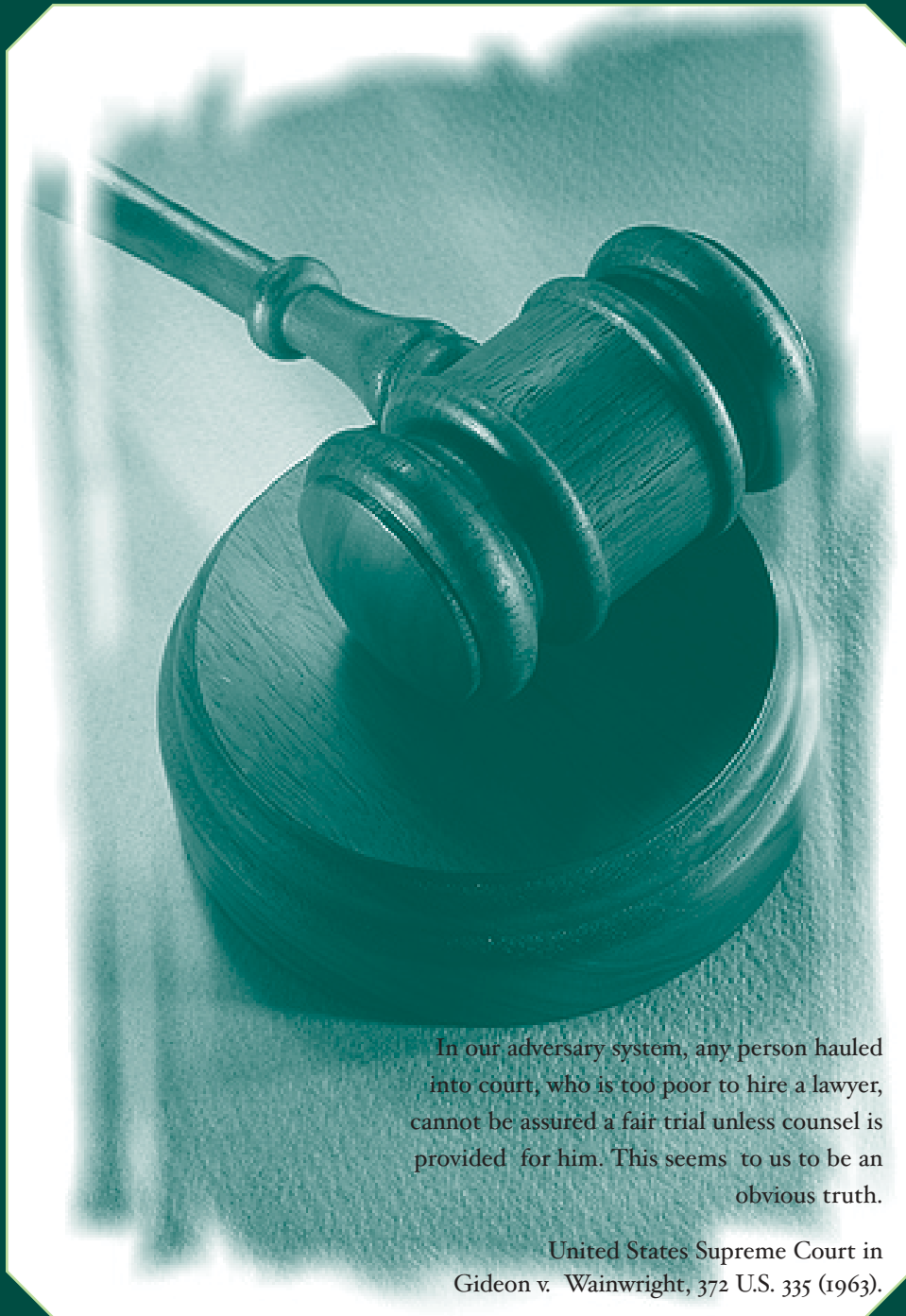


2003 ANNUAL REPORT



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



In January of 2003, The Nebraska Minority and Justice Task Force, a joint initiative of the Nebraska Supreme Court and the Nebraska State Bar Association, issued its Final Report. Having served on the task force for more than three years, including the editing committee which met daily at the very end, I was deeply involved in many of the discussions about the issues dealt with in the report. The entire experience was both rewarding and frustrating at the same time. For example, it was uncomfortable to sit at a public hearing listening to an individual complain that the representation that she received from her court appointed lawyer was poor quality and that she attributed this to the fact that she was Native American. It was difficult for me to reconcile this perception with the dedication, commitment to equal justice, and creative lawyering that I see displayed everyday by the attorneys that I work with.

