

# The **2002** **ANNUAL** **REPORT**

*In our adversary system, any person hauled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth.*

United States Supreme Court in  
Gideon v. Wainwright, 372 U.S. 335 (1963).



## of the **Lancaster County** **Public Defender**

**Dennis R. Keefe**  
**Lancaster County Public Defender**



Dear Friends:

2002 was a challenging year for the Lancaster County Public Defender's Office, to say the least. At the same time that we were experiencing phenomenal growth in new felony cases, we were being asked to cut our level of service budget. As this report details, methamphetamine cases skyrocketed last year, driving up the overall number of felonies filed and the number requiring appointed counsel.

At the same time, revenue shortfalls at the state level necessitated two special sessions of the Nebraska Legislature resulting in cut backs in various county aid programs, including the new indigent defense standards reimbursement program. This set the stage for one of the most difficult county budget years in recent memory. Our office's need for an additional felony attorney was lumped in with the sheriff's need for new cars and other agencies' needs for additional funding for various projects. In difficult economic times, all government agencies must look at ways to be more efficient. Our office took this challenge seriously and we took a number of steps and continue to take steps to make sure that we are performing our responsibilities as efficiently as possible.

However, it is important to remember two things when talking about the budget of our office. First, our services are not discretionary but mandatory - meaning they are not only required by Nebraska statutes, but by both the U.S. and Nebraska Constitutions. Our work advances the principles of fundamental fairness and equal justice in the criminal justice system. Even if our office was eliminated, the courts would appoint attorneys to represent individuals and the county would be ordered to pay. Secondly, the workload of any public defender office is controlled by forces beyond their control. When the Legislature adds new crimes, changes procedures or increases punishments, when law enforcement agencies at all levels add additional officers or make additional arrests, and when prosecutors file additional charges or change plea bargaining practices there will be an impact on the public defender office workload.

When confronted with the unprecedented increase in felony cases and the failure of the county board to add an attorney, I had to take steps, as the director of the office, to protect the clients and staff and the right to counsel. We were forced into a position where we declined to accept appointments in juvenile abuse and neglect cases. These cases were chosen for several reasons. First, they are the type of case that will more likely create conflict of interest situations with our felony cases. Secondly, the public defender statutes do not impose a duty on public defenders to represent individuals in these types of cases (this is not to say that there is no right to counsel - there is). Finally, it appeared to be more efficient to decline these cases than to refuse representation in felony cases.

In November of 2002, the citizens of this county again honored me with their trust by re-electing me as Lancaster County Public Defender. As I begin a new term of office I cannot say what the future holds for our office in coming budget battles. However, I do know that I will remain committed to protecting the right to counsel and the important principles that are furthered by that right. This is my responsibility. I fully intend to meet it.

**Dennis R. Keefe**

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 & GOALS***

It is the philosophy of the Lancaster County Public Defender's Office that each client should receive high quality legal representation which is as good as that provided by the best of the private bar.

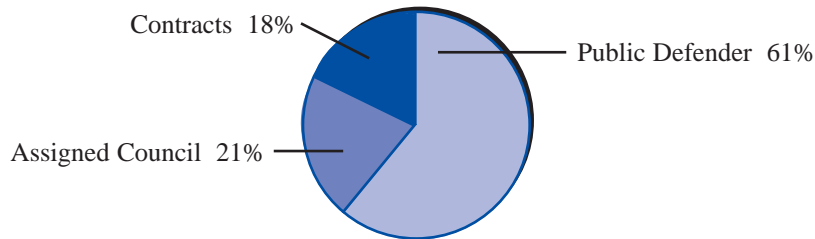
### ***GOALS***

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.

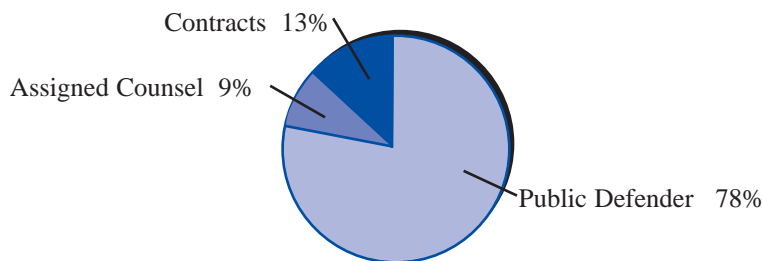
# LANCASTER COUNTY'S INDIGENT DEFENSE SYSTEM 2002

