

2006 ANNUAL REPORT OF THE LANCASTER COUNTY PUBLIC DEFENDER

"Equal justice under law is not merely a caption on the facade of the Supreme Court building, it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists... it is fundamental that justice should be the same, in substance and availability, without regard to economic status."

***Lewis Powell, Jr.,
U.S. Supreme Court Justice***



The equal justice community in Nebraska may look back on 2006 as the year of standards for indigent defense services. I was actively involved in some of the work on adult standards, was made aware of other activity regarding the development of juvenile standards, and effectively argued the use of standards in my own local budget process.

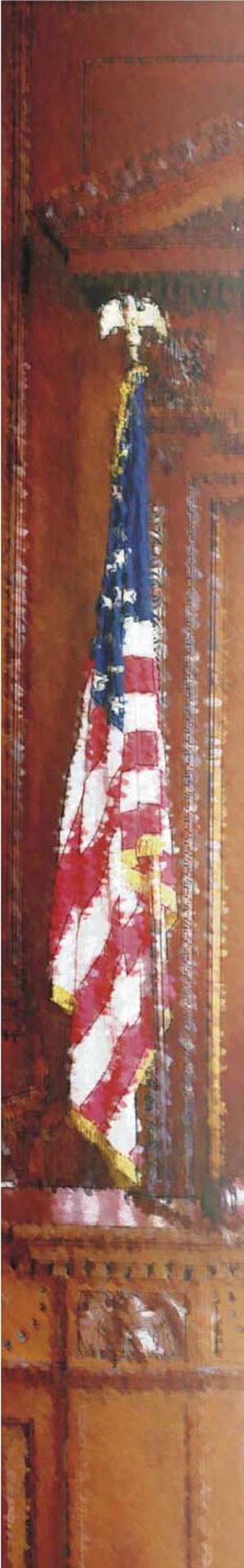
The Minority Justice Committee, of which I am a member, is a joint project of the Nebraska State Bar Association and the Nebraska Supreme Court. A request from the Nebraska Supreme Court for a study led our group on a journey which ended up examining all of the major issues relating to indigent defense systems in Nebraska and recommending standards to the Nebraska Supreme Court. At virtually the same time, the Supreme Court's Committee on Children and the Courts was examining the juvenile justice system in Nebraska and ended up recommending standards for attorneys who practice in juvenile court both as attorneys and as guardians ad litem. That group also forwarded recommended standards to the Nebraska Supreme Court.

One might wonder why there is this sudden interest in standards in Nebraska. However, what might appear as "sudden interest" to some is actually the culmination of many years of work at both the national and local levels to improve the systems which are supposed to deliver equal justice for the poor.

The recognition of the need for national standards concerning the provision of indigent defense services began in 1967 with the American Bar Association's *Standards for Criminal Justice, Providing Defense Services*, now in its 3rd edition. This was followed in 1973 by the President's National Advisory Commission on Criminal Justice Standards and Goals, Chapter 13, The Defense, and then by the National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States*. The American Bar Association and the National Legal Aid and Defender Association also produced a series of standards covering the areas of appeals, juvenile defense, death penalty, contract defender systems, assigned counsel systems, and defender training. The national standards have also been implemented by a variety of means at the state and local level, including legislation, court rule or decision, incorporation into indigent defense services contracts, adoption by state or local defender program or bar association, and program audit or evaluation according to the standards.

In Nebraska, the Legislature enacted legislation in 2001 that established the Indigent Defense Standards Advisory Council. Nearly \$1 Million was appropriated to reimburse counties for some of their indigent defense costs if they met the standards. The Council was actually appointed and met over the period of a year and developed standards that were approved by the Commission on Public Advocacy. However, due to a budget crisis, the state, in a special legislative session, withdrew the appropriation for the counties.

From that time forward, nothing much happened in Nebraska regarding indigent defense standards until 2006 when the Minority and Justice Committee and the Committee on Children and the Courts presented the



Nebraska Supreme Court with proposed standards and asked the Court to adopt them statewide. Those proposed standards relate to all types of systems (public defender, assigned counsel, and contracts) and to all types of cases (capital, felonies, misdemeanors, juvenile) and cover the landscape regarding issues, including the qualifications of attorneys for appointments, the appointment process, fees, costs and caseloads. As of this writing, the Nebraska Supreme Court has not acted on these proposed standards.

Even though there are no statewide standards for indigent defense, our office has had standards for a number of years. These standards, particularly the caseload standards, have played an important role in our budgeting process on several occasions. In 2006 for example, the County Board approved the increase of a part time attorney position to a full time position based, in part, upon our caseload figures which clearly showed the need for additional staffing. This came on the heels of an increase of 1 full time attorney position in the felony division in 2005, again supported by our caseload standards.

I am sometimes asked if it is difficult explaining the indigent defense system and the need for standards to my County Board, none of whom are attorneys. The answer is "no" for a very simple reason. The concept of using standards to address quality concerns is not unique to the criminal defense area. There are other areas of government where strong pressures may threaten fundamental quality. County commissioners, supervisors, and legislators long ago ceased taking the lowest bid to build a school or bridge, realizing that standards were necessary to compare bids with confidence. With standards, they could assume that contractors will comply with and the structures will be built in accord with accepted national standards and codes. Enforcement of standards, in the form of inspection and oversight, help assure the compliance of professionals with national norms in areas where the legislators themselves may lack any expertise.

The Lancaster County Board of Commissioners understands the importance of and the need for standards in performing governmental services. We appreciate their support of indigent defense standards and their willingness to act when needed.

