

# 2004 ANNUAL REPORT

of the  
**LANCASTER  
COUNTY  
PUBLIC  
DEFENDER**

Because one of the main sources of our national unity is our belief in equal justice, we need to make sure Americans of all races and backgrounds have confidence in the system that provides justice...people on trial for their lives must have competent lawyers by their side.

President G. W. Bush  
State of the  
Union Address  
February 2, 2005





Every time I read about another innocent person being released from prison or death row because of DNA evidence, I have a range of emotions. Personally, it is a relief to see that justice has finally been served for some very unlucky soul, even if it is years past due. At the same time I feel anger that such injustices could happen, with such regularity, in a country where we proclaim ourselves the world champions of freedom and democracy.

Those who have taken the time to analyze the cases where death row inmates have been exonerated because of DNA evidence have catalogued the reasons for these travesties of justice. The list includes the obvious: malicious or incompetent police work (false confessions, bad eyewitness identification procedures); prosecutorial misconduct (failing to disclose exculpatory evidence); and bad defense lawyering. It is worth considering that, even in the county's with the worst criminal justice system, death penalty cases are the cases that receive the most attention, the most resources, and the most time from all components of the system (police, prosecutors, judges, defense attorneys). If such serious errors are being committed in death penalty cases, is it not safe to assume that serious errors are also being committed in other types of cases (where people go to prison or jail) that do not receive this level of attention?

When I read about such incidents, I feel a great weight settling upon me and my staff, that no one who hasn't represented a criminal accused, could feel. I question everything about our system and the lawyers who provide services. Have I done everything to make sure that my attorneys are properly trained and have the resources to represent their clients fully? Is our system of supervision and coaching adequate to catch problems before they occur or correct them quickly and fairly? Do the attorneys in my office and those who are otherwise appointed by the courts know what their role is in the system and are they competent, zealous and ethical advocates for their clients?

In discussions with other public defenders, it is generally agreed that what separates a good office from a bad office is the ability to recruit and retain good attorneys, provide them with the resources they need to represent their clients, and keep their workload at a reasonable level. Adequate funding is important as is a staff of dedicated professionals. The ability to remain independent of political pressure is also a key.

In the history of the Lancaster County Public Defender's Office, we have been mostly fortunate in all of these areas. That isn't to say we can't do better. In terms of funding, we have had mostly supportive county board members that understand the fundamental issues relating to our unique role in the criminal justice system. There are occasions when we have disagreed but those disagreements have not adversely affected the ability of our office to perform its essential functions. I understand that the role of the criminal defense attorney is not always well understood. But, if recent public opinion polls are to be believed, a vast majority of the citizens of this country know that providing quality defense services to the poor is essential to a fair and equal system of justice. People also understand that fairness and equal justice cannot exist in a system based upon one's economic status.

I am thankful that many of the serious problems that plague other public defender offices and that affect their ability to provide a fair system of equal justice, even in Nebraska, have not been part of our experience. But I fully realize that each year brings new challenges and that we must always be alert to these concerns. We must also continue to strive to improve the overall system of indigent defense in Lancaster County even in the face of opposition from those who fear change.

Dennis Keefe

# CONTENTS

Mission Statement .....	3
Philosophy & Goals .....	3
Lancaster County Indigent Defense System .....	4
Assigned Counsel .....	5
Contracts .....	6
Operations of the Lancaster County Public Defender's Office .....	6
Felony Division .....	6
Misdemeanor Division .....	9
Juvenile Division .....	10
Mental Health & Miscellaneous Cases .....	11
Upcoming Issues .....	12
Appendix A .....	14
Appendix B .....	16
Appendix C .....	17

