

Agency Purpose

The Board of Public Defense 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 176,000 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 clients who appeal their convictions; post conviction proceedings; individuals subject to supervised release/parole revocations; and individuals subject to community notification hearings.

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 (60%). During FY 2006 the districts provided service for 176,000 cases. This program also includes partial funding for five nonprofit 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 FY 2006-2007 budget totals \$122 million. Agency staff includes 590 full-time equivalent employees, 420 of which are attorney positions.

The entire agency is funded through the General Fund.

At A Glance

Two Year State Budget:

- ◆ \$122 million - General Fund

Annual Caseloads

- ◆ 176,000 District Public Defense Cases
- ◆ 3,000 Parole Revocation Hearings
- ◆ 946 Appellate Files Opened
- ◆ 487 Community Notification Hearings

Contact

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Dollars in Thousands

| | Current | | Forecast Base | | Biennium 2008-09 |
|---|---------------|---------------|---------------|---------------|---------------------|
| | FY2006 | FY2007 | FY2008 | FY2009 | |
| <u>Direct Appropriations by Fund</u> | | | | | |
| General | | | | | |
| Current Appropriation | 60,703 | 61,801 | 61,801 | 61,801 | 123,602 |
| Forecast Base | 60,703 | 61,801 | 61,801 | 61,801 | 123,602 |
| Change | | 0 | 0 | 0 | 0 |
| % Biennial Change from 2006-07 | | | | | 0.9% |
| <u>Expenditures by Fund</u> | | | | | |
| Direct Appropriations | | | | | |
| General | 59,030 | 63,474 | 61,801 | 61,801 | 123,602 |
| Statutory Appropriations | | | | | |
| General | 426 | 494 | 450 | 450 | 900 |
| Gift | 107 | 52 | 52 | 52 | 104 |
| Total | 59,563 | 64,020 | 62,303 | 62,303 | 124,606 |
| <u>Expenditures by Category</u> | | | | | |
| Total Compensation | 40,715 | 44,530 | 43,193 | 43,193 | 86,386 |
| Other Operating Expenses | 6,006 | 6,704 | 6,324 | 6,324 | 12,648 |
| Local Assistance | 12,842 | 12,786 | 12,786 | 12,786 | 25,572 |
| Total | 59,563 | 64,020 | 62,303 | 62,303 | 124,606 |
| <u>Expenditures by Program</u> | | | | | |
| Appellate Office | 4,117 | 4,255 | 4,237 | 4,237 | 8,474 |
| Administrative Services Office | 1,622 | 2,422 | 2,042 | 2,042 | 4,084 |
| District Public Defense | 53,824 | 57,343 | 56,024 | 56,024 | 112,048 |
| Total | 59,563 | 64,020 | 62,303 | 62,303 | 124,606 |
| Full-Time Equivalents (FTE) | 621.5 | 624.1 | 624.1 | 624.1 | |

Program Description

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

Program at a Glance

- ◆ 946 Appellate cases opened in FY 2006
- ◆ 3,000 Parole revocation hearings FY 2006
- ◆ 487 Sex offender notification hearings

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 8,874 inmates in the state's correctional facilities, a 30% increase in the last five years. This population is the client base for the Appellate Office. Appellate cases have increased substantially in recent years. From FY 2004 to FY 2006, the number of appellate files opened increased by 15%; sex offender notification increased by 24%; and parole revocation hearings by 29%. In addition, a recent ruling by the Minnesota Supreme Court (Deegan) requires the office to provide counsel in all cases in which there has not been prior appellate review.

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 Office of State Public Defender (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. Parole violations also increase this 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 individuals recommended as "Level III" offenders will want to vigorously contest that designation, including requesting administrative review. Caseloads in this area grew 24% between FY 2004 and FY 2006. This is on top of a 60% increase from the previous biennium, and appeals of these decisions increased by 44%.

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.

