



2014 ANNUAL REPORT

OF THE LANCASTER COUNTY PUBLIC DEFENDER



2014 marked the end of an era for the Lancaster County Public Defender's Office. Dennis Keefe chose to retire after serving as the Public Defender for 36 years. Dennis built one of the finest offices in the country, setting the highest standards for representation and making the office one of the first in the nation to set caseload standards to assure that the attorneys could continue to provide high quality representation for their clients.

I came to work in the Lancaster County Public Defender's Office in November, 1983, shortly after passing the bar exam. I have spent my entire career dedicated to providing high quality legal representation to the poor. I vow to bring that same dedication to my new role as the Lancaster County Public Defender. I intend to maintain the same high standards our office has established, and to improve upon the excellent office Dennis built. To do that we must maintain the same quality work environment, making it possible to attract and keep top caliber employees. We must continue to look for new ways to improve the office by examining what other top offices do around the country. I have made it a top priority to add a social worker to our office. This will enable our office to do a better job of helping connect our clients with needed services, resulting in better outcomes for our clients, and helping to make our community safer.

Our office can also play an important role in criminal justice reform efforts due to our unique experience and perspective, helping to make the system work better. One area that particularly needs to be examined is the large number of people with mental health issues caught up in the criminal justice system. Establishing a mental health court in Lancaster County is one way to reduce this problem, and is another priority for me. My involvement in our Drug Court has convinced me that expanding problem solving courts is an important part of the solution to this problem.

I embrace the challenge of following and building upon the legacy of Dennis Keefe. We will continue to provide the highest quality client centered representation.

Joe Nigro

Joe Nigro
Lancaster County Public Defender

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MISSION STATEMENT

The mission of the Lancaster County Public Defender's Office is to provide high quality legal services for indigents and to advocate zealously on behalf of each individual client.

PHILOSOPHY AND GOALS

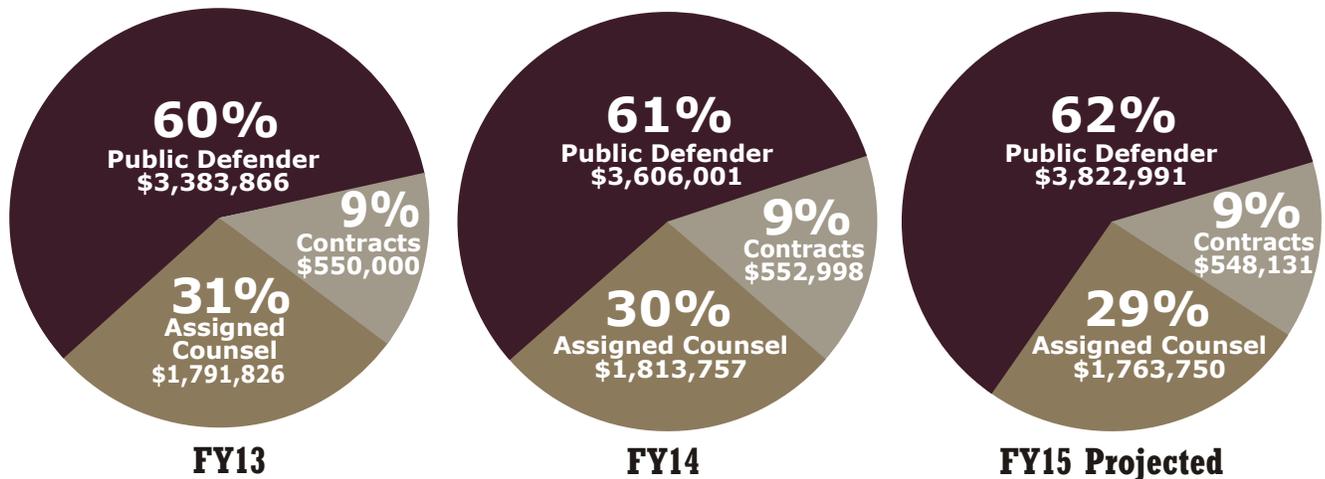
It is the philosophy of the Lancaster County Public Defender's Office to provide client centered legal representation of the highest quality.

GOALS

1. Recruit and retain attorneys and support staff who will provide high quality legal representation for each client.
2. Maintain reasonable caseload levels for staff attorneys.
3. Provide all resources and ancillary services necessary to represent the clients of the office.
4. Provide continuing training for all staff.
5. Maintain political and professional independence for the office.
6. Maintain a professional work environment.
7. Provide creative representation.
8. Provide visionary management.
9. Provide full-service representation.
10. Maintain adequate and stable funding.