## **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**

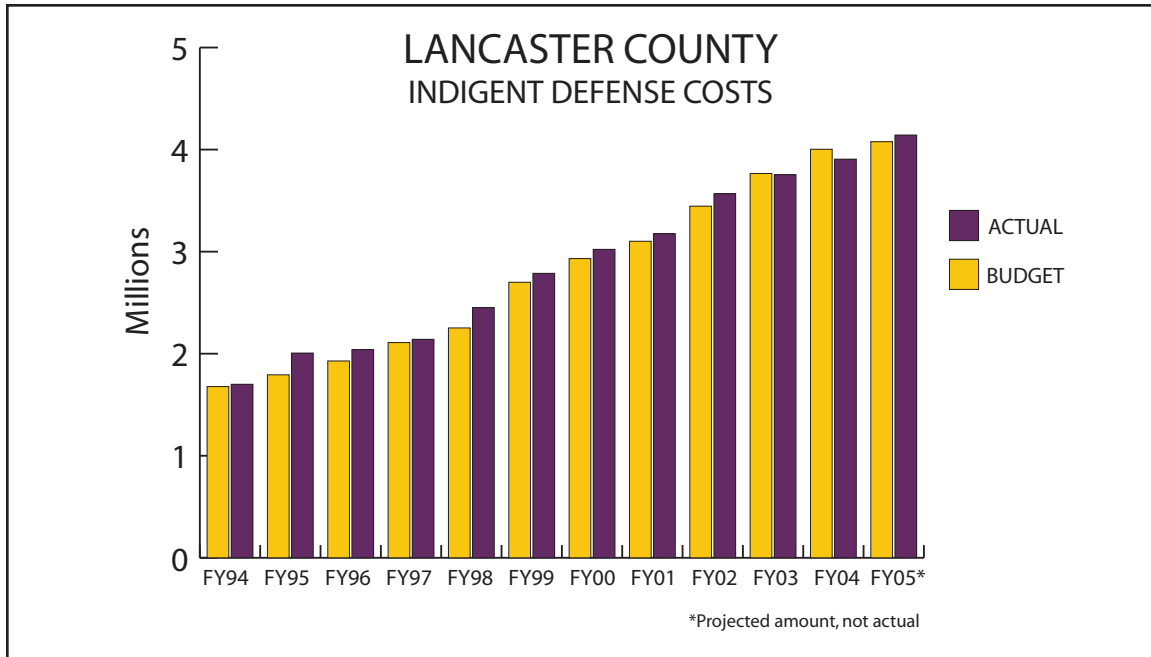
It is the philosophy of the Lancaster County Public Defender's Office that each client should receive high quality legal representation which is as good as that provided by the best of the private bar.

### **GOALS**

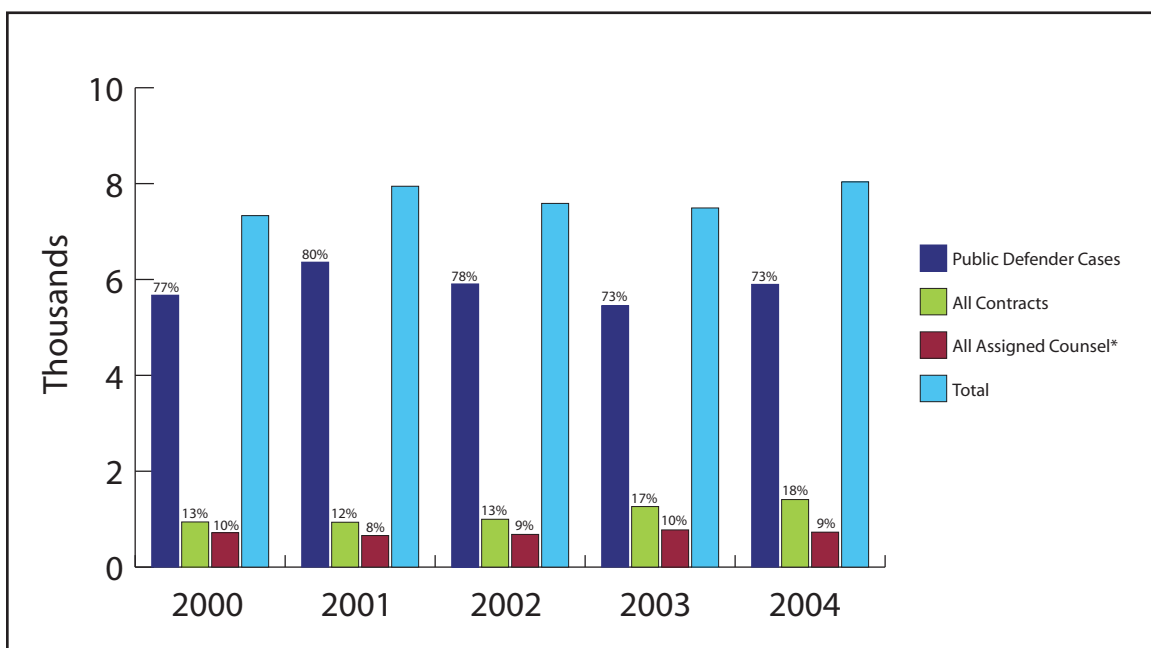
1. Recruit and retain attorneys and support staff who will provide high quality legal representation for each client.
2. Maintain reasonable caseload levels for staff attorneys.
3. Provide all resources and ancillary services necessary to represent the clients of the office.
4. Provide continuing training 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.

## Overview of Lancaster County's Indigent Defense System

Actual Combined Expenditures For Indigent Defense In Lancaster County (Public Defender, Assigned Counsel, and Contracts) FY94 to FY05