Dennis Keefe

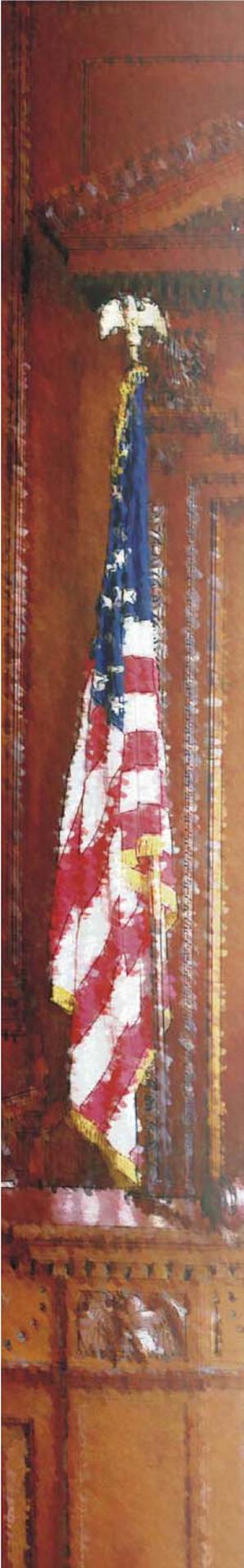
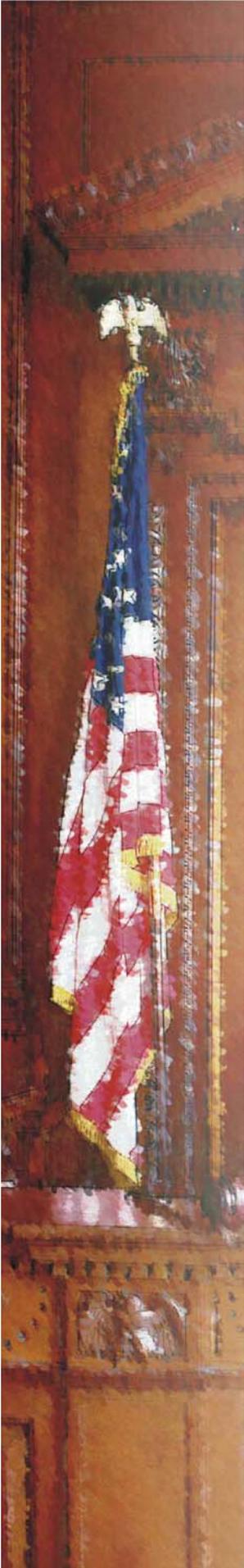


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Mission Statement

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 that each client should receive high quality legal representation which is as good as that provided by the best of the private bar.

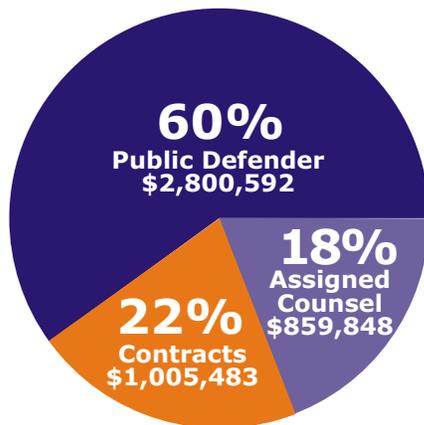
Goals

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.

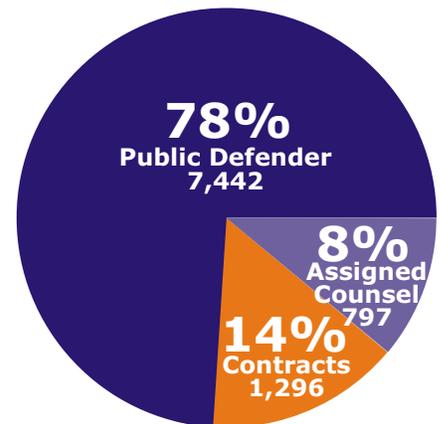
Overview of Lancaster County's Indigent Defense System

The courts in Lancaster County use three types of systems to provide attorneys for eligible individuals who exercise their constitutional right to counsel. In felony and misdemeanor cases, the courts use the public defender system as their primary system and private assigned counsel for those cases where the public defender has a conflict or otherwise cannot provide the services. In some of these cases, the Nebraska Commission on Public Advocacy agrees to represent the defendant, when conflicts arise, at no charge to Lancaster County. In juvenile court, the public defender system is the primary system for law violation cases and status cases with contractors and assigned counsel used for conflicts. In the abuse/neglect cases in juvenile court, the contractors are the primary system backed up by private assigned counsel. The following charts show how the money was spent on each system in 2006, the number of cases handled by each type of system and the expenditures by types of cases.

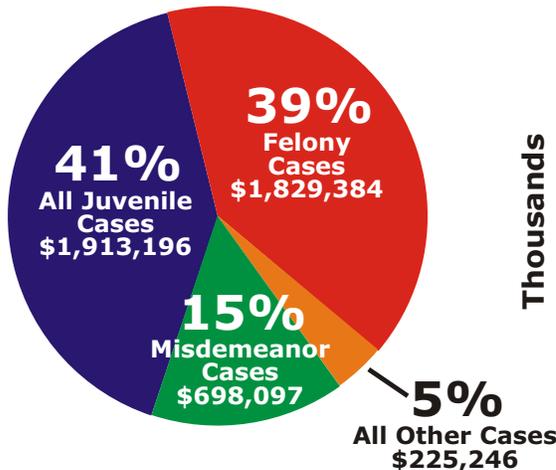
Total 2006 Expenditures By Type of System¹



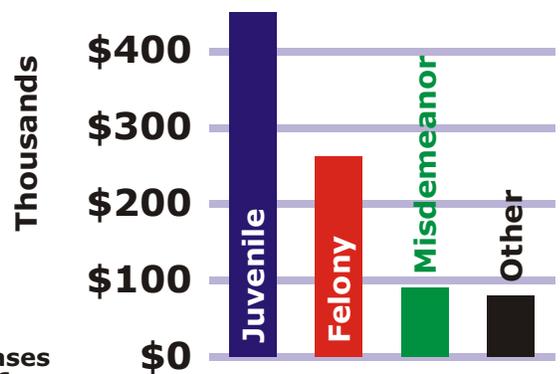
Total 2006 New Open Cases By Type of System²



Total 2006 Indigent Defense Expenditures By Type of Case



Total 2006 Expenditures for Assigned Counsel By Type of Case



1. In past versions of this report we used "budgeted amount" for a fiscal year to show all expenditures. Beginning in 2005, we began using actual expenditures for the calendar year covered by the report. This would apply to all expenditure comments and charts in this report.