However, the perception articulated by the individual at the meeting was not an isolated statement, nor was it limited to the issue of the quality of indigent defense services. In addition to concluding that minorities are over represented as defendants in the criminal and juvenile justice system and under represented in Nebraska's legal profession and as court employees and jurors, the task force found that a substantial portion of the responding public, Nebraska lawyers, and court personnel perceive that bias exists in the Nebraska justice system.

It is true that perception does not necessarily equal reality. Nevertheless, it would be a mistake for those who are players in the justice system to dismiss the report on that basis. For a system that is supposed to be blind to issues such as race or ethnicity, it is not possible to say that these perceptions don't matter. Justice, after all, is more than a goal, it is a process, and in order for that process to be fair, it must be perceived by the community as being fair.

It was because of this that I agreed to serve on the Implementation Committee of the task force charged with implementing the recommendations that were made by the full task force. This will be an ongoing process that covers a wide range of issues. I have been asked to work on a subcommittee that deals with the issue of the indigent defense system. The nature and quality of the legal services that we, as a society, are willing to provide to the poor (many of whom are minorities) is a good measure of how serious we are about equal justice and due process. The goal of the effort is to produce improvements in the way that Nebraska provides attorneys to individuals who are unable to afford to hire their own.

All of those involved in the justice system, but especially those of us who are charged with providing the client's constitutional right to counsel, owe it to ourselves to make sure that racism and ethnic prejudice are not tolerated in our society. This type of personal commitment by each of us in our personal lives will surely spill over into our professional lives and will have a positive impact on the larger community by way of our example. As criminal defense attorneys for the poor, we need to constantly renew our commitment so that "due process of law," "equal protection of the laws," and impartiality in the administration of the criminal and juvenile justice systems are not just empty phrases.

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.

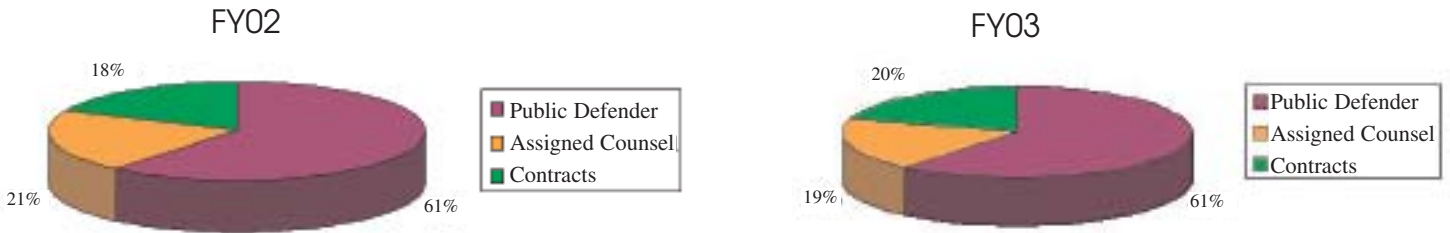
GOALS

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.