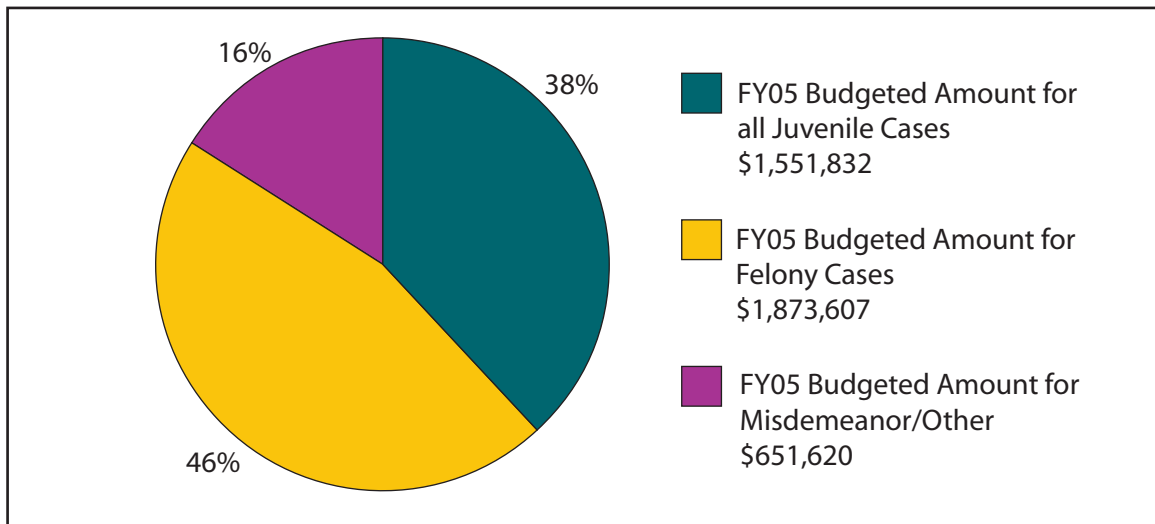


New Cases By Type of System  
FY 2000 to FY 2004



\*The assigned counsel figures are estimates based upon known appointments because there is no procedure for tracking private attorney appointments in juvenile court.

## FY05 Combined Indigent Defense Budgeted Amounts By Type of Case



### 2004 Assigned Counsel Notes

- Of the 1,406 felony cases closed by the public defender's office in 2004, 305 cases (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 7 major felony cases and 258 other felony cases in 2004. The cost per case for assigned counsel in the 258 non major felony cases in 2004 was \$649, compared to \$888 in 2003 and \$693 in 2002.
- The Nebraska Commission on Public Advocacy was appointed to represent clients in 46 of the 305 felony cases where the public defender had a conflict at the trial level in 2004. Of those cases, 20 were drug felonies and 26 were violent felonies. The Commission's services are provided at no cost to Lancaster County.
- Of the 3,306 misdemeanor cases closed by the public defender's office in 2004, 314 (10%) were closed because of a conflict of interest requiring appointment of assigned counsel. Assigned counsel closed 187 misdemeanor cases in 2004, with an average cost per case of \$261, compared with an average cost per misdemeanor case of \$270 in 2003 and \$266 in 2002.
- Juvenile Court spent a total of \$326,026 on assigned counsel in FY04 . This represents payment for 85 law violation cases, 268 abuse/neglect cases, and 49 status cases.

## **Contract Notes**

- Lancaster County spent \$671,782 on all of its legal services contracts in FY04. One of the contracts is for Child Support/Paternity cases (\$68,700) and the remainder are for the juvenile court.
- 2004 brought the commencement of one new contract with Shiffermiller Law Offices, and the three year renewal of of the contract with Lisa Lozano and Dalton Tietjen.