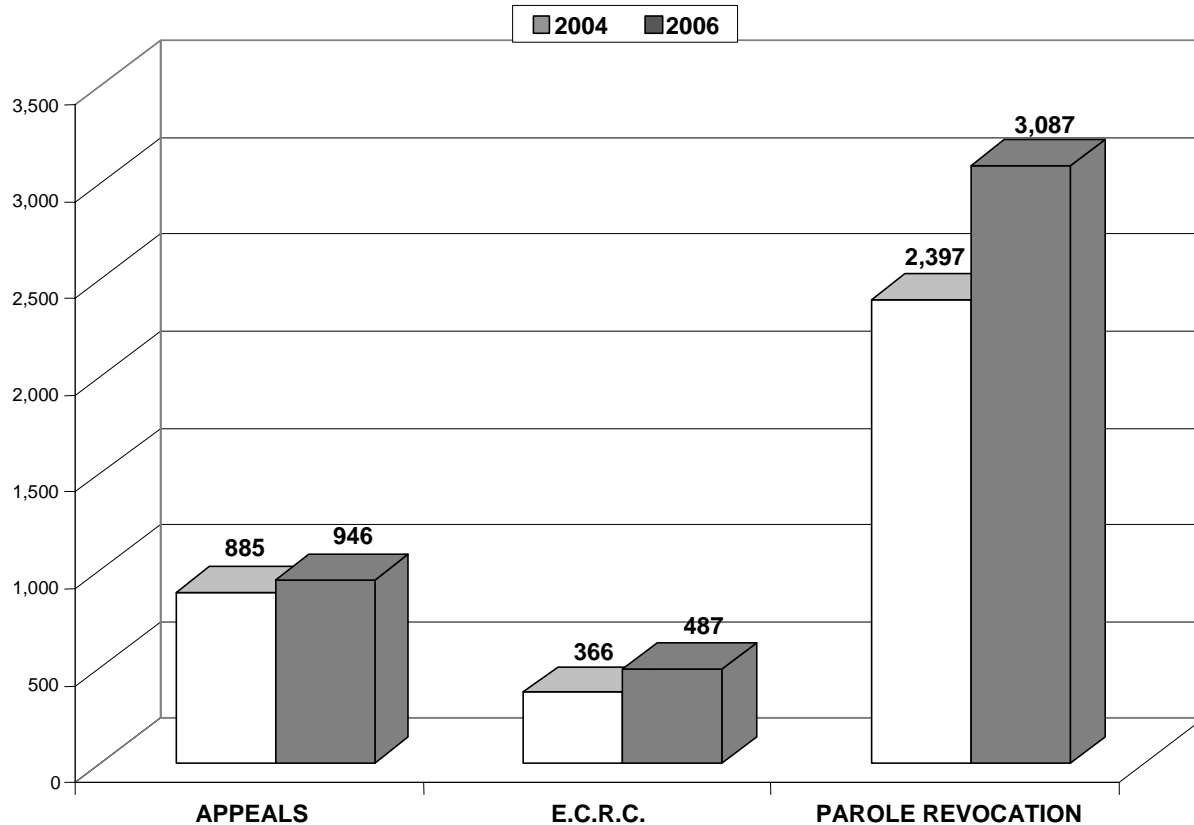
Historical Perspective

There is a constitutional right to counsel at public expense for indigent prisoners' appeals and parole revocation hearings. 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 15% from FY 2004 to FY 2006.
- ⇒ Community notification hearings are estimated to increase from 24% FY 2004 to CY 2006.
- ⇒ Parole revocation hearings increased 29% from FY 2004 to FY 2006.

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 full-time 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 provide constitutionally mandated services, and to meet court-imposed deadlines for appellate matters.

Contact

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PUBLIC DEFENSE BOARD
 Program: APPELLATE OFFICE

Program Summary

Dollars in Thousands

| | Current | | Forecast Base | | Biennium 2008-09 |
|--|--------------|--------------|---------------|--------------|---------------------|
| | FY2006 | FY2007 | FY2008 | FY2009 | |
| <u>Expenditures by Fund</u> | | | | | |
| Direct Appropriations | | | | | |
| General | 4,117 | 4,255 | 4,237 | 4,237 | 8,474 |
| Total | 4,117 | 4,255 | 4,237 | 4,237 | 8,474 |
| <u>Expenditures by Category</u> | | | | | |
| Total Compensation | 3,269 | 3,426 | 3,408 | 3,408 | 6,816 |
| Other Operating Expenses | 848 | 829 | 829 | 829 | 1,658 |
| Total | 4,117 | 4,255 | 4,237 | 4,237 | 8,474 |
| <u>Expenditures by Activity</u> | | | | | |
| State Public Defender | 4,117 | 4,255 | 4,237 | 4,237 | 8,474 |
| Total | 4,117 | 4,255 | 4,237 | 4,237 | 8,474 |
| Full-Time Equivalent (FTE) | 41.5 | 41.5 | 41.5 | 41.5 | |

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 and 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.

Program at a Glance

- ◆ 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 ten 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 Management information system (MIS.) Caseload standards have also been adopted. During FY 2006 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

- ⇒ Five Information Technology (IT) staff support 12 main offices and 16 regional offices.
- ⇒ 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 \$61 million and affecting 500 state and 200 county employees.