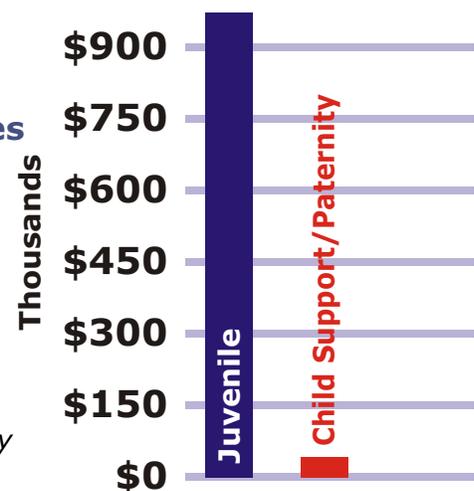
2. The figures for number of cases assigned to private counsel in felony and misdemeanor cases includes cases assigned to the Nebraska Commission on Public Advocacy. The number of assigned counsel cases in juvenile court is an estimate based upon claims for fees in juvenile cases in 2006. Fortunately, the juvenile judges began tracking private assigned counsel appointments in juvenile court in 2007.

2006 Assigned Counsel Notes

- Of the 1,532 felony cases closed by the public defender's office in 2006, 310 cases (20%) were closed because of a conflict of interest which required the appointment of the Commission on Public Advocacy or private assigned counsel. One Major Felony (First Degree Murder) was closed in 2006 because of excessive caseload in the Public Defender's Office. The Commission on Public Advocacy accepted the appointment in that case at no cost to Lancaster County.
- Assigned counsel was paid \$255,598 in 322 felony cases in 2006. The cost per case for those non major felony cases closed by assigned counsel in 2006 was \$793, compared to \$846 in 2005 and \$736 in 2004.³
- The Nebraska Commission on Public Advocacy was appointed to represent clients in 31 of the 310 felony cases where the public defender had a conflict at the trial level in 2006, and one Major Felony (First Degree Murder) where the Public Defender's Office was relieved of appointment because of excessive caseload. The commission's services are provided at no cost to Lancaster County.
- Of the 3,917 misdemeanor cases closed by the public defender's office in 2006, 420 (10%) were closed because of a conflict of interest requiring appointment of assigned counsel. Assigned counsel was paid \$81,741 in 294 misdemeanor cases in 2006. In the misdemeanor cases closed by assigned counsel in 2006, the cost per case was \$278 compared to \$286 in 2005 and \$261 per case in 2004.⁴
- Juvenile Court spent a total of \$442,772 on assigned counsel in 2006, representing a 6% decrease in the amount spent in 2005, although this is still 30% above the 2004 figures. The number of abuse/neglect filings between 2005 and 2006 increased by 1%. The number of filings in these cases has been virtually the same for the past 3 years.

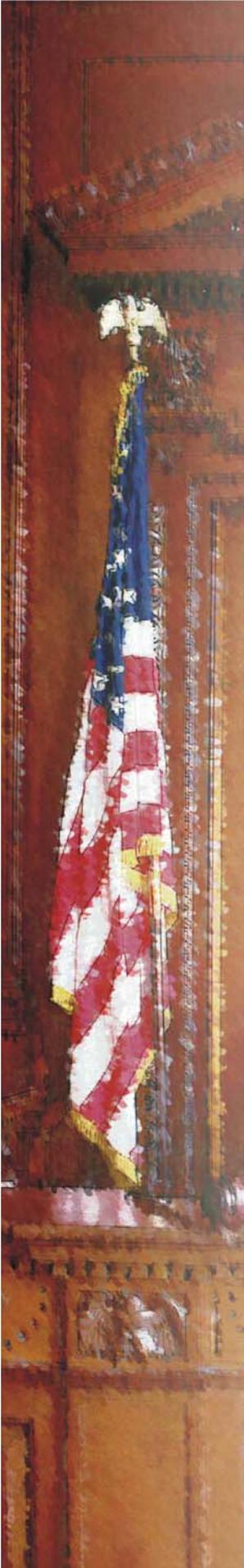
Total 2006 Expenditures for Contracts By Type of Case

Juvenile
\$965,914 (96%)
Child Support/Paternity
\$39,569 (4%).



3. These cost per case figures are based only upon those felonies that were completed in 2006.

4. Only completed cases were counted for the cost per case figure.



Contract Notes

- On July 1, 2006, the contract that Lancaster County had with Susan Ugai for legal services in Child Support Enforcement Cases and Paternity cases expired. The Lancaster County Public Defender's Office assumed responsibility for these cases at that time in an agreement with the County Board to increase the part time attorney position in the office to full time.
- Lancaster County spent \$965,914 for contracts in juvenile court in 2006 and \$39,569 for the child support/paternity contract (which ended July 1, 2006) for a total of \$1,005,483 for all contracts in 2006.
- In 2006, the County renewed their juvenile court contracts with the law firms of Demars/Gordon and Joy Shiffermiller. Due to Judge Roger Heideman's appointment to the Separate Juvenile Court, the Morris/Titus law firm withdrew from the agreement and it was assumed by the law firm of Pollack and Ball. Two new contracts were entered into in 2006—one with Susan Kirchmann, assisted by Peter Thew and another with attorney Marcia Little, assisted by Elizabeth Sterns.
- At the end of 2006, Lancaster County had contracts for legal services in Juvenile Court, with 11 private attorneys/law firms and one with Legal Aid of Nebraska.