## **PUBLIC DEFENDER'S OFFICE OPERATIONS**

### **THE FELONY DIVISION**

Scott Helvie, Chief Deputy

Robert Hays, Chief Deputy

Joseph Nigro, Deputy

Webb Bancroft, Deputy

Kristi Egger-Brown, Deputy

Paul Cooney, Deputy

Shawn Elliott, Deputy

Timothy Eppler, Deputy

Julie Hansen, Deputy

Joe Renteria, Investigator

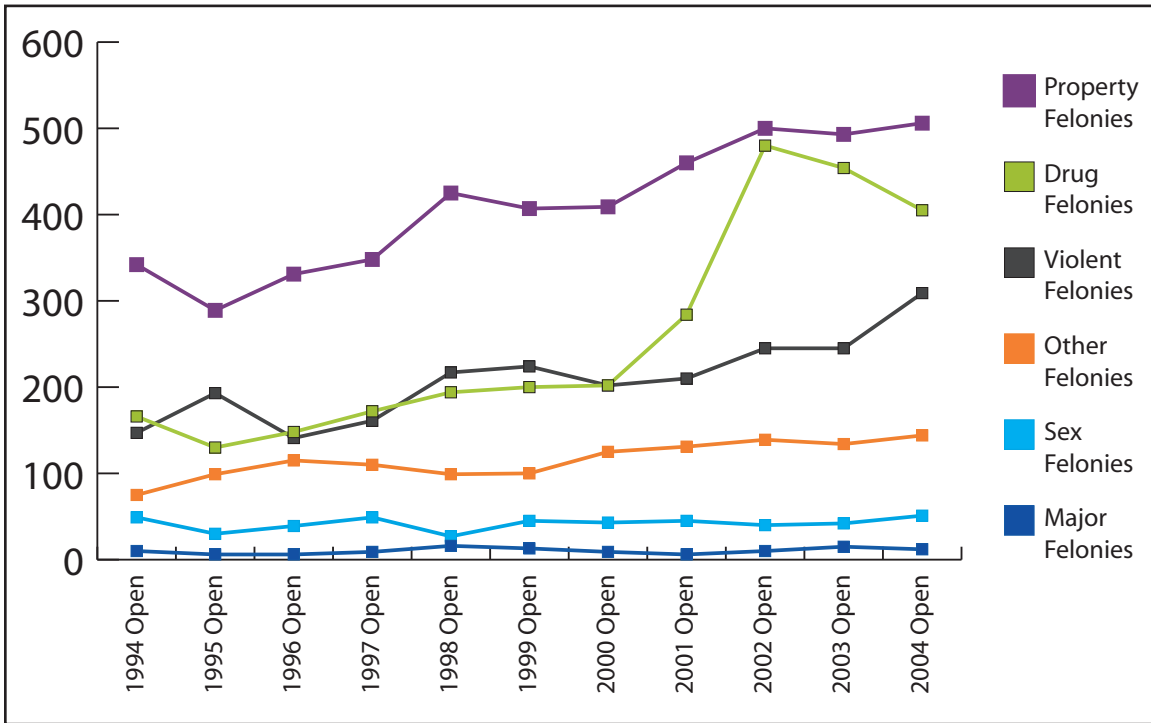
Jed Rojewski, Paralegal

Kristi Gottberg, Paralegal

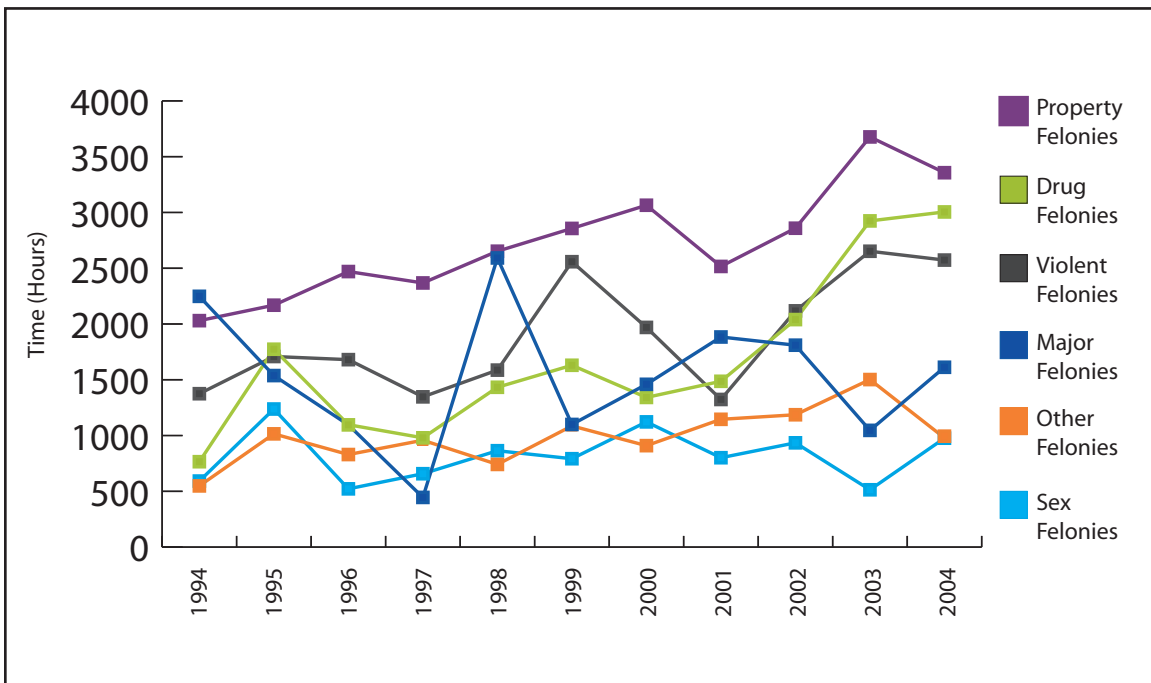
Ryan Esplin, Law Clerk

Allyson Mendoza, Law Clerk

### Ten Years of New Open Felonies By Type



### Ten Years of Attorney Time Devoted To Felonies





## Felony Case Notes

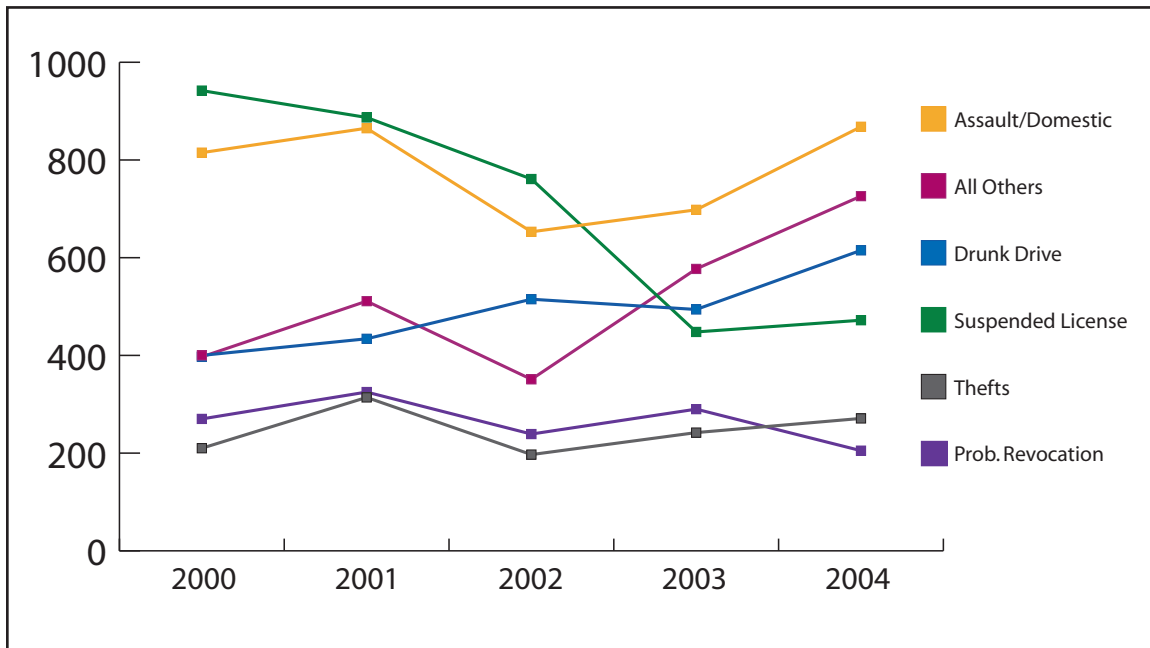
- The county attorney's office filed 1,782 felony cases in Lancaster County Court in 2004, representing a 2% increase over 2003. The public defender's office was appointed in 1,427 (80.1%) of those cases in the first instance.
- The 1,427 felony cases opened by the public defender in 2004 represents a 3% increase over 2003.
- The number of felony cases pending in the public defender's office at the end of 2004 was 14% higher than the number pending at the end of 2003.
- All categories of felony cases showed increases in 2004 except for Drug Felonies. The largest increase (26%) occurred with the Violent Felonies. This increase was driven by an increased number of robbery cases, an increase in Second Offense Violation of Protection Order cases (a crime created by the Legislature in 1997) and 21 new Strangulation cases (a crime created by the Legislature in 2003).
- Major Cases Opened and Closed in 2004: The office opened 3 cases of First Degree Murder and closed 4 (1 after a jury trial, 2 after pleas, and 1 after a dismissal); opened 2 cases of Second Degree Murder and closed 1 (client retained private attorney); opened 1 case of Child Abuse Resulting in Death and closed 1 (following a jury trial); opened 1 case of Manslaughter and closed 2 (after pleas); opened 1 case of Attempted First Degree Murder and closed 1 (following a plea); and opened 4 cases of Kidnapping and closed 5 (2 because of a conflict of interest, 1 after trial, 1 after a plea, and 1 after a dismissal).
- In 2004, the Public Defender's Office had 41 cases admitted to the Drug Court Program. 50 public defender Drug Court cases were closed that year; 21 (42%) were closed following successful graduation and case dismissal and 29 (58%) were closed for unsuccessful participation and the cases were referred back to the regular criminal courts.