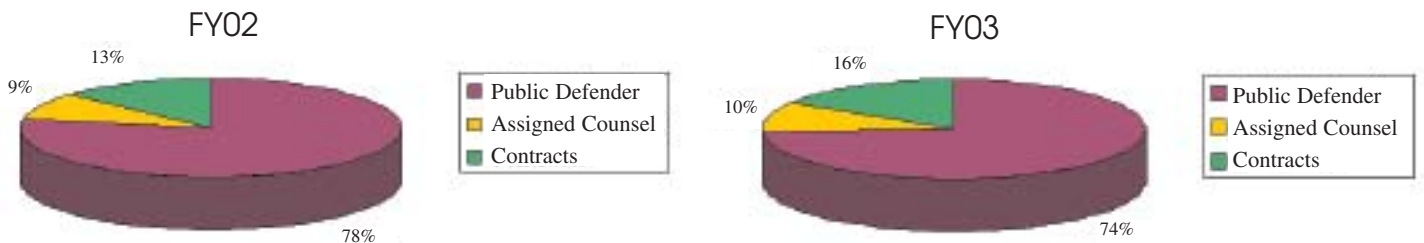
LANCASTER COUNTY'S INDIGENT DEFENSE SYSTEM 2003

By the numbers:

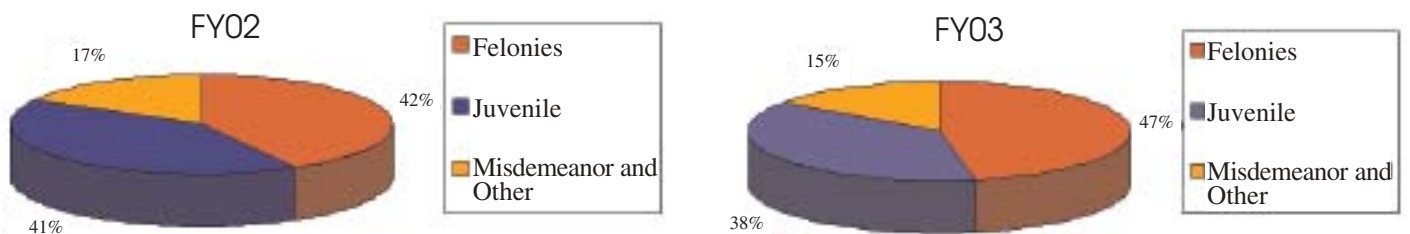
COMPARISON OF FY02 & FY03 BUDGETED AMOUNTS BY SYSTEM



COMPARISON OF NEW CASES BY SYSTEM



COMPARISON OF FY02 & FY03 BUDGETED AMOUNTS BY TYPES OF CASES



ASSIGNED COUNSEL

- Of the 1,456 felonies (including major cases) closed by the public defender's office in 2003, 327 (22%) 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 303 other felony cases during 2003. The 2003 cost per case for non major felonies handled by assigned counsel was \$ 888, which is \$195 more than the average in 2002.

- The Nebraska Commission on Public Advocacy was appointed to represent clients in 41 of the 327 felonies where the public defender had a conflict at the trial level in 2003 at no cost to Lancaster County.
- Of the 2,889 misdemeanor cases closed by the public defender's office in 2003, 256 (9%) were closed because of a conflict of interest requiring appointment of assigned counsel. Assigned Counsel closed 174 misdemeanor cases during 2003 for an average cost per case of \$ 270, which is only \$4 more than the 2002 average.
- Juvenile Court spent a total of \$365,474 on assigned counsel in FY03. This represents attorney fees in 133 law violation cases, 234 abuse/neglect cases and 50 status cases.

CONTRACTS : Lancaster County budgeted \$588,390 for contracts in juvenile cases in FY03 and actually expended \$604,582. In addition, Lancaster County had one contract with a law firm for child support and paternity cases which was budgeted at \$ 67,200.

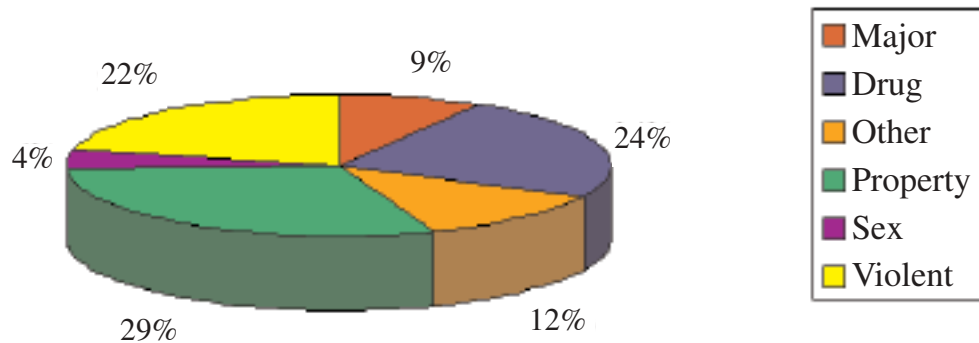
PUBLIC DEFENDER'S OFFICE - FELONY DIVISION