By the numbers:

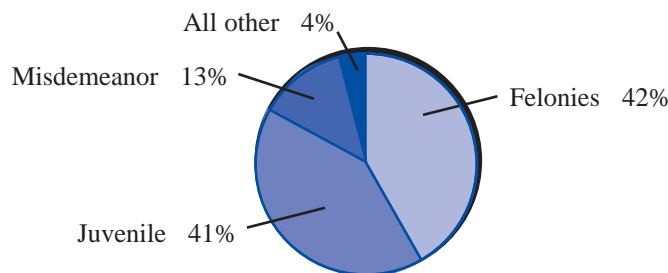
## FY03 BUDGETED AMOUNTS BY SYSTEM



## NEW CASES BY SYSTEM



## FY03 BUDGETED AMOUNTS BY TYPES OF CASES



## ASSIGNED COUNSEL

- ◆ Of the 1,308 felonies (including major cases) closed by the public defender's office in 2002, 320 (24%) were closed because of a conflict of interest which required the appointment of the Commission on Public Advocacy or private assigned counsel.
- ◆ Assigned counsel closed three major cases and 274 other felony cases during 2002. The 2002 cost per case for non major felonies handled by assigned counsel was \$693.
- ◆ The Nebraska Commission on Public Advocacy was appointed to represent clients in 59 felonies at the trial level in 2002 at no cost to Lancaster County and in two appeals in first degree murder cases where the county will eventually be charged one third of the Commission's actual cost.

- ◆ Of the 3,166 misdemeanor cases closed by the public defender's office in 2002, 259 (8%) were closed because of a conflict of interest requiring appointment of assigned counsel. Assigned Counsel closed 213 misdemeanor cases during 2002 for an average cost per case of \$266.
- ◆ Juvenile Court spent a total of \$332,919 on assigned counsel in FY02. This represents attorney fees in 141 law violation cases, 184 abuse/neglect cases and 50 status cases.

**CONTRACTS :**

Lancaster County budgeted \$516,300 for contracts in juvenile cases in FY02 and actually expended \$540,823. In addition, Lancaster County had one contract with a law firm for child support and paternity cases which was budgeted at \$ 67,200.

**PUBLIC DEFENDER'S OFFICE - FELONY DIVISION**

Scott Helvie, *Chief Deputy*  
 Robert Hays, *Deputy*  
 Joe Nigro, *Deputy*  
 Webb Bancroft, *Deputy*  
 Paul Cooney, *Deputy*  
 Shawn Elliott, *Deputy*  
 Timothy Eppler, *Deputy*  
 Julie Hansen, *Deputy*

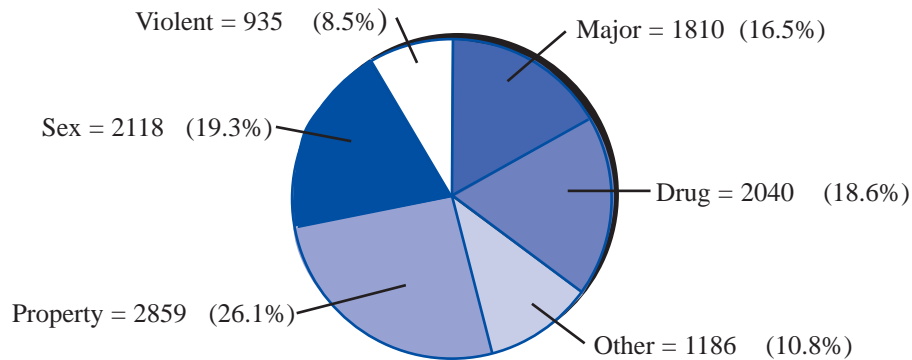
Joe Renteria, *Investigator*

Jed Rojewski, *Paralegal*  
 Kristi Gottberg, *Paralegal*

**FELONY CASES OPENED BY TYPE 2000-2002**

	<b>2000</b>	<b>2001</b>	<b>2002</b>
Drug	202	284	480
Other	125	131	139
Property	409	460	500
Sex	43	45	40
Violent	202	210	245
Major	9	6	10