## MISDEMEANOR DIVISION

Susan Tast, Deputy  
Andrea Snowden, Deputy  
Christopher Eickholt, Deputy

Angela Franssen, Paralegal  
Steve Schultz, Paralegal

Five Years of Misdemeanors Opened by Charge Category



### Misdemeanor Case Notes

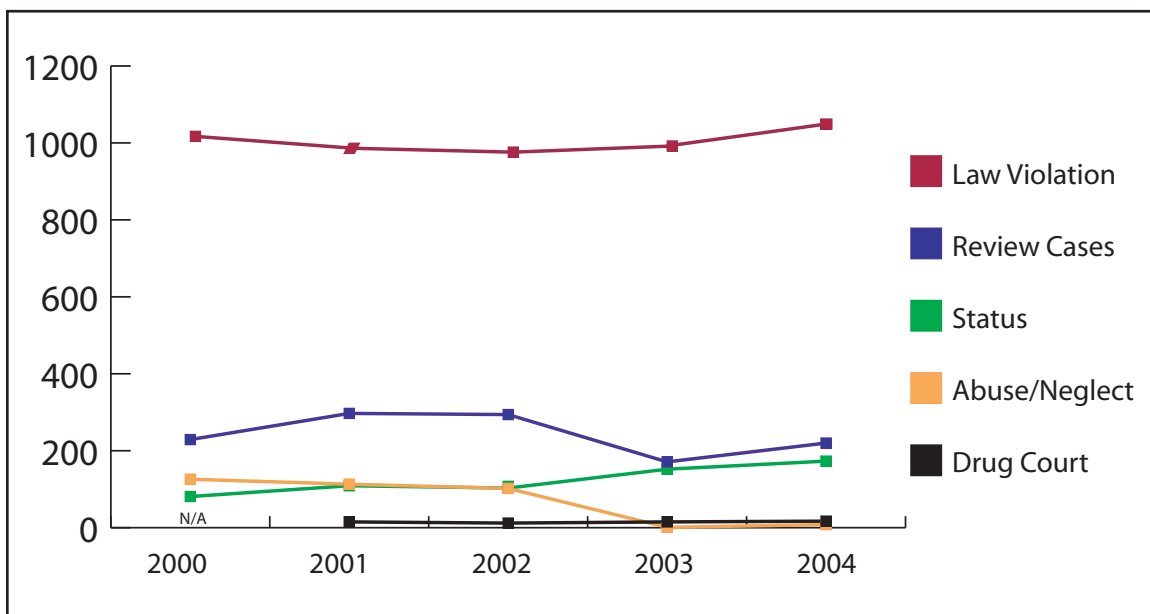
- Non-traffic misdemeanor filings in Lancaster County Court, including filings by the City Attorney and the County Attorney, increased by 5% from 2003 to 2004.
- Public Defender Office appointments in misdemeanor cases increased by 15% from 2003 to 2004. The increase for City Attorney filed cases was 13% and for County Attorney filed cases, 16%.
- All of the top five charge categories showed increases over the 2003 numbers for the public defender's office, except Revocation of Probation cases which decreased by 29%. Drunk Driving cases increased by 24%, Assault/Domestic Violence/Violation of Protection Orders increased by 24%, Driving on Suspended License Cases increased by 5%, Thefts increased by 12%,

## JUVENILE DIVISION

Margene Timm, Chief Deputy  
Reggie Ryder, Deputy  
Matthew Graff, Deputy

Jed Rojewski, Paralegal  
Kristi Gottberg, Paralegal  
Angelia Onuoha, Paralegal

### Five Years of Juvenile Case Openings By Case Type



### Juvenile Case Notes

- Excluding Motions To Terminate Parental Rights, total Filings in 3(a) abuse/neglect cases increased by 43% in 2004. Two primary factors for this increase have been cited by system professionals. First, in the wake of the Governor's Task Force Report, many additional caseworkers were added to HHS, resulting in additional investigations, referrals, and filings. Secondly, the number of cases involving the use of methamphetamine has increased in juvenile court just as the number of methamphetamine cases has exploded in the adult criminal courts. Clearly, the number of contractors will not be sufficient to handle this type of increase.
- The number of Motions To Terminate Parental Rights, filed by the County Attorney, increased from 33 in 2003 to 49 in 2004.
- According to the Separate Juvenile Court, law violation filings (including transfers and supplemental filings) increased from 1,494 filings in 2003 to 1,590 filings in 2004, a 6% increase. Public Defender appointments also increased 6%.

- Status cases (mostly school trancies) saw an 18% increase in filings in 2004 and the number of cases opened by the public defender's office increased by 14%. The amount of attorney time devoted to these cases in the public defender's office increased by 90%. It is anticipated that these cases will continue to increase in number because of the emphasis placed on truancy in Lancaster County and that the amount of time per case will continue to rise, given that in 2004, the Legislature raised the age for mandatory school attendance to 18 so the cases will remain open longer.
- The Public Defender's Office opened 15 new cases in the Juvenile Drug Court program in 2004 and closed 19. Of the cases closed, 9 (47%) were closed following successful completion and graduation and 10 (53%) were closed following unsuccessful termination from the program.

## **MENTAL HEALTH COMMITMENTS AND MISCELLANEOUS CASES**

Dorothy Walker, Deputy  
Sarah Newell, Law Clerk  
Morgan White, Law Clerk

- The public defender's office opened 416 new mental commitment cases (327 new petitions and 89 review cases) in 2004, a 12% decrease. This is the second year in a row that the number of cases has declined by 12%.
- The public defender's office closed 419 mental commitment cases in 2004. Of the new cases closed, 23% were closed because the case was dismissed without a hearing; 12% were closed following a contested hearing; and 65% were closed following a stipulated hearing.
- There were 20 appeals filed in the district court from mental commitment proceedings in 2004 and 2 appeals to the Court of Appeals and Supreme Court.
- The public defender's office opened 178 miscellaneous cases in 2004, including 94 felony revocation of probation cases (53%); 31 fugitive from justice cases (17%) ; 41 adult drug court cases (23%); and reviewed 8 cases involving verdicts of not responsible by reason of insanity (4%).