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PUBLIC DEFENSE BOARD

Program: ADMINISTRATIVE SERVICES OFFICE

Program Summary

Dollars in Thousands

| | Current | | Forecast Base | | Biennium 2008-09 |
|--|--------------|--------------|---------------|--------------|---------------------|
| | FY2006 | FY2007 | FY2008 | FY2009 | |
| <u>Expenditures by Fund</u> | | | | | |
| Direct Appropriations | | | | | |
| General | 1,622 | 2,422 | 2,042 | 2,042 | 4,084 |
| Total | 1,622 | 2,422 | 2,042 | 2,042 | 4,084 |
| <u>Expenditures by Category</u> | | | | | |
| Total Compensation | 1,120 | 1,211 | 1,211 | 1,211 | 2,422 |
| Other Operating Expenses | 502 | 1,211 | 831 | 831 | 1,662 |
| Total | 1,622 | 2,422 | 2,042 | 2,042 | 4,084 |
| <u>Expenditures by Activity</u> | | | | | |
| Public Defense Board | 1,622 | 2,422 | 2,042 | 2,042 | 4,084 |
| Total | 1,622 | 2,422 | 2,042 | 2,042 | 4,084 |
| Full-Time Equivalent (FTE) | 11.1 | 12.0 | 12.0 | 12.0 | |

Program Description

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). 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 (60%), as well as support staff. During FY 2006, the districts provided service in 176,000 cases.

Program at a Glance

- ◆ 176,000 cases opened in 2006
- ◆ Largest user of court system
- ◆ Presence in every county in the state
- ◆ Caseloads in excess of double American Bar Association (A.B.A.) standards
- ◆ 30,000 excess part-time hours

Population Served

Trial level public defense serves the attorney needs of 175,000 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 ten years, the state has assumed the cost of providing these services from the counties. 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.

Over the last several years increased enforcement of complicated felony cases, the implementation of the Children's Justice Initiative statutory changes, the implementation of the Children's Justice Initiative (CJI) and changes in court proceedings, have all combined to push the public defender system to the brink. From FY 2004 to FY 2006 felony cases have increased 16%; gross misdemeanors 11%, child protection cases 10%, and probation violations 11%. Caseloads are nearly double the Board's and A.B.A. caseload standards.

Under current law (M.S. 260C.331), the cost of legal representation of parents in a CHIPS case is borne by the county in which the proceedings are held. Over the past several years public defenders have provided representation to parents in these cases even though it is not a mandated service. On average there are currently two public defender appointments per case. This puts a huge strain on part-time defenders in greater Minnesota who must often travel long distances to handle these cases.

Over the last five years, the Supreme Court has implemented (statewide) its Children's Justice Initiative (CJI). The CJI emphasizes the urgency of responding to child welfare cases much more quickly, and with much better standards of practice. This includes guidelines for attorney time and resources devoted to each stage of a CHIPS case and a best practices guide for CHIPS cases. These changes and the corresponding public defender time commitments have been implemented without any additional resources being provided to the public defense system. This has placed a huge strain on the same rural part-time public defenders. Based on the time commitments outlined in the CJI, there is a need for an additional 203,000 hours of attorney time to meet the CJI protocol.

Over the last seven years there have been 18 drug courts created around the state. Drug courts include initial intensive treatment services with ongoing monitoring and continuing care for a year or more. This results in extensive time commitments for all those involved in drug court including public defenders. Participant contacts with the public defenders are frequent and ongoing, and occur at each status hearing. The establishment of drug

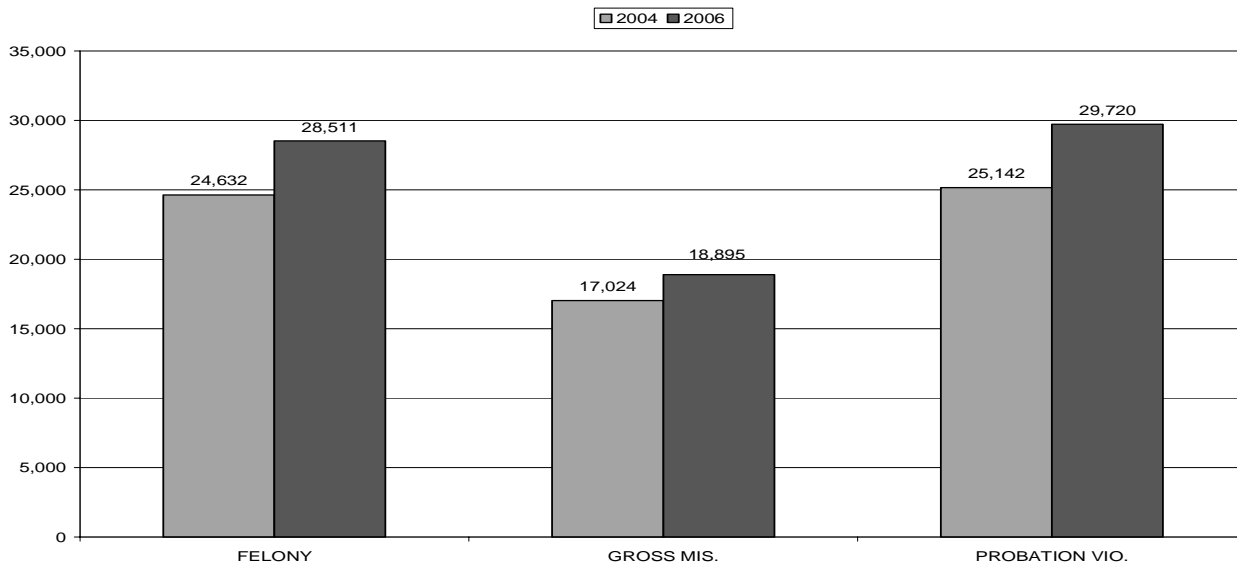
court and the requirements of the court dictate that staff be assigned specifically to that court. This places a burden on the public defender system since a defender is taken out of the regular court, thereby reducing the “economy of scale” in the regular court and putting an extra burden on the remaining defenders.