OVERVIEW OF LANCASTER COUNTY'S INDIGENT DEFENSE SYSTEM

The indigent defense system in Lancaster County consists of the Lancaster County Public Defender's Office, private assigned counsel in county, district and juvenile court, a contract with Legal Aid of Nebraska for juvenile court, and a contract with a private law firm for the Child Support and Paternity cases. The chart below compares the FY15 projected expenditures as of December 31, 2014 (as reported by the Budget and Fiscal Office) for each segment of the system with the FY14 and FY13 Actual Expenditures.



2014 ASSIGNED COUNSEL NOTES

- Of the 2,013 felony cases closed by the public defender's office in 2014, 566 of those cases (28%) involved a conflict of interest which required the appointment of private assigned counsel or the Commission on Public Advocacy. The 28% figure is exactly the same as in 2012 and 2013. In addition, 203 felony cases (10%) were closed in 2014 because they exceeded the office's caseload standards. This is the largest number of cases where we have exceeded our felony caseload standards since the standards were adopted in 2008.
- Of the 2,801 misdemeanor cases closed by the Public Defender's Office in 2014, 437 (16%) were closed because of a conflict of interest requiring appointment of assigned counsel. In addition, 29 misdemeanor cases were closed because they were companion cases to felonies that exceeded the public defender's caseload standards. There were 34 misdemeanor excessive caseload cases in 2014 (this compares to 311 in 2009, 18 in 2010, 3 in 2011, 0 in 2012, and 0 in 2013).
- Of the 961 Juvenile Law Violations and Status Offender cases closed by the public defender in 2014, 151 (16%) were closed because of a conflict of interest and either Legal Aid of Nebraska or a private attorney was appointed. In 2014 the public defender withdrew from 37 juvenile cases because of our workload standards (compared to 14 in 2009, 27 in 2010, 16 in 2011, 0 in 2012, and 0 in 2013).

CONTRACT NOTES

- The only contract for legal services in the Juvenile Court in 2014 was the contract with Legal Aid of Nebraska.
- According to the Separate Juvenile Court, there were 256 new 3(a) (abuse/neglect) cases (including transfers from other counties) filed in the Separate Juvenile Court of Lancaster County in 2014. This represents a decrease of 11% from 2013 and a 38% reduction from the record high number of new cases in 2010 (415).
- 2014 was the second year of the Child Support/Paternity contract between Lancaster County and the DeMars Gordon Law Firm, the contractor opened 446 Child Support contempt cases (compared to 456 in 2013) and closed 453 (449 in 2013), opened 87 new Paternity cases (89 in 2013) and closed 92 (99 in 2013), and opened 0 other contempt matters (0 in 2013). The firm logged 1730 hours (1755 in 2013), including 1108 attorney hours (999 in 2013) for this work.

LANCASTER COUNTY INDIGENT DEFENSE ADVISORY COMMITTEE

In 1995, at the request of Lancaster County Public Defender Dennis R. Keefe, the Lancaster County Board of Commissioners established the Lancaster County Indigent Defense Advisory Committee to advise the Public Defender and the Lancaster County Board on all issues relating to indigent defense. Members of the advisory committee are nominated by the Board of Trustees of the Lincoln Bar Association and are appointed by the Board of Commissioners. The advisory committee plays a very important role, especially in the recommendation of new contractors for Lancaster County. The current committee consists of Sean Brennan, Brad Roth, Jeanelle Lust, Dallas Jones, and Stan Beeder.

PUBLIC DEFENDER'S OFFICE OPERATIONS

Comings and Goings

2014 saw major turn over in our office. Liz Elliott and Valerie McHargue left the office, Liz for a new position, and Val moved to Florida. We added a second investigator, Nate Kaiser, who came to us from the Lincoln Police Department. Terri Nutzman, Amanda Baskin, George Dungan, Sarah Safarik, and Brittani Lewit all joined us as new attorneys to either replace people who left or to fill new positions. Amanda handles misdemeanors filed by the City Attorney and the other new attorneys all work in Juvenile Court. We now have a full time attorney for each juvenile courtroom, which has significantly improved our ability to provide high quality representation to our juvenile clients. Terri Nutzman works as a half-time attorney representing juvenile clients re-entering the community after commitment to facilities in Kearney and Geneva, a change resulting from juvenile justice reform legislation. We also added an attorney handling felonies, reducing the cost to Lancaster County of paying for appointed counsel.

