



"No

Person

shall be denied...
equal protection of the laws."

Article I, Section 3 of
The Constitution of the State of Nebraska
as amended by a vote of the people
November, 1998.

**The 1999 Annual Report of the
Lancaster County Public Defender**

Dennis R. Keefe, Public Defender



The Lancaster County Public Defender's Office

1999 Annual Report

Dennis R. Keefe, Public Defender

After more than 27 years as a public defender, I sometimes have to remind myself why people in our profession do what we do. It certainly isn't for the money. It also isn't for public acclaim. Many members of the public do not understand what it is that we do, and some who think they understand see us as simple extensions of our clients. Yet, recently I have sensed a new breeze beginning to blow through the public's perception of the criminal justice system, including the function of the defense attorney.

In the spring of 1999, I was invited to speak to a community service organization following one of their monthly dinner meetings. The invitation itself was not unusual. I am often asked to try to explain to citizens groups why they should be happy that their tax dollars are going to pay attorneys to represent individuals charged with crimes. Needless to say, this is often a rather daunting task. I always prepare myself for the inevitable question following my presentation, "How can you sleep at night knowing that you represent guilty people?"

However, this invitation was somewhat unusual because of the subject matter that I was asked to discuss. I was being requested to not only discuss the general duties of the public defender, but to talk about the importance of those duties in light of the emerging problem of so many wrongful convictions that were being discovered around the country.

The individual who extended the invitation had apparently been paying close attention to recent national news stories from several areas of the country dealing with the "mistakes" of innocent people being convicted by the criminal justice system. He talked about the fact that more people on death row in Illinois had been released when it was shown that they were innocent than had been executed. He talked about a series of articles in a national newspaper dealing with innocent people being convicted of murder through a manipulation of evidence by police and prosecutors. And he talked about a specific case which had been highlighted on a recent television news program where the individual (eventually freed because DNA evidence proved his innocence) had been convicted of murder based upon perjury by a police officer.

At first, I had to pinch myself to make sure I wasn't dreaming. The organization that I was invited to speak to was a fairly conservative business-oriented service group. My apparent task was to discuss the role of the public defender in the context of representing innocent people who were being unfairly railroaded by an unjust system. It appeared that little was needed in terms of public education.

In my preparation for this public speaking engagement, I began to think about all of the reasons that those of us who do public defender work enjoy it. One of the obvious reasons is that it is very important, even if unpopular, work. Nowhere is this more apparent than in those situations where innocent people have been charged or convicted. In such situations it is easy for us to justify, and for the public to understand, the need for the right to counsel.

Much of the recent dramatic increase in the discovery of innocent people who were convicted of crimes they did not commit, is due to new and improved technology, particularly DNA testing. These type of incidents are good public education tools. They make it easy to explain why we need to bend over backwards to insure fairness in our justice system. It is worth remembering that, in this educational effort, we are counteracting years of demagoguery by unprincipled politicians (many of them lawyers). Much of the unfairness that permeates our current system of justice nationally and is evidenced by the discovery of innocent people having been convicted, stems from the substitution of thoughtless political rhetoric for sound criminal justice policy.

One thought kept recurring as I prepared for my meeting - we cannot allow the public debate to be restricted to a discussion of only "the innocent convicted." In a truly fair system of justice, it cannot be just the "obviously innocent" who should be provided with the effective assistance of counsel, but all those who are accused by their government. After all, in the recent cases dealing with innocent people who were convicted, the general public (and a jury) was led to believe by prosecutors and the media that the innocents were guilty.

If we limit the right to counsel only to those who are "obviously" innocent, we would certainly miss cases involving actually innocent people. What government agency or person is going to determine which individuals are innocent and deserving of counsel and which are so obviously guilty that the due process protections need not apply? As we enter a new century for this experiment in a democratic republic, it is more than a little interesting that we are still dealing with such fundamental issues of how to provide fairness in our system of justice.

In its 28th year of existence, the Lancaster County Public Defender's Office experienced a number of changes in staff. We saw two attorneys leave, and two attorneys take their place and the addition of another felony attorney position. The Public Defender's Office has grown into a moderate size office in the past few years. One thing that hasn't changed, however, is the dedication of the staff to the principle of equal justice.