Scott Helvie, Chief Deputy
 Robert Hays, Chief Deputy
 Joe Nigro, Deputy
 Webb Bancroft, Deputy
 Kristi Egger-Brown, Deputy
 Paul Cooney, Deputy
 Shawn Elliott, Deputy
 Timothy Eppler, Deputy
 Julie Hansen, Deputy
 Joe Renteria, Investigator
 Jed Rojewski, Paralegal
 Kristi Gottberg, Paralegal
 Morgan White, Law Clerk
 Sarah Newell, Law Clerk

FELONY CASES OPENED BY TYPE 2000-2003

| | 2000 | 2001 | 2002 | 2003 |
|----------|------|------|------|------|
| Drug | 202 | 284 | 480 | 454 |
| Other | 125 | 131 | 139 | 134 |
| Property | 409 | 460 | 500 | 493 |
| Sex | 43 | 45 | 40 | 42 |
| Violent | 202 | 210 | 245 | 245 |
| Major | 9 | 6 | 10 | 15 |

DISTRIBUTION OF FELONY ATTORNEY TIME BY CASE TYPE 2003



- The county attorney's office filed 1,741 felonies in Lancaster County Court in 2003, representing a 4% decrease from 2002 but a 35% increase since 2000.
- The public defender's office was appointed to represent individuals in 1,383 felony cases filed in county court in 2003 or 79.4% of the number filed.
- The 1,383 new felony cases in 2003 represents a 2% decrease from 2002 but a 40% increase since 2000.
- At the end of 2003, the public defender's office had 47% more active/pending felony cases than at the end of 2000.
- The small 2% decline in the number of new open felonies in 2003 was caused, in part by a slight decrease in Drug cases (26 cases) and a change in the felony Criminal Mischief

statute raising the level at which offenses become felonies.

- 3 out of the 5 category of felonies (Drug, Other, Property) showed increases in attorney time required ranging from 8% to 16% in 2003. The average life of those felony cases also increased ranging from 4% to 12%.
- Major cases opened and closed in 2003: The office opened 4 cases of First Degree Murder and closed 6 (2 for conflicts of interest, 3 after pleas, and 1 after a jury trial); opened 1 case of Manslaughter and closed 1 after a plea; opened 3 cases of Conspiracy to Commit First Degree Murder and closed 3 because of conflicts; opened 6 cases of Kidnapping and closed 3 (1 after a plea, 1 because of a conflict and 1 because the client hired a private attorney); closed 1 case of Attempted Second Degree Murder after a trial; and opened 1 case of Attempted First Degree Murder.

PUBLIC DEFENDER'S OFFICE - MISDEMEANORS DIVISION

Susan Tast, Deputy
Jennifer Villebro, Deputy
Christopher Eickholt, Deputy

Angela Franssen, Paralegal
Steve Schultz, Paralegal

MISDEMEANORS OPENED BY CHARGE CATEGORY 2000- 2003

| | 00 | 01 | 02 | 03 |
|-------------------|-----|-----|-----|-----|
| Drunk drive | 400 | 434 | 515 | 494 |
| Assault/Domestic | 815 | 865 | 653 | 698 |
| Suspended license | 942 | 887 | 761 | 448 |
| Thefts | 210 | 314 | 197 | 242 |
| Prob. Revocation | 270 | 325 | 239 | 290 |
| All others | 397 | 511 | 351 | 577 |