## ***DISTRIBUTION OF FELONY ATTORNEY TIME BY CASE TYPE 2002***



- ◆ The county attorney's office filed 1,816 felonies in Lancaster County Court in 2002. This represents a 21% increase from 2001 and a 40% increase since 2000.
- ◆ The public defender's office was appointed to represent individuals in 1,414 felony cases filed in county court in 2002 or 77.8% of the number filed.
- ◆ The 1,414 new felony cases in 2002 represents a 24% increase from 2001 and a 43% increase since 2000 (the last year that an attorney was added to the felony division).
- ◆ At the end of 2002, the public defender's office had 22% more active/pending cases than at the end of 2001 and 58% more active/pending cases than at the end of 2000.
- ◆ Of the increase in new open felonies between 2001 and 2002 (274 more cases), drug cases accounted for 72% of the increase, property cases 15%, and violent cases 13%.
- ◆ The increase in drug felonies was driven by methamphetamine cases. Methamphetamine was involved in 63% of the overall drug felonies opened by our office in 2002.
- ◆ In 2002, drug possession felonies were twice as likely as all felonies to be dismissed to pre trial diversion (18% vs. 9%).
- ◆ In 2002, whereas 60% of all felony cases ending in a plea involved a plea to a misdemeanor, 85% of drug possession pleas were pleas to misdemeanors.
- ◆ Due to a failure to fund an additional attorney position in the felony division for 2002, an attorney position was moved from the juvenile division to the felony division. The office determined not to accept new abuse/neglect cases in the juvenile division in September of 2002. Moreover, an attorney handling part time felony and part time misdemeanor work was moved to felonies full time.
- ◆ Major cases opened and closed in 2002: The office opened 4 cases of First Degree Murder and closed 2; closed 2 cases of Second Degree Murder; opened 2 cases of Manslaughter and closed 2; closed 1 case of Conspiracy to Commit First Degree Murder; opened 1 case of Kidnapping and closed 1; opened 2 cases of Attempted Second Degree Murder and closed 2.

## **PUBLIC DEFENDER'S OFFICE - MISDEMEANORS DIVISION**

Susan Tast, *Deputy*  
Julie Hansen, *Deputy*  
Jennifer Villebro, *Deputy*

Angela Franssen, *Paralegal*  
Steve Schultz, *Paralegal*

### **MISDEMEANORS OPENED BY CHARGE CATEGORY 1998- 2002**

	<b>98</b>	<b>99</b>	<b>00</b>	<b>01</b>	<b>02</b>
Drunk drive	414	397	400	434	515
Assault/Domestic	701	867	815	865	653
Suspended license	761	845	942	887	761
Thefts	341	334	210	314	197
Prob. Revocation	95	148	270	325	239
All others	741	699	397	511	351

- ◆ Non traffic misdemeanor filings in Lancaster County Court, including filings by the county attorney's office and the city prosecutor's office increased by 7% from 2001 to 2002.
- ◆ Public defender appointments in misdemeanor cases overall declined 29% in 2002. This follows a record number of appointments in 2001 which represented an 11% increase over 2000 figures. The only charge categories that showed increases in 2002 were drunk driving (19%), concealed weapons (25%) and child abuse (21%). All other categories showed decreases including assault/domestic (-25%), suspended license (-14%), thefts (- 37%), and disturbing peace (-45%).
- ◆ The appointments in city attorney filed misdemeanors declined by 23%, while appointments in county attorney filed misdemeanors declined by 15%.
- ◆ A half time attorney position in the misdemeanor division was eliminated in 2002 so that the attorney time for felonies could be increased. Only two attorneys remain in the misdemeanor division.

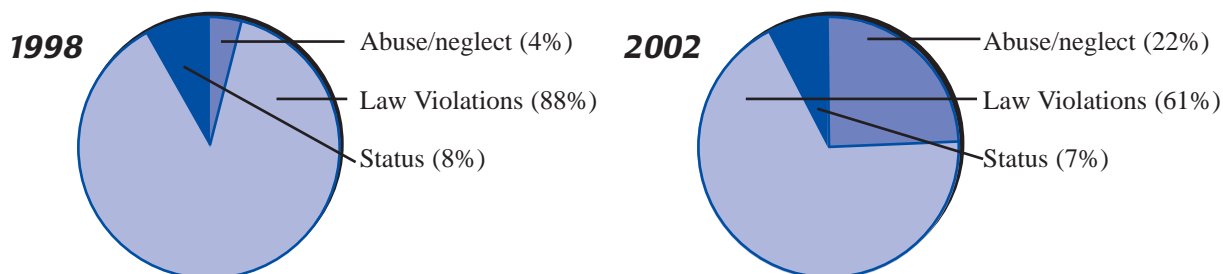


## ***PUBLIC DEFENDER'S OFFICE - JUVENILE DIVISION***

Margene Timm, *Supervisor*  
Kristi Egger-Brown, *Deputy*  
Reggie Ryder, *Deputy*  
Andrea Snowden, *Deputy*