Dennis R. Keefe



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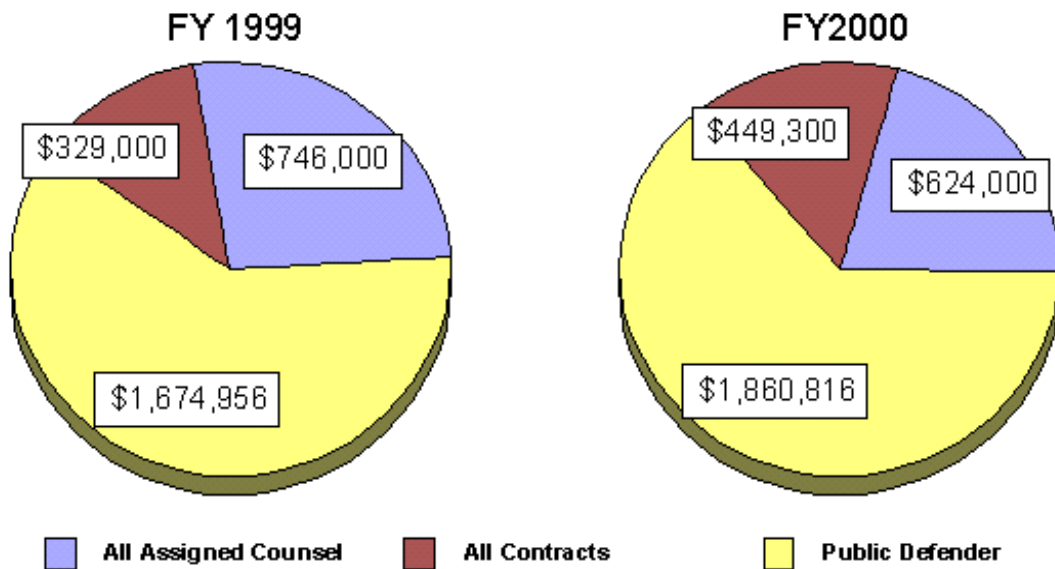
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An Overview of the Indigent Defense System in Lancaster County

In Lancaster County, the indigent defense system has several component parts: the Lancaster County Public Defender’s Office; several contracts with agencies and private firms; and an ad hoc system of assigned counsel where judges appoint private attorneys who are then paid on an hourly basis. In the pie chart below, we compare those components in terms of expenditures for fiscal years 1999 and 2000. Contract expenditures for Juvenile Court which are carried in the Public Defender’s budget, are shown as “All Contracts” expenditures.

Lancaster County Indigent Defense Costs FY99 Actual Expenditures & FY2000 Budgeted



Contracts

There has been growth in the contracts component and a shrinking of the assigned counsel component in recent years. Lancaster County currently has five contracts with private attorneys or agencies, four for Juvenile Court work and one for the Child Support Enforcement work. The Child Support Enforcement contract is with the private firm of Ugai and Lindgren. They represent individuals in child support contempt actions and paternity establishment actions.

The County also has a contract with Legal Services of Southeast Nebraska for representation of individuals in the Juvenile Court. The current contract provides for appointment in up to 150 new

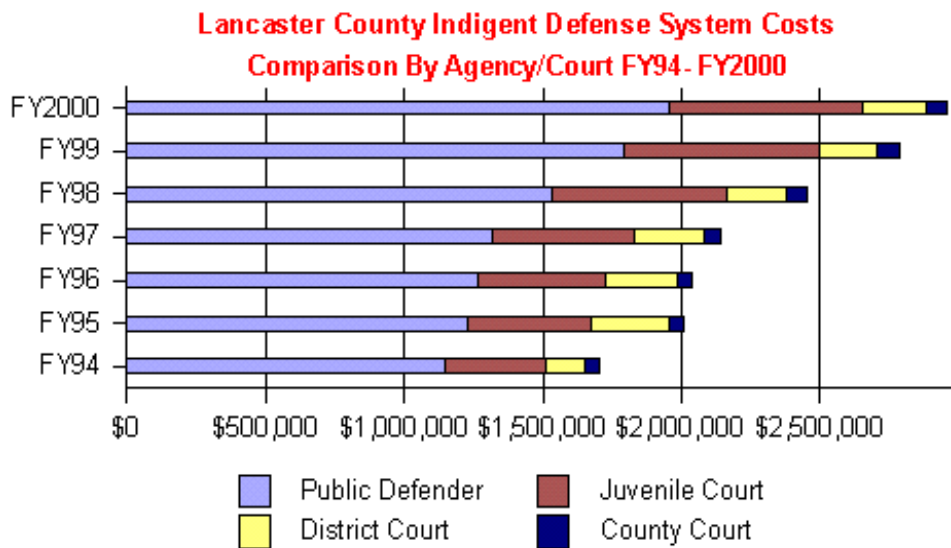
Abuse/Neglect cases, 150 Law Violation cases (when the Public Defender has a conflict), and up to 75 Status type cases. Three private firms (Orton, Thomas, and O’Connell; Glynn and Bollerup; and Anderson, Creager and Wittstruck) also have contracts with the county for work in the Juvenile Court. Each of these contracts is currently for up to 50 new appointments in the Abuse/Neglect cases per year, with a maximum pending number of 120 cases.