Lancaster County Indigent Defense Advisory Committee

In 1995, at the request of the 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. We want to thank the volunteer members of this committee who served during 2006. They are Andy Srotman, Randy Goyette, Sean Brennan, Brad Roth, and Jeanelle Lust.

Public Defender's Office Operations The Felony Division

Scott P. Helvie, Chief Deputy
Robert G. Hays, Chief Deputy
Joseph D. Nigro, Deputy
Webb E. Bancroft, Deputy
Kristi J. Egger-Brown, Deputy
Shawn D. Elliott, Deputy
Timothy M. Eppler, Deputy
Christopher L. Eickholt, Deputy
Reggie L. Ryder, Deputy

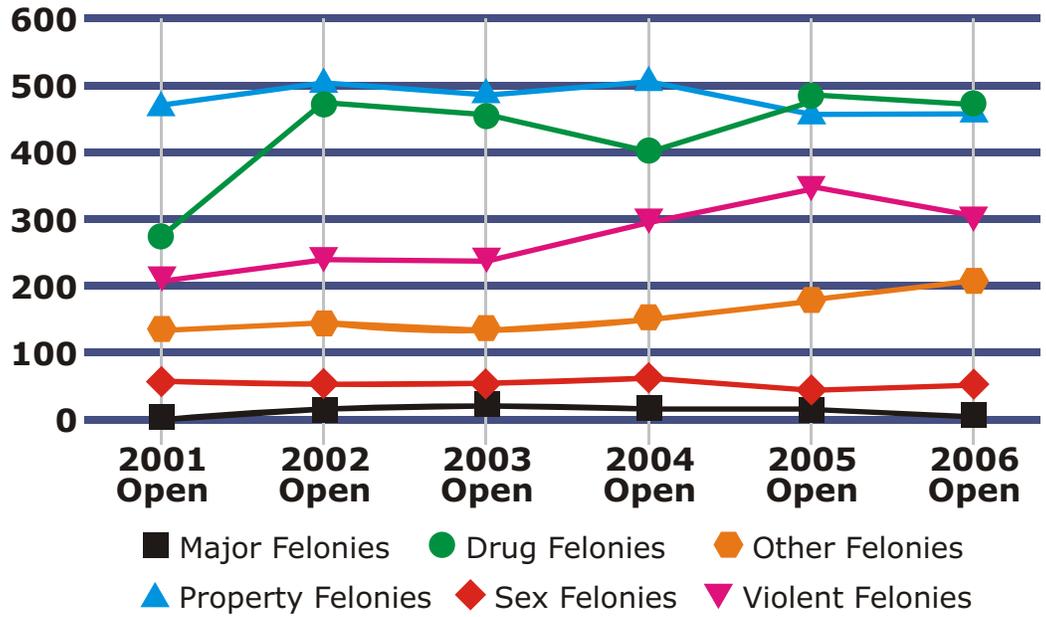
Joe Renteria, Investigator

Jed Rojewski, Paralegal
Kristi Gottberg, Paralegal

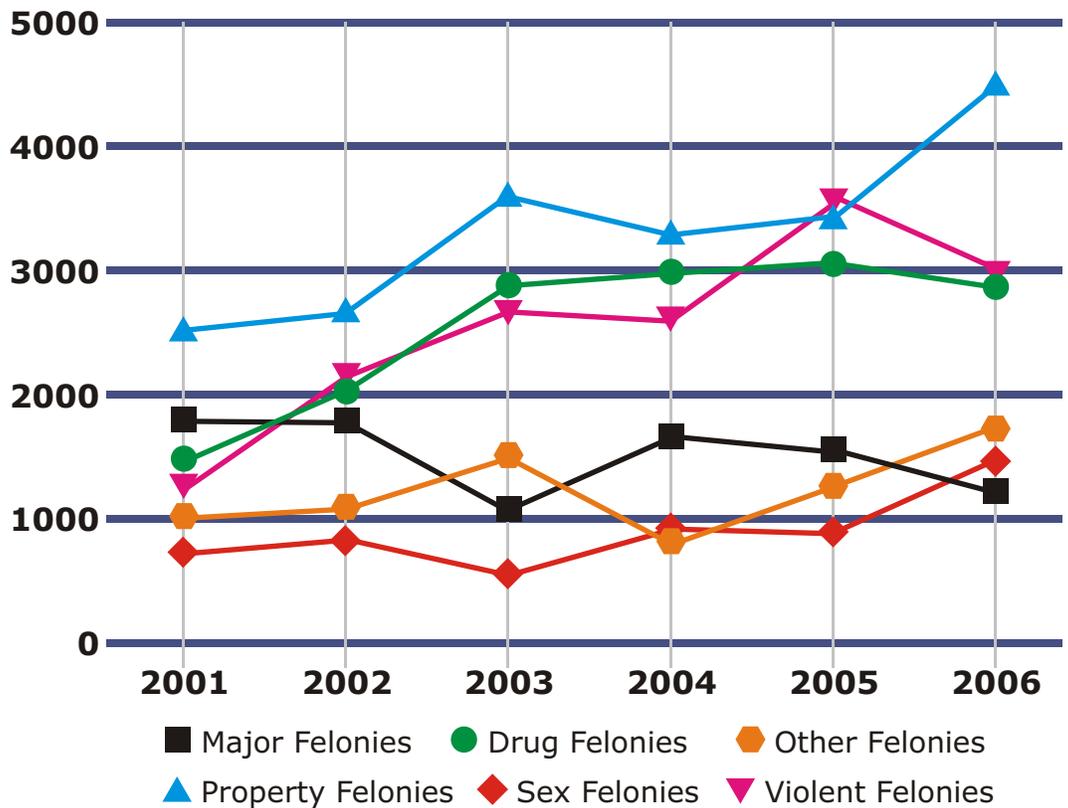
Gabriela Acosta-Lohman, Law Clerk
Mindy Rush, Law Clerk
Joshua Pluta, Law Clerk
Valerie McHargue, Law Clerk