During the 2003-2004 biennium there were eighteen new judgeships created. With each of these judgeships comes another calendar (or court room) where public defenders must appear. These new judgeships were created without a corresponding increase in public defender staff.

The board is the largest user of the state court system, so changes in court procedures, calendaring of cases, statutory changes, and changes in prosecution directly impact the board’s ability to provide quality legal services to its clients. These 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. Among the new challenges are the increased emphasis on prosecution of sex offenders, methamphetamine, and child protection cases.

Board of Public Defense District Caseloads FY 2004 & FY 2006



Key Measures

- ⇒ 176,000 cases opened in FY 2006.
- ⇒ Serious cases up by double digits in the last two years.
- ⇒ 203,000 attorney hours needed to meet the CJI protocol.
- ⇒ 18 Drug Courts operating statewide.
- ⇒ District public defenders carry caseloads that average nearly twice the recommended standards.
- ⇒ Part time public defenders provided in excess of 30,000 uncompensated hours in FY 2006.

Program Funding

The current appropriation for this program is approximately \$55 million annually. Increased costs related to insurance, as well as increased personnel, and retirement costs have strained district budgets. The state's lack of past funding for compensation increases has resulted in salaries considerably below other public service attorneys and staff. Caseloads, time demands and increased hours for part-time defenders continue to make 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.

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PUBLIC DEFENSE BOARD

Program: DISTRICT PUBLIC DEFENSE

Program Summary

Dollars in Thousands

| | Current | | Forecast Base | | Biennium |
|--|----------------|---------------|----------------------|---------------|-----------------|
| | FY2006 | FY2007 | FY2008 | FY2009 | 2008-09 |
| <u>Expenditures by Fund</u> | | | | | |
| Direct Appropriations | | | | | |
| General | 53,291 | 56,797 | 55,522 | 55,522 | 111,044 |
| Statutory Appropriations | | | | | |
| General | 426 | 494 | 450 | 450 | 900 |
| Gift | 107 | 52 | 52 | 52 | 104 |
| Total | 53,824 | 57,343 | 56,024 | 56,024 | 112,048 |
| <u>Expenditures by Category</u> | | | | | |
| Total Compensation | 36,326 | 39,893 | 38,574 | 38,574 | 77,148 |
| Other Operating Expenses | 4,656 | 4,664 | 4,664 | 4,664 | 9,328 |
| Local Assistance | 12,842 | 12,786 | 12,786 | 12,786 | 25,572 |
| Total | 53,824 | 57,343 | 56,024 | 56,024 | 112,048 |
| <u>Expenditures by Activity</u> | | | | | |
| District Public Defense | 53,824 | 57,343 | 56,024 | 56,024 | 112,048 |
| Total | 53,824 | 57,343 | 56,024 | 56,024 | 112,048 |
| Full-Time Equivalent (FTE) | 568.9 | 570.6 | 570.6 | 570.6 | |

Dollars in Thousands

| | Actual FY2006 | Budgeted FY2007 | Current Law | | Biennium 2008-09 |
|--------------------------------------|------------------|--------------------|-------------|-----------|---------------------|
| | | | FY2008 | FY2009 | |
| <u>Non Dedicated Revenue:</u> | | | | | |
| Total Non-Dedicated Receipts | 0 | 0 | 0 | 0 | 0 |
| <u>Dedicated Receipts:</u> | | | | | |
| Grants: | | | | | |
| Gift | 87 | 0 | 52 | 52 | 104 |
| Other Revenues: | | | | | |
| Gift | 3 | 0 | 0 | 0 | 0 |
| Total Dedicated Receipts | 90 | 0 | 52 | 52 | 104 |
| Agency Total Revenue | 90 | 0 | 52 | 52 | 104 |