Assigned Counsel

The Assigned Counsel component is the most expensive, with rates of \$65 per hour in District and County Court (up to \$85 per hour in First Degree Murder cases) and \$60 per hour in Juvenile Court. In 1999, the average cost per case for assigned counsel was as follows: non-major felony cases - \$995; misdemeanors cases - \$292; juvenile law violation cases - \$436; juvenile abuse/neglect - \$988.

Historical Growth

Since 1994, the overall cost of indigent defense in Lancaster County has grown by 89% (more than 15% per year). By Far, the fastest growing segment of the indigent defense cost is the juvenile court cost. As demonstrated in the chart below, the costs in juvenile court representation, outside of the Public Defender’s Office, has grown by 94%.



Commission on Public Advocacy

One of the major reasons that the costs for assigned counsel in Major Felonies and other Felony cases has not increased significantly in recent years, is the establishment of the Nebraska Commission on Public Advocacy (NCPA). This state agency will represent individuals in First Degree Murder cases when the

Public Defender's Office has a conflict of interest and Lancaster County is billed only one third of the Commission's actual cost. In Drug and Violent crime felonies, the agency represents individuals when the Public Defender has a conflict at no cost to the county. NCPA reports that in 1999, they opened 61 drug and violent crime felonies in Lancaster County and 2 cases of First Degree Murder. Based upon the number of hours that agency spent on those cases, and the hourly rates allowed court appointed private attorneys (who would have been appointed if it were not for NCPA), NCPA saved Lancaster County approximately \$189,000 in attorney fees in 1999.

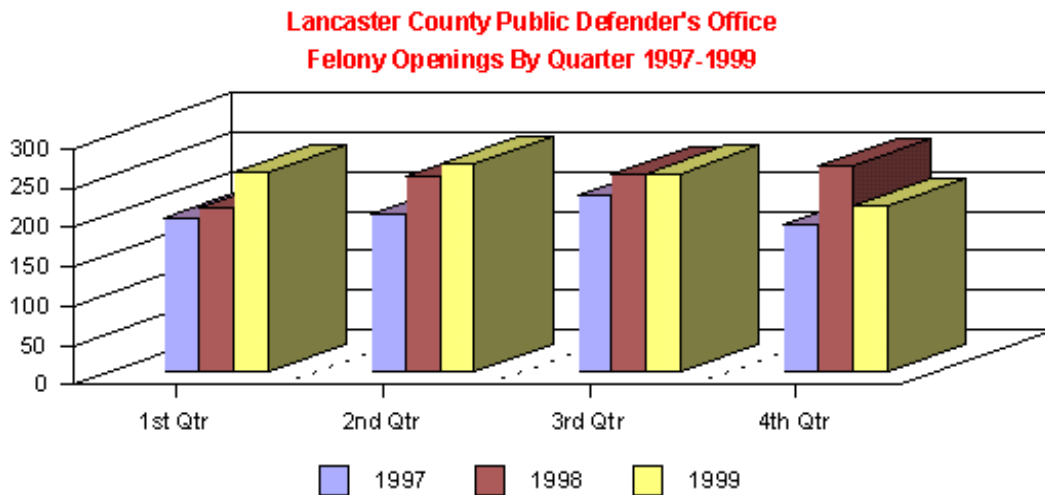
Operations of the Lancaster County Public Defender's Office