## **UPCOMING ISSUES**

### **Juvenile Court Contracts**

- As noted previously, in 2004, excluding Motions To Terminate Parental Rights, we saw a 43% increase in the number of 3(a) abuse/neglect filings in the Separate Juvenile Court. Past history shows that for every abuse/neglect case that is filed in Lancaster County Court, 2.5 attorneys must be appointed as either guardian ad litem or attorney. This means that the total number of attorney appointments required for the 286 new cases\* and transferred cases in 2004, required the appointment of 715 attorneys. Assuming that all contractors were able to accept their maximum number of new cases, the contracts would provide for 483 appointments, leaving 232 appointments to the private assigned counsel system.
- It would require 4.5 new contracts to cover this increase. While first and second year compensation of these contracts is less than subsequent years, When the contracts reach their third and subsequent years, the compensation is \$81,000 for each contract.

### **Child Support/Paternity Contract v. Public Defender Staff**

- The current Child Support Paternity Contract does not expire until June of 2006. The evaluation of this contract is going on at the present time. One option would be to transfer these cases back to the public defender's office. This is a decision that should be made during the upcoming budget hearings.
- For the public defender's office, the key to deciding whether to take these cases back will be whether or not additional attorney time could be used to support the increase in misdemeanor workload.
- Other factors also play a part in this decision, not the least of which is expansion/remodeling of the current public defender office space.

### **The Future of Problem Solving Courts**

- The public defender's office was involved in the planning and implementation of both the Adult and Juvenile Drug Courts. Our office contributes significant amounts of attorney time to these programs on a weekly basis. This time is not compensated by any federal or other outside grant. Our office does believe in the work of the Drug Court and supports its continuation.
- Since those courts were implemented, Lancaster County has seen the implementation of a mental health jail diversion grant and will soon see the beginning of a family drug court in Juvenile Court. Neither of these courts are expected to have much of an impact on the public defender's office workload.

\*From experience in 2002 and 2003, we assume that 20% of the 358 felonies were supplemental of filings not requiring appointments, leaving the actual number of new cases at 286.

- If the number of felony and misdemeanor cases continue to rise, there will come a time when additional attorneys will be required. At that point in time, one of the options (although certainly not our preferred option) would be to withdraw from the Drug Courts, in order to redistribute attorney time where needed.

### **The Legislature and Indigent Defense Workload**

- It is anticipated that there will be continuing pressure on the Legislature to create new crimes and/or enhance punishments in certain areas, all of which has an impact on counties' abilities to fund their indigent defense system. For example, there are some who believe that the correct response to the methamphetamine crisis is more crimes and stiffer penalties. Irrespective of whether these type of policies work to solve the problem, little, if any, thought is given, at the state level, to the impact such policies have on indigent defense costs. The same can be said of the new crimes and punishment schemes that are supported by domestic abuse advocate groups.

### **The Supreme Court and Indigent Defense Workload**

- The Nebraska Supreme Court recently appointed a committee whose responsibility it will be to develop standards for guardians ad litem and attorneys in juvenile cases. While we consider this a worthwhile goal, there is a very likely impact that such standards will have on the overall cost of indigent defense, including an impact on public defender time, contractor time, and assigned counsel time. We will have to await the development of these standards before we can fully evaluate the financial impact that they will have on the county.

### **Pre-Trial Release Agency**

- Late in 2004, Lancaster County Community Corrections started the pre trial release function. The Lancaster County Board of Commissioners funded the agency to provide supervision to pre trial felons who would otherwise be held in jail in an attempt to delay the time when an addition to the jail would be needed. It will take some time to determine whether or not the program is serving the purpose for which it was established.

## APPENDIX A

TABLE 1  
LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE  
OPEN/CLOSED CASELOAD REPORT 2004

CASETYPE	PENDING START 2004	OPENED 2004	CLOSED 2004	PENDING END 2004
Appeals	46	110	116	43
Felonies	439	1415	1392	504
Juveniles	439	1467	1462	420
Major Cases	10	12	14	8
Mentals	7	416	420	7
Miscellaneous	104	178	214	73
Misdemeanors	531	3157	3036	683
Totals	1576	6755	6654	1738

**TABLE 2**  
**LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE**  
**HISTORICAL COMPARISON OF CASES OPENED SINCE 1994**

<b>Casetype</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>2003</b>	<b>2004</b>	<b>Chg 03-04</b>
<b>Appeals</b>	57	81	46	71	58	85	86	96	95	109	110	1%
<b>Felonies</b>	779	741	774	840	962	976	981	1130	1404	1368	1415	3%
<b>Juveniles</b>	819	792	931	1288	1484	1605	1453	1520	1487	1331	1467	10%
<b>Major Cases</b>	10	6	6	9	16	13	9	6	10	15	12	-20%
<b>Mental Commitment</b>	254	322	270	324	379	391	406	458	533	471	416	-12%
<b>Miscellaneous</b>	120	109	115	118	151	134	152	221	202	210	178	-15%
<b>Misdemeanors</b>	2225	2096	2560	2646	3148	3438	3306	3661	2955	2749	3157	15%
<b>Totals</b>	4264	4147	4702	5296	6198	6642	6393	7092	6686	6253	6755	8%