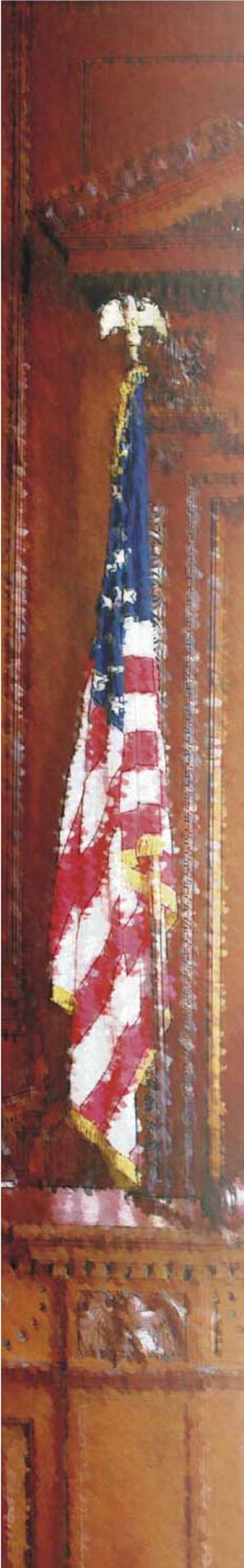


New Open Felonies By Type



Attorney Time Devoted To Felonies

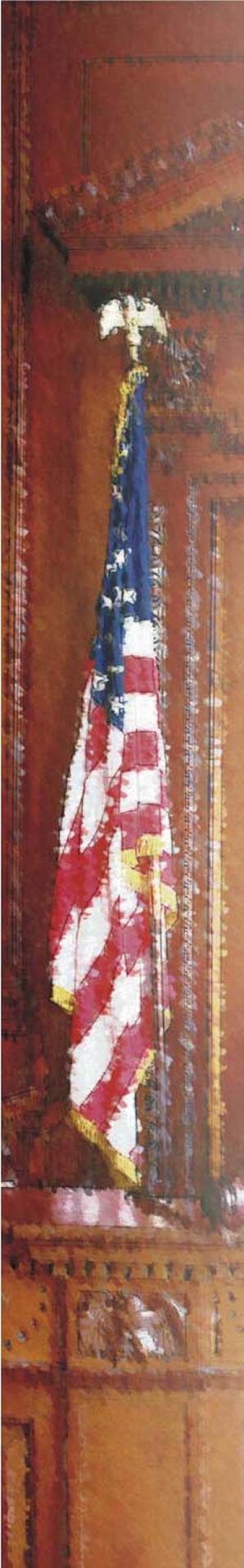




Felony Case Notes

- The county attorney's office filed 1,938 felony cases in Lancaster County Court in 2006, representing an 8% increase over 2005.⁵ The public defender's office was appointed in 1,510 (78%) of those cases in the first instance.
- The 1,510 felony cases opened by the public defender in 2006 represents a 1% decrease over 2005, but a 6% increase over 2004, and a 9% increase since 2003.
- The number of felony cases pending in the public defender's office at the end of 2006 was 4% higher than the number pending at the end of 2005 and 11% higher than the number pending at the end of 2004.
- The largest increase (19%) occurred with the Sex Felonies, followed by Other Felonies (14%). Violent Felonies and Property Felonies actually declined slightly.
- Major Cases Opened and Closed in 2006: The number of Major Felony Cases opened in 2006 was an all time record low (4 cases) and we closed 8 cases total. The office opened one case of Child Abuse Resulting in Death in 2006; we opened one case of First Degree Murder and closed 3 (one after a plea to reduced charges, one after jury trial and conviction, and one for excessive caseload); we opened one case of Second Degree Murder; we closed one case of Manslaughter after a plea and we closed two cases of Attempted Second Degree Murder following pleas; we opened one case of Kidnaping and closed two (both for conflicts of interest).
- In 2006, the Public Defender's Office had 37 clients with 57 cases admitted to the Adult Drug Court Program. 23 public defender Drug Court clients with 25 cases had their cases closed in 2006; 11 clients (48%) were closed following successful graduation and case dismissal and 12 of the clients (52%) were closed for unsuccessful participation and the cases were referred back to the regular criminal courts.

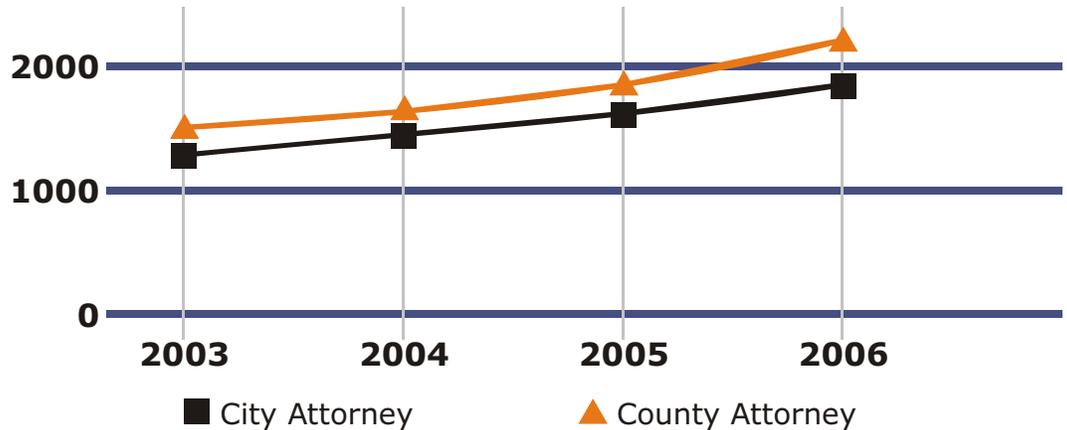
5. The figures for new filed felonies has been provided by the Lancaster County Judicial Administrator for this year as was done last year. We should note however, that the State Court Administrator's Office reported 1,940 felony filings for Lancaster County and the Lancaster County Attorney's Office reports 1,879 felony filings in 2006.