Felony Division - The Workload Crisis

The Lancaster County Public Defender's Office confronted a crisis situation in the first quarter of 1999 relating to the number of Major Cases and Felonies. In the first quarter of the year, the office had opened 22% more felony cases than had been opened during the same time period in 1998. The number of pending felonies at the end of that first quarter was also 22% higher than at the same time in 1998. To make matters worse, the office had 6 First Degree Murder cases pending in March of 1999 plus 2 other Major cases, which were consuming enormous amounts of felony division staff time. In a memorandum to the Lancaster County Board of Commissioners in March of 1999, Dennis Keefe outlined the problem to the Board and noted that the then current workload for the felony division staff was 41% higher than the Maximum Workload Standard for the office.

In addition to outlining the problem, Keefe advised the Board that he would present long range alternative responses to the problem, including the addition of staff, at the time of the budget process. In the meantime, Keefe was asking permission of the courts in Lancaster County to withdraw from a certain number of cases in an attempt to moderate the workload. Between March and June, 1999, Keefe sought and received permission to withdraw from 28 felony cases based upon excessive workload. In 14 of those cases the Nebraska Commission on Public Advocacy accepted appointments under a federal grant, at no cost to Lancaster County. In the other 14 cases, private attorneys were appointed just as in conflict situations. At the end of 1999, six of those private attorney cases had been completed and attorney fees ordered in the total amount of \$6,971 or \$1,162 per case.

Eventually, an additional attorney position was added to the felony division during the budget process. The felony workload problem also moderated throughout the year. At mid year, felony openings were running 14% higher than 1998; by the end of the third quarter, the openings had slowed to 9% over the 1998 figure; and by the end of the year, with a 20% decrease in the fourth quarter, the number of felony openings in 1999 (976) was only 1% higher than the number opened in 1998 (962). Attorney time devoted to felony cases closed during 1999 increased by 2% from the 1998 figure. Also by years end, with the addition of another attorney to the felony division, the workload in that division exceeded the maximum standard for the office by 26%, compared to the 41% during the crisis. The chart below compares the felony openings by each quarter for the period of 1997 to 1999.



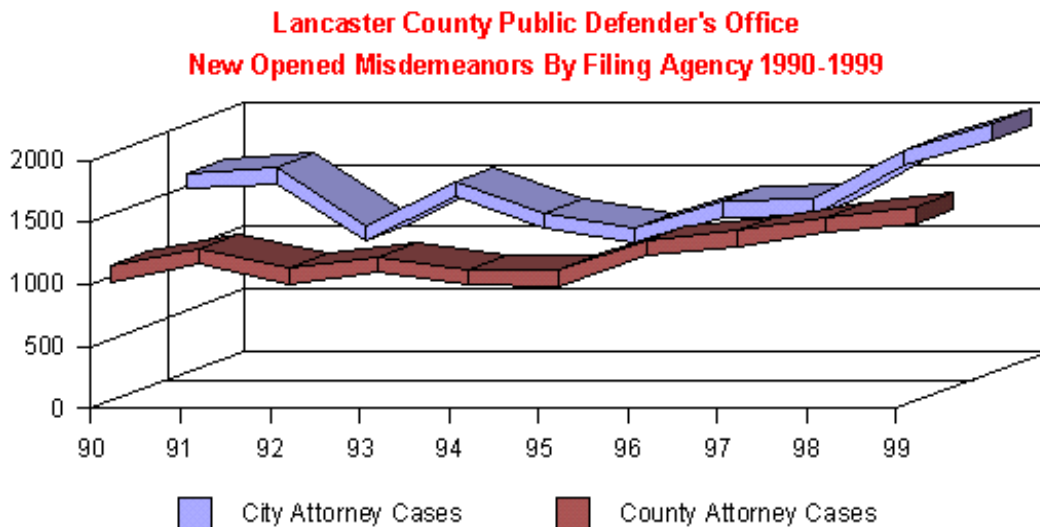
The Misdemeanor Division - Openings and Closings

The Misdemeanor Division currently consists of two full time attorneys, two part time attorneys (one shares a felony caseload), and two paralegals. Cases filed by both the City Attorney (under the Lincoln Municipal Code) and by the County Attorney and the UNL Prosecution Clinic (under the Lincoln Municipal Code and state statutes) are assigned to the Public Defender's Office. The law requires the appointment of counsel in misdemeanor cases if (1) the accused is indigent, and (2) a jail sentence is to be imposed. The charge categories of Drunk Driving , Assault (including Domestic Violence and Violation of Protection Orders), Driving on a Suspended License, and Theft, account for 70% of all of the misdemeanor cases.