## 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	ADOPTED
		2001 TO 2002	2002 TO 2003	2003 TO 2004	2003 TO 2004	2004-2005	2004-2005
1051	OFFICIAL'S SALARY	91,673	95,564	105,500	104,623	111,375	111,375
1052	DEPUTY'S SALARY	93,578	97,066	100,518	256,211	292,957	292,957
1053	REGULAR SALARIES	1,291,340	1,383,949	1,450,096	1,324,400	1,308,634	1,308,634
1054	TEMPORARY SALARIES	0	0	26,000	0	0	0
1101	FICA CONTRIBUTIONS	108,187	115,168	121,070	121,105	127,772	127,772
1102	RETIREMENT CONTRIBUTIONS	102,319	114,633	119,505	116,248	127,485	127,485
1103	GROUP INSURANCE	179,460	208,802	223,344	228,749	235,089	235,089
1106	OTHER EMPLOYEE BENEFITS	50	0	0	0	0	0
1107	GROUP DENTAL INSURANCE	9,495	11,222	12,342	12,471	12,606	12,606
1108	LONG TERM DISABILITY	5,346	6,396	6,279	6,293	6,681	6,681
1109	POST EMPLOYMENT HEALTH PROGRAM	18,035	10,177	20,150	24,028	29,120	29,120
OBJECT CATEGORY: 10 PERS SERV		1,899,483	2,042,977	2,184,804	2,194,128	2,251,719	2,251,719
2051	OFFICE SUPPLIES	10,750	11,556	12,000	11,971	12,000	12,000
OBJECT CATEGORY: 20 SUPPLIES		10,750	11,556	12,000	11,971	12,000	12,000
3053	DATA PROCESSING SERVICE	51,254	50,499	54,121	53,474	49,369	49,369
3057	CONSULTING SERVICES	2,950	7,174	10,000	6,820	6,000	6,000
3069	PSYCHOLOGIST/PSYCHIATRIST	12,224	13,970	18,000	14,008	12,000	12,000
3078	COMPUTER SOFTWARE MAINT/LIC	0	2,468	0	0	0	0
3201	MEALS	1,013	819	1,000	1,247	1,000	1,000
3202	LODGING	3,615	2,840	3,000	4,775	3,000	3,000
3203	FARES	2,834	3,122	3,000	3,146	3,000	3,000
3204	MILEAGE	3,027	3,307	3,200	4,519	4,000	4,000
3205	PARKING & TOLLS	75	129	103	187	100	100
3206	VEHICLE RENTAL	179	115	250	235	250	250
3251	POSTAGE	4,167	3,858	4,500	3,861	4,500	4,500
3252	TELEPHONE LOCAL	15,509	17,272	20,300	14,017	17,000	17,000
3253	TELEPHONE - LONG DISTANCE	949	714	750	687	750	750
3301	PRINTING	2,867	2,482	2,600	3,065	2,730	2,730
3302	PHOTOCOPYING/ABS CONTRACT	14,516	11,278	14,000	8,699	10,000	10,000
3304	ADVERTISING	490	696	750	0	750	750
3305	FILM PROCESSING	564	672	750	812	950	950
3353	CLIENT CLOTHING	39	0	50	0	50	50
3402	WITNESS FEES	1,129	1,898	1,000	2,785	1,100	1,100
3403	COURT COSTS	523	91	500	361	500	500
3404	MEMBERSHIPS & DUES	10,317	10,361	10,385	11,194	10,950	10,950
3405	BOOKS & SUBSCRIPTIONS	9,515	5,556	7,000	6,643	7,000	7,000
3406	ENROLLMENT FEES & TUITION	4,065	5,525	4,604	5,453	4,730	4,730
3412	OTHER MISC FEES & SERVICES	42,279	37,522	38,500	40,146	39,500	39,500
3424	INTERPRETER	10,434	14,430	11,500	14,246	16,000	16,000
3425	LAB FEES	516	0	0	0	0	0
3452	LIABILITY INSURANCE	6,375	6,800	6,800	6,800	6,800	6,800
3455	OFFICIAL'S BONDS	0	35	0	0	0	0
3456	EMPLOYEE'S BONDS	240	540	500	300	500	500
3553	OFFICE EQUIPMENT R & M	0	0	500	421	500	500
3604	RENT BUILDINGS	56,876	67,322	73,786	75,136	73,786	73,786
OBJECT CATEGORY: 30 OTH SER CHAR		258,541	271,495	291,449	283,037	276,815	276,815
4202	OFFICE EQUIPMENT	1,374	0	1,000	175	1,000	1,000
4212	COMMUNICATION EQUIPMENT	1,637	110	250	0	250	250
4216	FURNITURE & FIXTURES	1,255	0	750	941	750	750
OBJECT CATEGORY: 40 CPTL OUTLAY		4,266	110	2,000	1,116	2,000	2,000
TOTAL FOR AGENCY: 625		2,173,040	2,326,138	2,490,253	2,490,252	2,542,534	2,542,534

## 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