation and complexity of child protection cases have overburdened the public defense system. Under this stress and without additional resources the public defense system is in serious jeopardy of failing, and with it the entire criminal justice system.

The board is the largest user of the state court system, so changes in court procedures, calendaring of cases, and technology advances, directly impact the board's ability to provide quality legal services to its clients. New judgeships, proposals for special courts (i.e. Drug Court), prosecution task forces, changes in juvenile court proceedings, or technology changes need to be examined as to their impact on the ability of the public defender system to continue to provide services to the clients and courts. All of these initiatives, as well as the efficiency and integrity of the judicial system are dependent on the public defender system's ability to provide quality legal services. If it cannot provide these services, court cases are continued, jails sit filled, and appeals and complaints rise. In short, the criminal justice system stops.

The public defender system does not and cannot control its client intake or workload. These important variables are controlled by external circumstances, such as: local government decisions that increase police and prosecution, new constitutional mandates, Supreme Court Rules, sentencing guideline changes, statutory changes, and judicial calendaring changes, all of which the board has no control over. Among the new



challenges are issues such as sex offenders, methamphetamine, and permanency hearings in child protection cases.

**Key Measures**

- ⇒ 30 positions unable to be filled
- ⇒ Potential for several more unfilled positions or layoffs beginning in 2006-2007
- ⇒ District public defenders now carry caseloads that average twice the recommended standards.
- ⇒ Part time public defenders provided in excess of 40,000 uncompensated hours in FY 2003.

**Program Funding**

The current appropriation for this program is approximately \$47 million annually. State imposed increased costs related to insurance, as well as increased personnel and insurance costs have strained district budgets. The state's lack of past funding for compensation increased and budget cuts in 2003, have placed an enormous burden on district budgets. These past funding deficiencies along with the high caseloads make it difficult to maintain the viability of the public defense system. Caseloads, vacant positions and hours for part-time (as well as full-time) defenders continue to increase making it more difficult to attract and retain good defense attorneys. For part-time defenders more time is demanded from them without compensation. The result is a weakened court and a criminal justice system which experiences major delays and often must stop the processing of defendants.

**Contact**

Kevin Kajer

Phone: 612) 349-2565

E-mail: [Kevin.kajer@state.mn.us](mailto:Kevin.kajer@state.mn.us)

Web site: <http://www.pubdef.state.mn.us/htm>

**PUBLIC DEFENSE BOARD**

Program: DISTRICT PUBLIC DEFENSE

Program Summary

*Dollars in Thousands*

	Current		Forecast Base		Biennium
	FY2004	FY2005	FY2006	FY2007	2006-07
<b><u>Expenditures by Fund</u></b>					
<b>Direct Appropriations</b>					
General	46,994	42,005	41,148	41,196	82,344
Gift	13	0	0	0	0
<b>Statutory Appropriations</b>					
General	323	638	500	500	1,000
Gift	63	58	0	0	0
<b>Total</b>	<b>47,393</b>	<b>42,701</b>	<b>41,648</b>	<b>41,696</b>	<b>83,344</b>
<b><u>Expenditures by Category</u></b>					
Total Compensation	29,950	25,995	24,994	25,042	50,036
Other Operating Expenses	3,586	3,699	3,647	3,647	7,294
Local Assistance	13,857	13,007	13,007	13,007	26,014
<b>Total</b>	<b>47,393</b>	<b>42,701</b>	<b>41,648</b>	<b>41,696</b>	<b>83,344</b>
<b><u>Expenditures by Activity</u></b>					
District Public Defense	47,393	42,701	41,648	41,696	83,344
<b>Total</b>	<b>47,393</b>	<b>42,701</b>	<b>41,648</b>	<b>41,696</b>	<b>83,344</b>
<b>Full-Time Equivalents (FTE)</b>	<b>405.7</b>	<b>401.9</b>	<b>401.9</b>	<b>401.9</b>	