Donna Garwood, *Paralegal*  
Angelia Onuoha, *Paralegal*

### ***COMPARISON OF JUVENILE DIVISION ATTORNEY HOURS FOR CLOSED CASES 1998 AND 2002***



- ◆ According to the Separate Juvenile Court, there were 1,537 law violation filings (including transfers and supplemental filings) in 2002 representing a 1% decrease from 2001. City attorney filings increased by 31% but county attorney filings decreased by 8%.
- ◆ Public defender appointments in juvenile law violations cases decreased by 1% in 2002.
- ◆ According to the Separate Juvenile Court, 223 new and transfer abuse/neglect cases were filed in 2002, representing a 21% increase over 2001. Each new or transfer abuse/neglect case requires appointing an average of 2.4 attorneys. Termination of parental rights petitions increased from 14 in 2001 to 24 in 2002.
- ◆ Public defender appointments in abuse/neglect cases decreased in 2002 by 10% due mainly to the office's decision not to accept new cases in September of 2002 to allow for the transfer of an attorney from the juvenile division to the felony division.
- ◆ The Separate Juvenile Court reports that 98 status cases were filed in 2002, compared with 113 in 2001, a 13% decrease.
- ◆ Public defender appointments in status cases declined from 109 in 2001 to 103 in 2002 (a decrease of 6%).

## **PUBLIC DEFENDER - MENTAL HEALTH COMMITMENTS AND MISCELLANEOUS CASES**

Dorothy Walker, *Deputy*  
Matt Graff, *Law Clerk*  
John Jorgensen, *Law Clerk*

- ◆ The public defender's office opened 533 new mental commitment cases (including reviews) in 2002, a 16% increase over the 2001 figure.
- ◆ The public defender's office closed 537 mental commitment cases in 2002. Of the cases closed, 21% were closed because the case was dismissed without a hearing (down from 25% in 2001); 12% were closed following a contested hearing (down from 19% in 2001); and 67% were closed following a stipulated hearing (up from 54% in 2001).
- ◆ There were 13 appeals filed in the district court from mental commitment proceedings in 2002 and 4 appeals to the Court of Appeals and Supreme Court.
- ◆ The public defender's office opened 202 miscellaneous cases in 2002, including 87 felony revocation of probation cases (43%); 49 fugitive from justice cases (24%) and 56 adult drug court cases (28%).

## **PUBLIC DEFENDER'S OFFICE ADMINISTRATION AND SUPPORT**

Monica Ross, *Office Manager*  
Lori McGerr, *Legal Secretary*  
Angie Owens, *Legal Secretary*  
Vickey Cox, *Legal Secretary*  
Marge Shepard, *Legal Secretary*

Johnna Graff, *Law Clerk*  
Michelle Baumert, *Law Clerk*

## **KEY ISSUES FOR THE FUTURE**

There are a number of important issues that will confront Lancaster County's indigent defense system in the near future - all with budgetary implications. The Lancaster County Indigent Defense Advisory Committee, appointed by the County Board after nomination by the Lincoln Bar Association, will be making recommendations on several of these issues.

**JUVENILE CASES AND CONTRACTS** - there are several issues to deal with here:

- ◆ 2002 showed a 21% increase in abuse/neglect filings. Each of these cases average 2.4 attorney appointments. Therefore, this increase required 91 attorney appointments that were not expected. At the 2002 level of filings, we will need a total of 535 attorney appointments for abuse/neglect cases in 2003.

- ◆ The public defender's office has, in the past, accepted up to 124 new abuse/neglect appointments per year. Alternatives (contracts) will now need to be found.
- ◆ Nebraska Legal Services may not renew its current contract. This would require us to find alternative contractors for approximately 300 pending and 130 new abuse/neglect cases and 150 new law violation cases.
- ◆ 4 out of 5 of the private contractors will probably reach their maximum number of pending cases in 2003. Normally, this reduces the contractors ability to accept new cases from 50 per year to approximately 35 per year.