Misdemeanor Division

Susan R. Tast, Deputy
Andrea D. Snowden, Deputy
Matthew G. Graff, Deputy
Angela Franssen, Paralegal
Steve Schultz, Paralegal

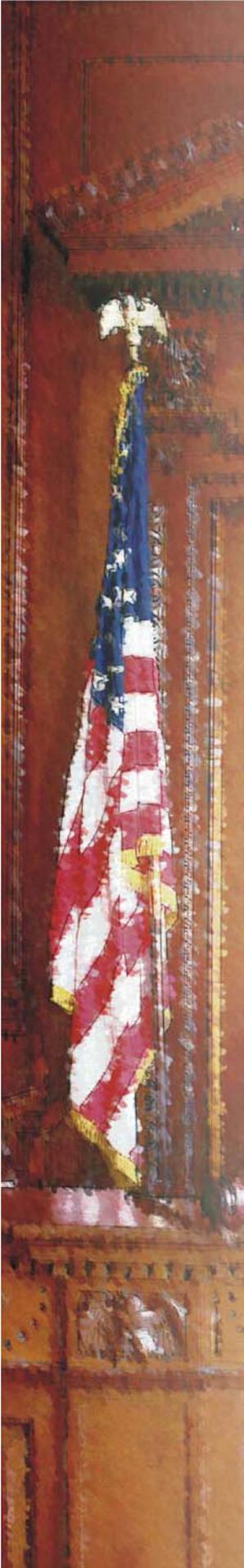
Growth in Public Defender Misdemeanor Cases filed by the City Attorney and County Attorney from 2003-2006



Misdemeanor Case Notes

- Non traffic misdemeanor filings in Lancaster County Court, including filings by the City Attorney and the County Attorney, decreased by 11% from 2005 to 2006.⁶ These figures are from the State Court Administrator.
- Public Defender Office appointments in overall misdemeanor cases increased by 15% from 2005 to 2006. The increase for City Attorney filed cases was 20% and for County Attorney filed cases, the increase was 12%.
- Public Defender Office Appointments in City Attorney filed cases has increased by 43% from 2003 to 2006 and County Attorney filed cases increased by 55% during that time period.
- There are 3 Deputy Public Defenders and one paralegal assigned to the County Attorney filed Misdemeanors which totaled 2222 new cases in 2006.
- There is one Deputy Public Defender and one paralegal assigned to the City Attorney filed Misdemeanors which totaled 1879 new cases in 2006. The Major categories of cases here would be Drunk Driving Cases (434), Driving on Suspended License Cases (428), Assault (255), Theft (161), Disturb The Peace (110), and Minor In Possession of Alcohol (88). Other relatively minor offenses are also included such as Consuming Alcohol in Public, Criminal Mischief, Disorderly House, Pawn or Sell property with two Prior Thefts, and Trespass.