- Non traffic misdemeanor filings in Lancaster County Court, including filings by the county attorney's office and the city prosecutor's office decreased by 3% from 2002 to 2003 but have increased 23% since 2000.
- Public defender appointments in misdemeanor cases overall declined 7% in 2003, and show an overall decrease of 19% since 2000.
- In 2003 the appointments in city attorney filed misdemeanors declined by 12%, while appointments in county attorney filed misdemeanors declined by 2%.
- Driving on Suspended License cases opened by the public defender have declined by 52% from the high of 942 cases in 2000. This is due mainly to a change in the law which makes jail sentences less likely in certain of these cases.
- The number of misdemeanor Criminal Mischief cases increased from 43 to 60 cases in 2003 at the same time that the number of felony Criminal Mischief cases declined from 45 to 14. This was due, in major part, to the change in the statute which raised the monetary level at which the crime becomes a felony.
- The 4% reduction in public defender Drunk Drive cases in 2003 was due to the reduction in filings of 3rd offense cases and the reduction in the percentage of the filed cases that our office was appointed to. Appointments in 1st and 2nd offense cases remained virtually the same.
- In June, Jennifer Villebro left the Public Defender's Office to move out of state and Christopher Eickholt was hired.

PUBLIC DEFENDER'S OFFICE - JUVENILE DIVISION

Margene Timm, Chief Deputy

Reggie Ryder, Deputy

Andrea Snowden, Deputy

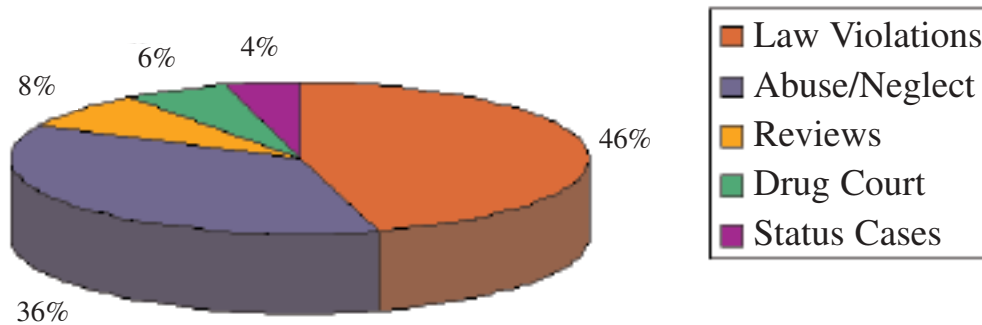
Matt Graff, Deputy

Jed Rojewski, Paralegal

Kristi Gottberg, Paralegal

Angelia Onuoha, Paralegal

DISTRIBUTION OF JUVENILE DIVISION ATTORNEY HOURS FOR CLOSED CASES — 2003



- According to the Separate Juvenile Court, law violation filings (including transfers and supplemental filings) declined from 1,537 in 2002 to 1,494 in 2003, representing a 3% decrease.
- Public defender appointments in juvenile law violations cases increased by 2% in 2003.
- According to the Separate Juvenile Court, 198 new and transfer abuse/neglect cases were filed in 2003 compared to 223 in 2002 and 185 in 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 to 33 in 2003.
- The Separate Juvenile Court reports that 157 status cases (mostly school truancy cases) were filed in 2003 compared to 98 in 2002 and 113 in 2001. This is a 39% increase in 2 years.
- Public defender appointments in status cases increased in 2003 to 152 new cases compared to 103 in 2002 and 109 in 2001. This represents a 39% increase in 2 years.
- Matt Graff was hired as an attorney after employment in our law clerk division.

PUBLIC DEFENDER - MENTAL HEALTH COMMITMENTS AND MISCELLANEOUS CASES

Dorothy Walker, Deputy
Johnna Graff, Law Clerk
Michelle Baumert, Law Clerk

- The public defender's office opened 471 new mental commitment cases (374 new petitions and 97 review cases) in 2003, a 12% decrease over the 2002 figure.
- The public defender's office closed 481 mental commitment cases in 2003. Of the new cases closed, 20% were closed because the case was dismissed without a hearing; 13% were closed following a contested hearing; and 67% were closed following a stipulated hearing.
- There were 18 appeals filed in the district court from mental commitment proceedings in 2003 and 2 appeals to the Court of Appeals and Supreme Court.
- The public defender's office opened 210 miscellaneous cases in 2003, including 96 felony revocation of probation cases (46%); 53 fugitive from justice cases (25%) and 57 adult drug court cases (27%).