***CHILD SUPPORT/PATERNITY CONTRACT*** – this contract expires June 30, 2003, and a recommendation is pending with the advisory committee.

### ***STANDARDS AND STATE REIMBURSEMENT***

- ◆ The state general fund money to reimburse counties which meet standards for felony cases was eliminated in a special budget cutting session of the Legislature in 2002.
- ◆ New legislation (LB62) was introduced in the Legislature in 2003 which would increase court costs by \$5 to fund standards reimbursement for the counties, eliminate counties' 1/3 reimbursement of the Commission on Public Advocacy in first degree murder cases, and continue funding grant attorneys who represent clients in drug and violent crime felonies at no cost to Lancaster County.

### ***INDIGENT DEFENSE SCREENER PROJECT***

The preliminary evaluation is complete and the advisory committee has made their recommendation. The Board must now decide whether to continue this trial project and, if so, in what form.

### ***PUBLIC DEFENDER'S OFFICE STAFFING***

In addition to the changes which have already been made, we will be eliminating a Paralegal II position in our office and adding an Attorney I position to handle misdemeanors and some felonies.

### ***PUBLIC DEFENDER OFFICE TRAINING***

With the legislature's passage of a new death penalty law in 2002, our office will need to train felony division staff in the representation of such cases before juries.

# APPENDIX A

**TABLE 1**  
**LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE**  
**OPEN/CLOSED CASELOAD REPORT 2002**

<b>CASETYPE</b>	<b>PENDING START</b>	<b>OPENED 2002</b>	<b>CLOSED 2002</b>	<b>PENDING END 2002</b>
<i>Appeals</i>	43	95	84	54
<i>Felonies</i>	391	1404	1296	478
<i>Juveniles</i>	522	1487	1409	486
<i>Major Cases</i>	7	10	12	8
<i>Mentals</i>	4	533	537	9
<i>Miscellaneous</i>	61	202	172	93
<i>Misdemeanors</i>	640	2955	3166	517
<b>Totals</b>	1668	6686	6676	1645

**TABLE 2**  
**LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE**  
**HISTORICAL COMPARISON OF CASES OPENED SINCE 1990**

<b>CASETYPE</b>	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>CHG 01-02</b>
Appeals	60	68	67	71	57	81	46	71	58	85	86	96	95	-1%
Felonies	721	746	689	686	779	741	774	840	962	976	981	1130	1404	24%
Juveniles	559	605	636	695	819	792	931	1288	1484	1605	1453	1520	1487	-2%
Major Cases	7	8	8	9	10	6	6	9	16	13	9	6	10	67%
Mental Commitment	352	298	266	75	254	322	270	324	379	391	406	458	533	16%
Miscellaneous	127	136	186	148	120	109	115	118	151	134	152	221	202	-9%
Misdemeanors	2549	2755	2133	2579	2225	2096	2560	2646	3148	3438	3306	3661	2955	-19%
Totals	4375	4616	3985	4263	4264	4147	4702	5296	6198	6642	6393	7092	6686	-6%