Joe Nigro, as a Deputy Public Defender was honored by Lancaster County for 30 years of service, as was Lori Gokie, our Legal Secretary honored for 30 years of service. Christopher Eickholt, Deputy Public Defender was honored by Lancaster County for 10 years of service.



Joe Nigro
Deputy Public Defender



Valerie McHargue
Deputy Public Defender



Amanda Baskin
Deputy Public Defender



Sarah Safarik
Deputy Public Defender



Elizabeth Elliott
Deputy Public Defender



Lori Gokie
Legal Secretary



Nate Kaiser
Investigator



Terri Nutzman
Deputy Public Defender



Brittani Lewit
Deputy Public Defender



George Dungan
Deputy Public Defender



Christopher Eickholt
Deputy Public Defender



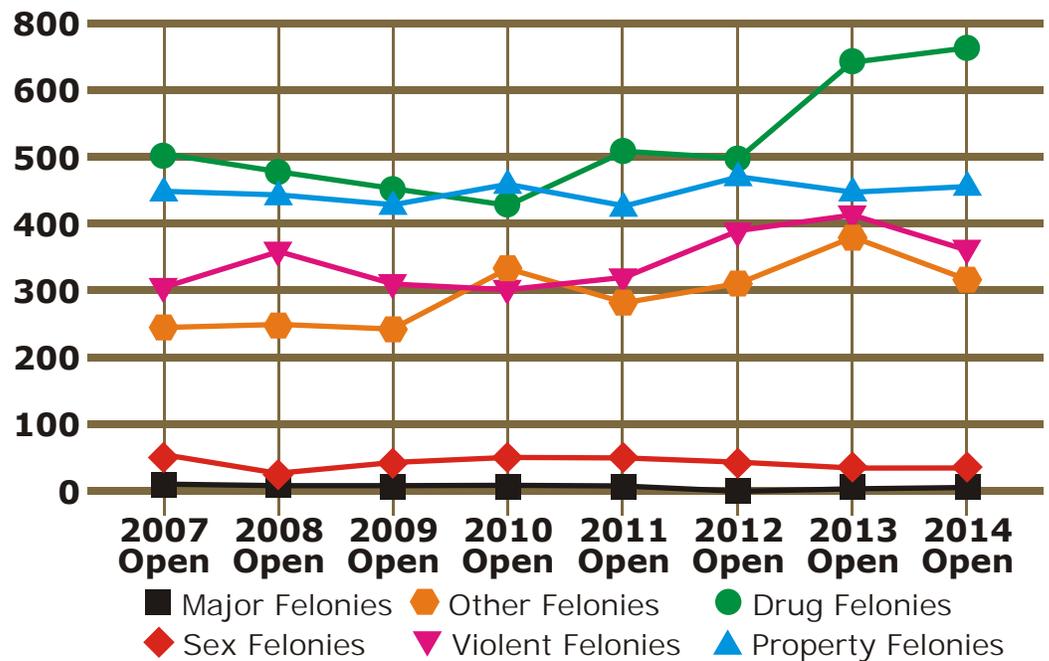
2014 Public Defender's Office

THE FELONY DIVISION

Scott P. Helvie, Chief Deputy
 Robert G. Hays, Chief Deputy
 Valerie McHargue, Deputy
 Webb E. Bancroft, Deputy
 Kristi J. Egger-Brown, Deputy
 Shawn D. Elliott, Deputy
 Elizabeth D. Elliott, Deputy
 Christopher L. Eickholt, Deputy
 Timothy M. Eppler, Deputy
 John C. Jorgensen, Deputy
 Joe Nigro, Deputy
 Jennifer M. Houlden, Deputy
 Paul E. Cooney, Deputy

Yohance L. Christie, Deputy
 Joe Renteria, Investigator
 Nate Kaiser, Investigator
 Jed Rojewski, Paralegal
 Angelia Onuoha, Paralegal
 Claire Bazata, Law Clerk
 Sarah Safarik, Law Clerk
 Mark Carraher, Law Clerk
 Keenan Gallagher, Law Clerk
 Amy Peters, Law Clerk
 Megan Theesen-Fenton, Law Clerk

NEW OPEN FELONIES BY TYPE



FELONY CASE NOTES

- The state filed about the same number of felony cases in Lancaster County Court in 2013 as in 2014 and our office's felony appointments also stayed about the same.
- In the 5 years since 2009, the number of felonies assigned to the Public Defender has increased by 492 cases or 33% (7% per year on average).