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

ISSUES FOR THE FUTURE

JUVENILE CASES AND CONTRACTS:

- If the Abuse/Neglect filings remain at or close to the 2003 level in 2004, the current number of contractors should be sufficient to handle the load without going to private assigned counsel. One additional contractor, the firm of Polsky, Shiffermiller and Coe, were added as of January 1, 2004. This brings to 7, the number of private contractors in addition to Nebraska Legal Services.

- 2 of the contracts with private contractors expire at the end of 2004 and renewal discussions will need to take place. The NLS contract expires in June of 2005. It is the largest contract and will need to be evaluated carefully.

CHILD SUPPORT/PATERNITY CONTRACT– this contract was renewed for a 3 year term in July of 2003. We may want to evaluate whether or not to continue this contract past the end of the year.

INDIGENT DEFENSE SCREENER PROJECT

In FY04, the County Board funded this project again past the original pilot project term and placed supervision under the new Community Corrections Department. There was also a proposal to support legislation to require a registration fee for individuals receiving court appointed counsel to fund this project.

PUBLIC DEFENDER'S OFFICE STAFFING

We intend to ask Personnel for an Organizational Study and Position Audit for our legal secretaries positions. Some discussion has occurred about bringing the child support and paternity cases back to our office.

PUBLIC DEFENDER OFFICE TRAINING

In conjunction with the Douglas County Public Defender's Office and the Nebraska Commission on Public Advocacy, our office sponsored death penalty training for our felony attorneys in 2003. The Colorado State Public Defender's Office provided trainers on an expenses only basis. In 2004, we will need to send one of our new attorneys to advocacy training.

MENTAL HEALTH JAIL DIVERSION PROJECT

Our office has agreed to assist this SAMSA grant funded project designed to keep the mentally ill out of the county jail by providing intensive services.

APPENDIX A

TABLE 1
LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE
OPEN/CLOSED CASELOAD REPORT 2003

| CASETYPE | PENDING START | OPENED 2003 | CLOSED 2003 | PENDING END 2003 |
|---------------|---------------|-------------|-------------|------------------|
| Appeals | 55 | 109 | 118 | 46 |
| Felonies | 478 | 1368 | 1442 | 440 |
| Juveniles | 486 | 1331 | 1407 | 439 |
| Major Cases | 8 | 15 | 14 | 10 |
| Mentals | 8 | 471 | 481 | 8 |
| Miscellaneous | 93 | 210 | 201 | 105 |
| Misdemeanors | 517 | 2749 | 2889 | 531 |
| Totals | 1645 | 6253 | 6552 | 1579 |

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

| CASETYPE | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | CHG 02-03 |
|-------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|--------------|
| Appeals | 60 | 68 | 67 | 71 | 57 | 81 | 46 | 71 | 58 | 85 | 86 | 96 | 95 | 109 | 15% |
| Felonies | 721 | 746 | 689 | 686 | 779 | 741 | 774 | 840 | 962 | 976 | 981 | 1130 | 1404 | 1368 | -3% |
| Juveniles | 559 | 605 | 636 | 695 | 819 | 792 | 931 | 1288 | 1484 | 1605 | 1453 | 1520 | 1487 | 1331 | -10% |
| Major Cases | 7 | 8 | 8 | 9 | 10 | 6 | 6 | 9 | 16 | 13 | 9 | 6 | 10 | 15 | 50% |
| Mental Commitment | 352 | 298 | 266 | 75 | 254 | 322 | 270 | 324 | 379 | 391 | 406 | 458 | 533 | 471 | -12% |
| Miscellaneous | 127 | 136 | 186 | 148 | 120 | 109 | 115 | 118 | 151 | 134 | 152 | 221 | 202 | 210 | 4% |
| Misdemeanors | 2549 | 2755 | 2133 | 2579 | 2225 | 2096 | 2560 | 2646 | 3148 | 3438 | 3306 | 3661 | 2955 | 2749 | -7% |
| Totals | 4375 | 4616 | 3985 | 4263 | 4264 | 4147 | 4702 | 5296 | 6198 | 6642 | 6393 | 7092 | 6686 | 6253 | -6% |