6. These figures are from the State Court Administrator.

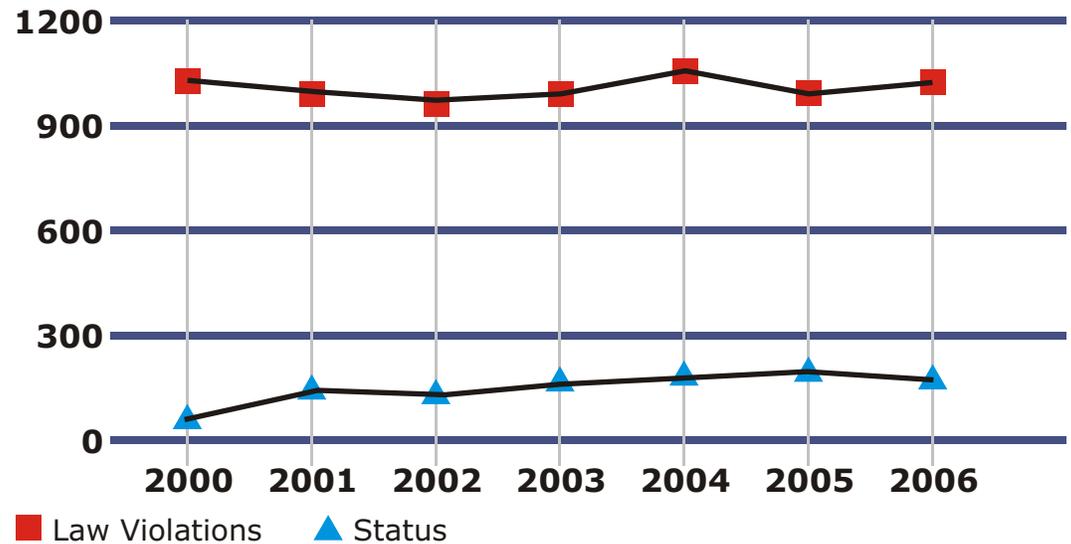


Juvenile Division

Margene M. Timm, Chief Deputy
Reggie L. Ryder, Deputy
Paul E. Cooney, Deputy

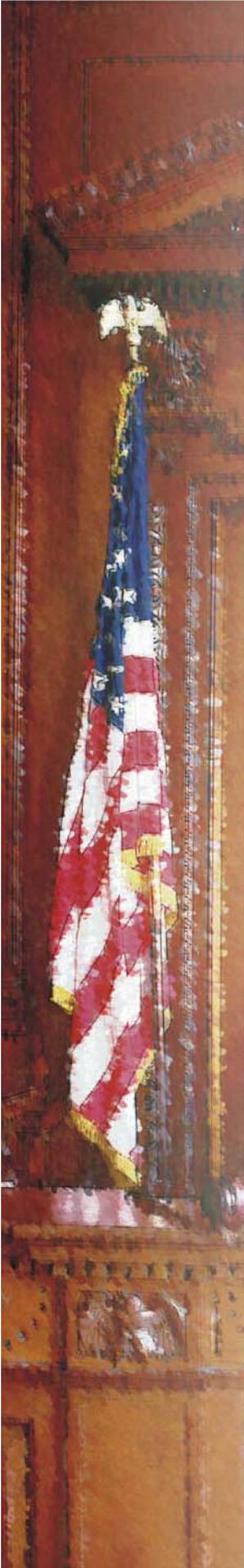
Jed Rojewski, Paralegal
Kristi Gottberg, Paralegal
Angelia Onuoha, Paralegal

Juvenile Case Openings By Case Type



Juvenile Case Notes

- According to the State Court Administrator's Office, law violation filings in the Separate Juvenile Court increased by 5% from 1,374 filings in 2005, to 1,436 in 2006. Public Defender appointments increased by 11%.
- Status cases (mostly school truancies) saw a 19% decrease in filings in 2006 but the number of cases opened by the public defender's office decreased by only 8%. However, since 2000, the public defender appointments in status cases has more than doubled. Status cases (mostly school truancies) saw a 19% decrease in filings in 2006 but the number of cases opened by the public defender's office decreased by only 8%. However, since 2000, the public defender appointments in status cases has more than doubled.
- The Public Defender's Office opened 16 new cases in the Juvenile Drug Court program in 2006 and closed 14. Of the 14 cases closed, 7 were closed following successful completion and graduation and 7 were closed following unsuccessful termination from the program.



Mental Health Commitments, Child Support Enforcement Paternity, and Miscellaneous Cases

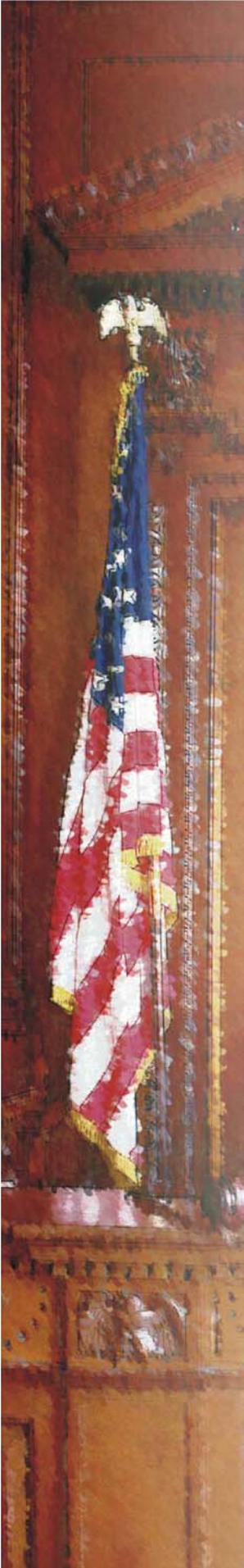
Dorothy A. Walker, Deputy
Angelia Onuoha, Paralegal
Gabriella Acosta-Lohman, Law Clerk
Joshua Pluta, Law Clerk

- The overall number of new mental health commitment cases and reviews opened in 2006 declined by 11% to 370 cases. The number of new petition cases declined from 305 in 2005 to 267 in 2006 and the number of review cases decreased from 110 in 2005 to 105 in 2006.
- The public defender's office closed 368 mental commitment cases in 2006. Of the cases closed, 27% were closed because the case was dismissed without a hearing; 11% were closed following a contested hearing; and 60% were closed following a stipulated hearing and 2% were closed because of a conflict of interest.
- There were 12 appeals filed in the district court from mental commitment proceedings in 2006 and two appeals to the Court of Appeals and Supreme Court.
- The public defender's office opened 210 miscellaneous cases in 2006, including 105 felony revocation of probation cases (50%); 32 fugitive from justice cases (15%); 57 adult drug court cases (27%); and reviewed 14 cases involving verdicts of not responsible by reason of insanity (7%).
- In July of 2006 the Public Defender's Office took over the Child Support and Paternity cases from the long time contractor. Our office opened 503 Child Support cases (though many were made inactive) and 97 Paternity cases.

Upcoming Issues

The Cost of Counsel In Juvenile Court

- With the addition of two new contracts in juvenile court in 2006, the cost of contracts exceeded \$1 Million for the first time. Although the expenditures for assigned counsel declined slightly, Lancaster County still spent almost \$443,000 on assigned counsel in juvenile court in 2006. In addition, the Public Defender's Office budget for juvenile cases exceeded \$500,000 in 2006. By the end of 2006, a Supreme Court committee had recommended standards to the Nebraska Supreme Court for all juvenile cases and a legislative proposal was being prepared to transfer the costs of providing counsel in juvenile court from the county to the state. Standards could have the impact of increasing the work required in these cases and thereby the costs. The proposed legislation would move approximately \$2 Million of expenditures from Lancaster County to the State of Nebraska. We will have to be keenly focused on both of these developments over the coming months.