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FELONY CASE NOTES CONTINUED

- Major Cases Opened and Closed in 2014: We opened 11 new major cases and closed 10 cases. The office opened 4 cases of 1st Degree Murder, 4 cases of Second Degree Murder, 2 cases of Manslaughter and 1 case of Motor Vehicle Homicide. We closed 2 cases of 1st Degree Murder because of conflicts, 1 Manslaughter case because of private counsel was hired, 1 Manslaughter case due to a plea, and 1 Manslaughter case due to a plea to a lesser felony, 1 2nd Degree Murder because of a conflict, 1 2nd Degree Murder because of a plea to a lesser felony and 2 2nd Degree Murder cases because of jury trials, 1 resulting in a guilty verdict and 1 resulting in an acquittal. We closed 1 Attempted 1st Degree Murder case because of a plea to a secondary count with the main charge being dismissed.
- In 2014, the Public Defender's Office had 32 clients admitted to the Adult Drug Court Program and 21 Public Defender Drug Court clients had their cases closed; we filed a conflict of interest in one case, but of the remaining 20, 7 clients (35%) had their cases closed following successful graduation and case dismissal and 13 of the clients (65%) had their cases closed because of unsuccessful participation and the cases were referred back to the regular criminal courts. Joe Nigro and Paul Cooney are the attorneys assigned to Adult Drug Court.

THE MISDEMEANOR DIVISION

Amanda R. Baskin, Deputy
 Abbi R. Romshek, Deputy
 Paul E. Cooney, Deputy
 Joe Nigro, Deputy
 Yohance L. Christie, Deputy
 Todd Molvar, Deputy
 Matthew F. Meyerie, Deputy
 Chelsie E. Krell, Deputy

Angela Franssen, Paralegal
 Kristi Gottberg, Paralegal



MISDEMEANOR CASE NOTES

- Overall, Public Defender misdemeanor appointments decreased by 9% in 2014. This is the lowest level we have seen since 2003. The number of County Attorney filed misdemeanors opened by the Public Defender (the more time intensive cases) decreased by 2%. However, since 2008, these misdemeanor cases have increased on an average of 3% per year.
- The number of City Attorney filed misdemeanors assigned to our office, declined by 22% between 2013 and 2014, reaching the lowest level of new cases in over 15 years.
- The major misdemeanor charge categories that showed significant change in 2014 were Assault/DOMV-Protection Orders (down 13%), Disturbing the Peace (down 41%), Criminal Mischief (down 24%) and False Reporting (down 14%). The only charge category to increase was Carrying a Concealed Weapon (up 133%).
- There are 3 Deputy Public Defenders and 1.25 paralegals assigned to the County Attorney filed Misdemeanors which totaled 1,989 new cases in 2014.
- There are 1.3 Deputy Public Defenders and 1 paralegal assigned to the City Attorney filed Misdemeanors which totaled 892 new cases in 2014.
- We negotiated a 5% increase with the City for the amount they reimbursed the County for our services. They reimbursed Lancaster County \$371,182 in 2015.

MENTAL HEALTH COMMITMENTS AND MISCELLANEOUS CASES

Joe Nigro, Deputy

Sarah Safarik, Law Clerk
Claire Bazata, Law Clerk
Mark Carraher, Law Clerk
Keenan Gallagher, Law Clerk

- There were 151 new petitions filed in 2014, a decrease of 17% from the 181 petitions filed in 2013.
- Only 1 of the new petitions in 2014 involved petitions for commitment under the Sex Offender Commitment Act, compared to 6 in 2013.
- There were no appeals filed in the district court from mental health commitment proceedings in 2014.

The Public Defender's office opened 141 miscellaneous cases in 2014 compared to 157 miscellaneous cases in 2013. The 2014 cases included 96 felony revocation of probation cases; 9 fugitive from justice cases; 32 adult drug court cases; 2 new cases involving representation in out of state witness proceedings 1 Habeas Corpus proceeding, and 1 new Insanity Review.