APPENDIX B

REPORT ID: B117

**LANCASTER COUNTY
EXPENSE BUDGET ADOPTED**

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

| OBJECT | DESCRIPTION | ACTUAL EXPENDITURE | | BUDGET | | ACTUAL | | PROPOSED 2003-2004 | ADOPTED 2003-2004 |
|----------------------------------|--------------------------------|--------------------|--------------|--------------|--------------|-----------|-----------|-----------------------|----------------------|
| | | 2000 TO 2001 | 2001 TO 2002 | 2002 TO 2003 | 2002 TO 2003 | | | | |
| 1051 | OFFICIAL'S SALARY | 89,143 | 91,673 | 95,564 | 95,564 | 105,500 | 105,500 | | |
| 1052 | DEPUTY'S SALARY | 90,099 | 93,578 | 97,066 | 97,066 | 100,518 | 100,518 | | |
| 1053 | REGULAR SALARIES | 1,163,310 | 1,291,340 | 1,401,569 | 1,383,949 | 1,404,096 | 1,404,096 | | |
| 1054 | TEMPORARY SALARIES | 0 | 0 | 0 | 0 | 26,000 | 26,000 | | |
| 1101 | FICA CONTRIBUTIONS | 97,647 | 108,187 | 117,087 | 115,168 | 121,070 | 121,070 | | |
| 1102 | RETIREMENT CONTRIBUTIONS | 95,268 | 102,319 | 114,496 | 114,633 | 119,505 | 119,505 | | |
| 1103 | GROUP INSURANCE | 139,063 | 179,460 | 210,460 | 208,802 | 223,344 | 223,344 | | |
| 1106 | OTHER EMPLOYEE BENEFITS | 50 | 50 | 0 | 0 | 0 | 0 | | |
| 1107 | GROUP DENTAL INSURANCE | 7,928 | 9,495 | 9,917 | 11,222 | 12,342 | 12,342 | | |
| 1108 | LONG TERM DISABILITY | 4,799 | 5,346 | 5,665 | 6,396 | 6,279 | 6,279 | | |
| 1109 | POST EMPLOYMENT HEALTH PROGRAM | 23,540 | 18,035 | 10,019 | 10,177 | 20,150 | 20,150 | | |
| OBJECT CATEGORY: 10 PERS SERV | | 1,710,847 | 1,899,483 | 2,061,843 | 2,042,977 | 2,138,804 | 2,138,804 | | |
| 2051 | OFFICE SUPPLIES | 11,556 | 10,750 | 12,000 | 11,556 | 12,000 | 12,000 | | |
| OBJECT CATEGORY: 20 SUPPLIES | | 11,556 | 10,750 | 12,000 | 11,556 | 12,000 | 12,000 | | |
| 3053 | DATA PROCESSING SERVICE | 68,082 | 51,254 | 58,572 | 50,499 | 54,121 | 54,121 | | |
| 3057 | CONSULTING SERVICES | 5,969 | 2,950 | 12,000 | 7,174 | 10,000 | 10,000 | | |
| 3069 | PSYCHOLOGIST/PSYCHIATRIST | 4,021 | 12,224 | 28,000 | 13,970 | 18,000 | 18,000 | | |
| 3078 | COMPUTER SOFTWARE MAINT/LIC | 0 | 0 | 2,468 | 2,468 | 0 | 0 | | |
| 3201 | MEALS | 1,331 | 1,013 | 1,000 | 819 | 1,000 | 1,000 | | |
| 3202 | LODGING | 2,890 | 3,615 | 3,000 | 2,840 | 3,000 | 3,000 | | |
| 3203 | FARES | 1,815 | 2,834 | 3,000 | 3,122 | 3,000 | 3,000 | | |
| 3204 | MILEAGE | 2,903 | 3,027 | 3,000 | 3,307 | 3,200 | 3,200 | | |
| 3205 | PARKING & TOLLS | 179 | 75 | 103 | 129 | 103 | 103 | | |
| 3206 | VEHICLE RENTAL | 404 | 179 | 250 | 115 | 250 | 250 | | |
| 3251 | POSTAGE | 3,798 | 4,167 | 5,000 | 3,858 | 4,500 | 4,500 | | |