In 1999, the office opened 3438 total misdemeanor cases, representing a 9% increase over the 1998 openings (cases filed by the City Attorney increased by 12% and cases filed by the County Attorney increased 5%). The five year trend is even more significant. Over the past five years, misdemeanor cases opened by our office have increased by an overall total of 64% (76% for the City cases and 51% for the County cases). The number of misdemeanor cases pending at the end of 1995 was 972 cases and the number pending at the end of 1999 was 1557 cases, a 60% increase. During that five year time period, the major misdemeanor charge categories showed the following increases in new open cases:

- **Drunk Driving Cases** (+19%)
- **Assault (Including Domestic Violence and Violation of Protection Orders)** (+55%)
- **Driving on Suspended License** (+72%)
- **Theft** (+63%)

As can be seen in the chart below, the number of new misdemeanor cases has zig zagged up and down over the years, depending upon which judges were in the appointing courts for a particular time period. However, even allowing for that factor, the trend is clearly in the upward direction. When we compare the average number of misdemeanor cases opened for the three year period of 94-96 (2293 cases) with the average for the three year period of 97-99 (3077 cases), we still see a significant 34% increase in the average. Interestingly, the average amount of attorney time per misdemeanor case has remained virtually constant over the past 10 years.



Misdemeanor Staff Changes

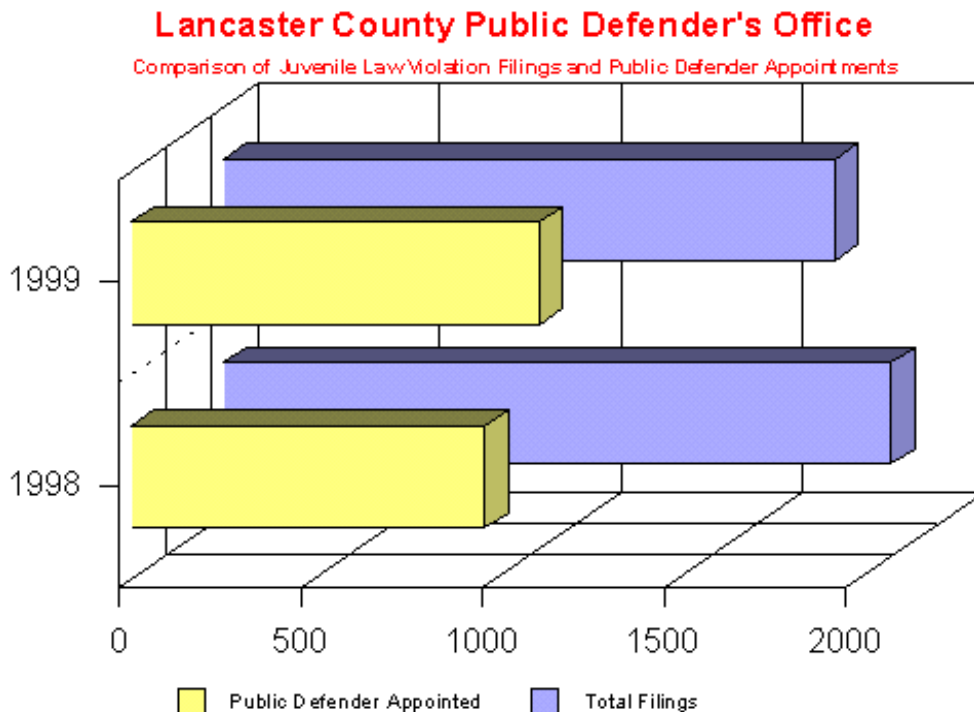
The Misdemeanor Division saw significant changes in staff during 1999. Shawn Elliott and Tim Sopinski left to join the Felony Division. Joe Nigro joined the Misdemeanor Division from the Felony Division and Julie Hansen joined from the Juvenile Division. Susan Tast remains with the Misdemeanor Division. Also, Angela Franssen joined the office as a paralegal and spends half her time with felony cases and half her time with misdemeanor cases.