THE JUVENILE DIVISION

Margene M. Timm, Chief Deputy
Matt Meyerle, Deputy
Chelsie Goetz, Deputy
George Dungan, Deputy
Teresa Nutzman, Deputy

Brittani Lewit, Deputy
Sarah Safarik, Deputy
Steve Schultz, Paralegal

JUVENILE CASES

Because of a change in the manner in which we began counting juvenile cases on January 20, 2014, we are unable to do any meaningful comparisons with the number of cases opened and closed in prior years. New legislation expanded the overall life of the cases and filing practices by the prosecutor collapsed what used to be several cases into one. As a result, our office, for a short period of time tracked each juvenile “client” as a separate “case” regardless of how many charges were filed. Prior to that time, each separate charging document was considered a case.

JUVENILE CASE NOTES

- The Juvenile Court Administrator for Lancaster County reports that there were 879 Law Violation filings in the Separate Juvenile Court of Lancaster County, Nebraska in FY14, an 19% decline from the number of filings in calendar year 2013 (1,086 filings). 2014 Status offense filings amounted to 625 cases, a 9% increase from calendar year 2013 (574 filings).

The Public Defender's Office opened 5 new cases in the Juvenile Drug Court program in 2014 and closed 6. Of the cases closed, 2 were closed following successful completion and graduation and 4 were closed following unsuccessful termination from the program.

FUTURE ISSUES

Criminal Justice Legislation. Major reform legislation recently passed by the Nebraska Legislature will have a major impact on our office as many penalties were reduced and the death penalty was repealed. As these new laws take effect, we will continue to analyze the impact on our office.

APPENDIX A

TABLE 1

**LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE
OPEN/CLOSED CASELOAD REPORT 2014**

CASETYPE	PENDING START	OPENED 2014	CLOSED 2014	PENDING END 2014
Appeals	42	76	81	35
Felonies	716	1962	2003	667
Juveniles	472	1133	1202	440
Major Cases	6	11	10	7
Mentals	8	151	151	7
Miscellaneous	65	141	126	86
Misdemeanors	614	2881	2801	710
Totals	1923	6355	6374	1952

TABLE 2

**LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE
HISTORICAL COMPARISON OF CASES OPENED SINCE 2004**

CASETYPE	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Chg. 13-14
Appeals	110	107	119	110	101	95	98	92	73	66	76	15%
Felonies	1415	1515	1506	1566	1558	1476	1573	1596	1712	1968	1962	0%
Juveniles	1467	1417	1520	1517	1597	1323	1346	1325	1361	1048	1133	8%
Major Cases	12	11	4	11	7	5	5	5	3	9	11	22%
Mental Comm.	416	415	370	454	289	252	227	176	176	181	151	-17%
Miscellaneous	178	187	810	764	749	616	234	230	155	157	141	-10%
Misdemeanors	3157	3551	4101	4291	3970	3820	3556	3784	3519	3165	2881	-9%
Totals	6755	7203	8430	8713	8271	7587	7039	7208	6999	6594	6355	-4%

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APPENDIX B

LANCASTER COUNTY GENERAL FUND EXPENSE BUDGET

Public Defender EXPENDITURES	ACTUALS 2012-13	MODIFIED BUDGET 2013-14	ACTUALS 2013-14	PROPOSED BUDGET 2014-15	ADOPTED BUDGET 2014-15
SALARIES & WAGES	2,336,792	2,401,802	2,421,590	2,568,611	2,568,611
EMPLOYEE BENEFITS	707,936	799,999	734,362	860,748	860,748
OFFICE SUPPLIES	14,439	15,750	14,174	14,500	14,500
OTHER CONTRACTED SERVICES	63,245	73,916	80,629	90,730	90,730
TRANS, TRAVEL & SUBSISTANCE	8,114	16,865	26,126	17,750	17,750
COMMUNICATIONS	18,955	23,743	21,360	6,043	6,043
POSTAGE, COURIER & FREIGHT	5,330	5,537	5,427	5,537	5,537
PRINTING & ADVERTISING	7,909	9,590	8,055	9,590	9,590
CONTRACTED HEALTH SERVICE	7,191	15,000	3,170	13,500	13,500
MISC FEES & SERVICES	55,131	81,174	54,951	71,984	71,984
INSURANCE & SURETY BONDS	6,341	7,300	6,475	7,335	7,335
REPAIR & MAINTENANCE COST	900	500	622	500	500
RENTALS	151,103	150,863	150,863	150,863	150,863
EQUIPMENT	482	3,962	7,808	5,300	5,300
TOTAL PUBLIC DEFENDER	3,383,866	3,606,001	3,535,612	3,822,991	3,822,991



APPENDIX C

CONSTITUTIONAL AND STATUTORY BACKGROUND FOR OFFICE OF THE PUBLIC DEFENDER

In all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense.