| 3252 | TELEPHONE LOCAL | 15,475 | 15,509 | 20,000 | 17,272 | 20,300 | 20,300 | | |
| 3253 | TELEPHONE - LONG DISTANCE | 1,009 | 949 | 1,250 | 714 | 750 | 750 | | |
| 3301 | PRINTING | 1,534 | 2,867 | 2,100 | 2,482 | 2,600 | 2,600 | | |
| 3302 | PHOTOCOPYING/ABS CONTRACT | 14,283 | 14,516 | 14,832 | 11,278 | 14,000 | 14,000 | | |
| 3304 | ADVERTISING | 224 | 490 | 750 | 696 | 750 | 750 | | |
| 3305 | FILM PROCESSING | 639 | 564 | 500 | 672 | 750 | 750 | | |
| 3353 | CLIENT CLOTHING | 0 | 39 | 50 | 0 | 50 | 50 | | |
| 3402 | WITNESS FEES | 155 | 1,129 | 1,000 | 1,898 | 1,000 | 1,000 | | |
| 3403 | COURT COSTS | 211 | 523 | 500 | 91 | 500 | 500 | | |
| 3404 | MEMBERSHIPS & DUES | 10,392 | 10,317 | 9,601 | 10,361 | 10,385 | 10,385 | | |
| 3405 | BOOKS & SUBSCRIPTIONS | 8,339 | 9,515 | 7,820 | 5,556 | 7,000 | 7,000 | | |
| 3406 | ENROLLMENT FEES & TUITION | 5,276 | 4,065 | 4,470 | 5,525 | 4,604 | 4,604 | | |
| 3412 | OTHER MISC FEES & SERVICES | 26,846 | 42,279 | 38,500 | 37,522 | 38,500 | 38,500 | | |
| 3424 | INTERPRETER | 10,125 | 10,434 | 11,000 | 14,430 | 11,500 | 11,500 | | |
| 3425 | LAB FEES | 0 | 516 | 0 | 0 | 0 | 0 | | |
| 3452 | LIABILITY INSURANCE | 6,375 | 6,375 | 6,500 | 6,800 | 6,800 | 6,800 | | |
| 3455 | OFFICIAL'S BONDS | 0 | 0 | 50 | 35 | 0 | 0 | | |
| 3456 | EMPLOYEE'S BONDS | 480 | 240 | 250 | 540 | 500 | 500 | | |
| 3553 | OFFICE EQUIPMENT R & M | 29 | 0 | 500 | 0 | 500 | 500 | | |
| 3604 | RENT BUILDINGS | 50,159 | 56,876 | 67,322 | 67,322 | 73,786 | 73,786 | | |
| OBJECT CATEGORY: 30 OTH SER CHAR | | 242,943 | 258,541 | 303,388 | 271,495 | 291,449 | 291,449 | | |
| 4202 | OFFICE EQUIPMENT | 513 | 1,374 | 1,084 | 0 | 1,000 | 1,000 | | |
| 4212 | COMMUNICATION EQUIPMENT | 155 | 1,637 | 760 | 110 | 250 | 250 | | |
| 4216 | FURNITURE & FIXTURES | 649 | 1,255 | 1,300 | 0 | 750 | 750 | | |
| OBJECT CATEGORY: 40 CPTL OUTLAY | | 1,317 | 4,266 | 3,144 | 110 | 2,000 | 2,000 | | |
| TOTAL FOR AGENCY: 625 | | 1,966,663 | 2,173,040 | 2,380,375 | 2,326,138 | 2,444,253 | 2,444,253 | | |

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 receives the same annual salary as each deputy county attorney of comparable ability and experience 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 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.

Neb. Rev. Stat. 23-3402 (Reissue 1997)

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

Neb. Rev. Stat. 23-3403 (Reissue 1997)

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 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; and