Public Defender City Attorney Misdemeanor Cases

- Through an inter local agreement, the City of Lincoln has contributed to Lancaster County's costs of providing indigent defense services to individuals charged with misdemeanors filed by the City Attorneys Office. One attorney is assigned to this docket in the Public Defender's Office and one paralegal is assigned to assist. With recent increases in the caseload, it is no longer reasonable to expect one attorney to be able to provide the services. This docket clearly calls for two attorneys. The increase in the number of these cases for our office was 20% in 2006 over the 2003 figures and 43% over the 2003 figures. We will be pursuing a three year approach to resolving this problem, but we definitely need to increase the attorneys in this docket.

New Home For the Public Defender's Office

- The Public Building Commission has designated Courthouse Plaza Office Building as the future home of the Lancaster County Public Defender's Office. We have agreed to this move to the 3 story office building to make room in the County-City Building for other offices that need to consolidate or expand. Much time was spent in 2006 in the design of the new space and the furniture and equipment needs that will go with it. The move-in date has been scheduled for November 1, 2007.

New Case Management System

- The move to a new case management system, Defender Data, has been slower than we would like to see, but there were signs as of this writing that we are moving closer to a launch date.

Child Support Paternity Cases

- The Lancaster County Public Defender's Office opened over 600 pending child support and paternity cases when we resumed responsibility for the caseload in 2006. For the most part, other agencies involved in these cases have cooperated with the scheduling problems presented by the work, which is necessary to make the work go smoothly. The only problematic issue has been our appointment in contempt action brought by private attorneys which require considerably more work because of the scheduling problems.

Appendix A

TABLE 1

**Lancaster County Public Defender's Office
Open/Closed Caseload Report 2006**

CASETYPE	PENDING START	OPENED 2006	CLOSED 2006	PENDING END 2006
Appeals	50	119	123	50
Felonies	536	1506	1532	558
Juveniles	394	1520	1542	387
Major Cases	8	4	8	4
Mentals	6	370	368	10
Miscellaneous	71	810	319	194
MIsdemeanors	741	4101	3917	909
Totals	1806	8430	7809	2112

TABLE 2

**Lancaster County Public Defender's Office
Historical Comparison of Cases Opened Since 1996**

CASETYPE	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Chg. 05-06
Appeals	46	71	58	85	86	96	95	109	110	107	119	11%
Felonies	774	840	962	976	981	1130	1404	1368	1415	1515	1506	-1%
Juveniles	931	1288	1484	1605	1453	1520	1487	1331	1467	1417	1520	7%
Major Cases	6	9	16	13	9	6	10	15	12	11	4	-64%
Mental Comm.	270	324	379	391	406	458	533	471	416	415	370	-11%
Misc.	115	118	151	134	152	221	202	210	178	187	810	333%
MIsd.	2560	2646	3148	3438	3306	3661	2955	2749	3157	3551	4101	15%
Totals	4702	5296	6198	6642	6393	7092	6686	6253	6755	7203	8430	17%

Appendix B

Lancaster County General Fund Expense Budget

Public Defender EXPENDITURES	ACTUALS 2004-05	MODIFIED BUDGET 2005-06	ACTUALS 2005-06	PROPOSED BUDGET 2006-07	ADOPTED 2006-07
SALARIES & WAGES	1,753,093	1,846,521	1,848,062	1,974,342	1,974,342
EMPLOYEE BENEFITS	554,891	583,778	574,408	588,936	588,936
OFFICE SUPPLIES	13,018	12,000	13,376	12,750	12,750
OTHER CONTRACTED SERVICES	52,986	57,068	60,265	53,481	53,481
TRANS, TRAVEL & SUBSISTANCE	8,560	10,300	11,908	11,275	11,275
COMMUNICATIONS	18,474	17,750	18,486	18,050	18,050
POSTAGE, COURIER & FREIGHT	3,911	4,250	4,993	5,000	5,000
PRINTING & ADVERTISING	12,977	13,730	13,521	13,825	13,825
CONTRACTED HEALTH SERVICE	18,581	14,500	12,696	14,500	14,500
OTHER CLIENT SERVICES	11	50	0	50	50
MISC FEES & SERVICES	109,348	99,273	95,725	92,248	92,248
INSURANCE & SURETY BONDS	7,907	7,557	7,267	7,592	7,592
REPAIR & MAINTENANCE COST	765	500	284	500	500
RENTALS	74,056	75,219	75,219	75,219	75,219
EQUIPMENT	1,587	2,726	2,717	3,446	3,446
TOTAL PUBLIC DEFENDER	2,630,165	2,745,222	2,738,925	2,871,214	2,871,214



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.

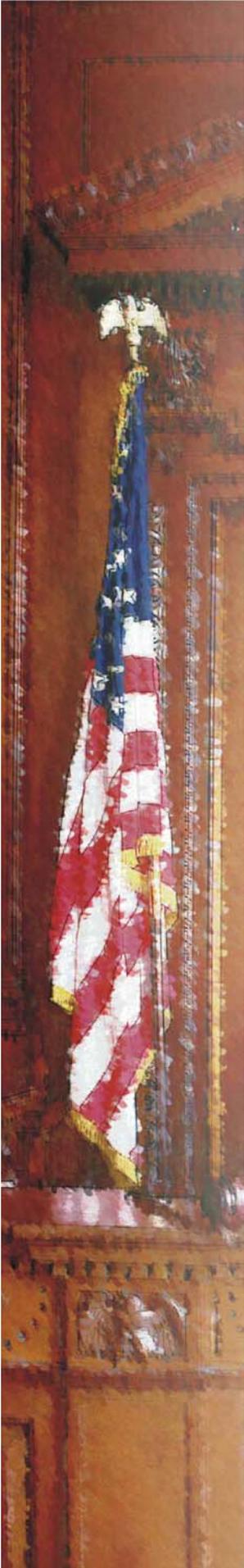
(1) There is hereby created the office of public defender in counties that have or that attain a population in excess of one hundred thousand inhabitants and in other counties upon approval by the county board. The public defender shall be elected as provided in the Election Act.

(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.



Appendix C *(continued)*

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