# APPENDIX B

\*\*\*\* FUND: GENERAL FUND 011  
 \*\*\*\* AGENCY: PUBLIC DEFENDER 625  
 \*\*\*\* MGR: DENNIS KEEFE

OBJECT	DESCRIPTION	ACTUAL EXPENDITURE		BUDGET	ACTUAL	PROPOSED
		1999 TO 2000	2000 TO 2001	2001 TO 2002	2001 TO 2002	2002-2003
1051	OFFICIAL'S SALARY	86,861	89,143	90,438	91,673	92,699
1052	DEPUTY'S SALARY	88,081	90,099	90,970	93,578	93,244
1053	REGULAR SALARIES	1,108,836	1,163,310	1,261,761	1,291,340	1,358,093
1101	FICA CONTRIBUTIONS	92,864	97,647	106,877	108,187	117,087
1102	RETIREMENT CONTRIBUTIONS	85,338	95,268	103,121	102,319	114,496
1103	GROUP INSURANCE	105,179	139,063	168,323	179,460	195,360
1106	OTHER EMPLOYEE BENEFITS	200	50	0	50	0
1107	GROUP DENTAL INSURANCE	5,112	7,928	10,200	9,495	9,917
1108	LONG TERM DISABILITY	2,874	4,799	5,108	5,346	5,665
1109	POST EMPLOYMENT HEALTH PROGRAM	12,154	23,540	26,449	18,035	10,019
OBJECT CATEGORY: 10 PERS SERV		1,587,499	1,710,847	1,863,247	1,899,483	1,996,580
2051	OFFICE SUPPLIES	14,222	11,556	14,000	10,750	12,000
OBJECT CATEGORY: 20 SUPPLIES		14,222	11,556	14,000	10,750	12,000
3053	DATA PROCESSING SERVICE	82,302	68,082	83,600	51,254	58,572
3057	CONSULTING SERVICES	51,106	5,969	15,000	2,950	12,000
3062	EQUIP MAINTENANCE AGREEMENTS	1,977	0	0	0	0
3069	PSYCHOLOGIST/PSYCHIATRIST	0	4,021	20,000	12,224	28,000
3078	COMPUTER SOFTWARE MAINT/LIC	0	0	0	0	2,468
3201	MEALS	399	1,331	1,200	1,013	1,000
3202	LODGING	1,473	2,890	3,100	3,615	3,000
3203	FARES	2,102	1,815	3,000	2,834	3,000
3204	MILEAGE	3,680	2,903	3,000	3,027	3,000
3205	PARKING & TOLLS	0	179	125	75	103
3206	VEHICLE RENTAL	42	404	500	179	250
3251	POSTAGE	3,341	3,798	4,000	4,167	5,000
3252	TELEPHONE LOCAL	17,900	15,475	18,200	15,509	20,000
3253	TELEPHONE - LONG DISTANCE	1,360	1,009	1,700	949	1,250
3301	PRINTING	35,096	1,534	1,600	2,867	2,100
3302	PHOTOCOPIING	0	14,283	14,400	14,516	14,832
3304	ADVERTISING	760	224	750	490	750
3305	FILM PROCESSING	0	639	200	564	500
3306	LEGAL PUBLISHING	2,809	0	0	0	0
3353	CLIENT CLOTHING	0	0	0	39	50
3402	WITNESS FEES	376	155	400	1,129	1,000
3403	COURT COSTS	414	211	500	523	500
3404	MEMBERSHIPS & DUES	9,194	10,392	10,159	10,317	9,601
3405	BOOKS & SUBSCRIPTIONS	7,269	8,339	8,320	9,515	7,820
3406	ENROLLMENT FEES & TUITION	7,052	5,276	4,500	4,065	4,470
3408	OTHER FEES & SERVICES	192,328	0	0	0	0
3412	OTHER MISC FEES & SERVICES	0	26,846	35,000	42,279	38,500
3424	INTERPRETER	0	10,125	10,000	10,434	11,000
3425	LAB FEES	0	0	0	516	0
3452	LIABILITY INSURANCE	6,375	6,375	6,500	6,375	6,500
3455	OFFICIAL'S BONDS	450	0	0	0	50
3456	EMPLOYEE'S BONDS	0	480	500	240	250
3553	OFFICE EQUIPMENT R & M	868	29	900	0	500
3604	RENT BUILDINGS	50,302	50,159	55,303	56,876	67,322
OBJECT CATEGORY: 30 OTH SER CHAR		478,975	242,943	302,457	258,541	303,388
4102	REPAIR/IMPROVEMENT TO BLDGS	0	0	0	0	0
4202	OFFICE EQUIPMENT	7,467	513	1,000	1,374	1,084
4212	COMMUNICATION EQUIPMENT	0	155	400	1,637	760
4216	FURNITURE & FIXTURES	0	649	1,300	1,255	1,300
OBJECT CATEGORY: 40 CPTL OUTLAY		7,467	1,317	2,700	4,266	3,144
TOTAL FOR AGENCY: 625		2,088,163	1,966,663	2,182,404	2,173,040	2,315,112

# **APPENDIX C**

## ***Constitutional & 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 1997)***

#### ***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 shall receive the same annual salary as each deputy county attorney of comparable ability and experience shall receive 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 the county in 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.

***Neb. Rev. Stat. 23-3402 (Reissue 1991)***  
***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 post conviction 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 83-1049 to 83-1051.
- (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.

***Neb. Rev. Stat. 23-3403 (Reissue 1991)***  
***Public Defender; assistants, personnel; compensation; office space, fixtures and supplies; county furnish.***

The public defender may appoint as many assistant public defenders, who shall be attorney 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 1995)***

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.