Sixth Amendment Constitution of the United States

In all criminal prosecutions the accused shall have the right to appear and defend in person or by counsel

Article 1, Section 11 Constitution of the State of Nebraska

Neb. Rev. Stat. 23-3401 (Reissue 2012) Public defender in certain counties; election; qualifications; prohibited practices; residency.

(1) There is hereby created the office of public defender in counties that have or that attain a population in excess of one hundred thousand inhabitants and in other counties upon approval by the county board. The public defender shall be elected as provided in the Election Act.

(2) The public defender shall be a lawyer licensed to practice law in this state. He or she shall take office after election and qualification at the same time that other county officers take office, except that upon the creation of such office in any county, a qualified person may be appointed by the county board to serve as public defender until such office can be filled by an election in accordance with 32-523.

(3) In counties having a population of more than one hundred seventy thousand inhabitants, the public defender shall devote his or her full time to the legal work of the office of the public defender and shall not engage in the private practice of law. All assistant public defenders in such counties shall devote their full time to the legal work of such office of the public defender and shall not engage in the private practice of law so long as each assistant public defender receives the same annual salary as each deputy county attorney of comparable ability and experience receives in such counties.

(4) No public defender or assistant public defender shall solicit or accept any fee for representing a criminal defendant in a prosecution in which the public defender or assistant is already acting as the defendant's court-appointed counsel.

(5) A public defender elected after November 1986 need not be a resident of the county when he or she files for election as public defender, but a public defender shall reside in a county for which he or she holds office, except that in counties with a population of one hundred thousand or less inhabitants, the public defender shall not be required to reside in the county in which he or she holds office.

LANCASTER COUNTY GENERAL FUND EXPENSE BUDGET

Neb. Rev. Stat. 23-3402 (Reissue 2012)

Public Defender duties; appointment; prohibitions.

(1) It shall be the duty of the public defender to represent all indigent felony defendants within the county he or she serves. The public defender shall represent indigent felony defendants at all critical stages of felony proceedings against them through the stage of sentencing. Sentencing shall include hearings on charges of violation of felony probation. Following the sentencing of any indigent defendant represented by him or her, the public defender may take any direct, collateral, or postconviction appeals to state or federal courts which he or she considers to be meritorious and in the interest of justice and shall file a notice of appeal and proceed with one direct appeal to either the Court of Appeals or the Supreme Court of Nebraska upon a timely request after sentencing from any such convicted felony defendant, subject to the public defender's right to apply to the court to withdraw from representation in any appeal which he or she deems to be wholly frivolous.

(2) It shall be the duty of the public defender to represent all indigent persons against whom a petition has been filed with a mental health board as provided in sections 71-945 to 71-947.

(3) It shall be the duty of the public defender to represent all indigent persons charged with misdemeanor offenses punishable by imprisonment when appointed by the court.

(4) Appointment of a public defender shall be by the court in accordance with sections 29-3902 and 29-3903. A public defender shall not represent an indigent person prior to appointment by the court, except that a public defender may represent a person under arrest for investigation or on suspicion. A public defender shall not inquire into a defendant's financial condition for purposes of indigency determination except to make an initial determination of indigency of a person under arrest for investigation or on suspicion. A public defender shall not make a determination of a defendant's indigency, except an initial determination of indigency of a person under arrest for investigation or on suspicion, nor recommend to a court that a defendant be determined or not determined as indigent.

(5) For purposes of this section, the definitions found in section 29-3901 shall be used.

Neb. Rev. Stat. 23-3403 (Reissue 2012)

Public Defender; assistants; personnel; compensation; office space, fixtures, and supplies.

The public defender may appoint as many assistant public defenders, who shall be attorneys licensed to practice law in this state, secretaries, law clerks, investigators, and other employees as are reasonably necessary to permit him or her to effectively and competently represent the clients of the office subject to the approval and consent of the county board which shall fix the compensation of all such persons as well as the budget for office space, furniture, furnishings, fixtures, supplies, law books, court costs, and brief-printing, investigative, expert, travel and other miscellaneous expenses reasonably necessary to enable the public defender to effectively and competently represent the clients of the office.

Neb. Rev. Stat. 29-3901(3) (Reissue 2008)

Indigent shall mean the inability to retain legal counsel without prejudicing one's financial ability to provide economic necessities for one's self or one's family. Before a felony defendant's initial court appearance, the determination of his or her indigency shall be made by the public defender, but thereafter it shall be made by the court; and