The Juvenile Division - Major Growth

In terms of both the long term and short term, the category of Juvenile Cases has seen the most dramatic increases in both numbers of cases and attorney time required. In the short term, we see that between 1998 and 1999, the overall number of new opened Juvenile Cases increased by 8%, with Law Violation Cases up 15%, while Abuse/Neglect Cases went down 8%, and Status Cases went down 14%.

The Short Term

The most unusual aspect of the 1999 openings is the Law Violation figures. The total number of Law Violation filings by both the City Attorney and the County Attorney actually decreased by 10% from the 1998 filings. The question that arises is “Why did the number of Public Defender Openings increase by 15%?” It is apparent that the indigency rate (the percentage of all cases filed requiring appointed counsel) has increased. In fact the indigency rate increased from 52% of the filings in 1998 to 67% of the filings in 1999. But this doesn’t really answer the question of “Why?” We can only offer theories here. It is possible that the judges are more carefully explaining the right to counsel and/or are encouraging counsel in more cases than in the past. It could be due also, in part, to the relatively recent practice of appointing an attorney and a guardian ad litem for the child in certain law violation cases. It does not appear that the answer lies in the nature of the cases because the cases involving violence or sex crimes have remained relatively steady over the past 10 years.



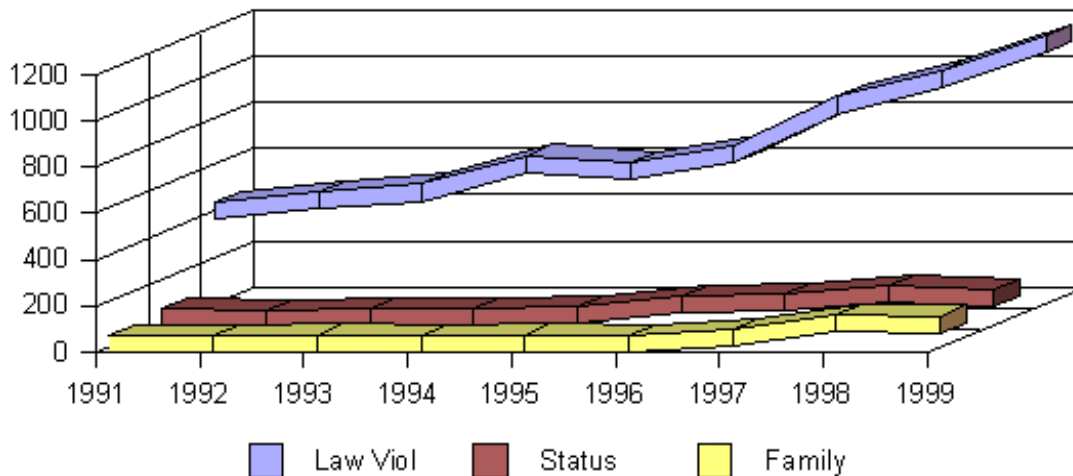
In just three short years, from 1996 to 1999, the number of Law Violation cases opened by our office has increased by an incredible 74%. During that same time period, the number of Law Violations closed by our office for having been “Dismissed” went from 26% of the total to 44% of the total. It is suspected that much of this increase has to do with the increase in filings for cases that eventually are dismissed for Pretrial Diversion.

It is also interesting that the Abuse/Neglect filings by the County Attorney increased by 7% from 1998 to 1999 but the number of cases assigned to the Public Defender decreased by 8% during that same time period. Additionally, the number of Status Cases filed by the County Attorney (usually Truancy Cases or Habitually Disobedient) decreased by 41% during the same time period but the number of Public Defender Cases assigned went down only 14% for the same time period.

1991-1999

In looking back over the last decade, it is readily apparent what an impact the Juvenile Cases have had on the Public Defender’s Office. Law Violation openings have increased an average of 20% per year; status offenses an average of almost 30% a year; and Abuse/Neglect cases an average of 84% per year. While some of this growth was planned and staff added to cope with the growth (Abuse/Neglect and Status), the Law Violation increases, particularly those in the past few years, were totally unexpected. The chart below demonstrates the growth in the case openings for law violation cases, Abuse/Neglect cases and status cases.

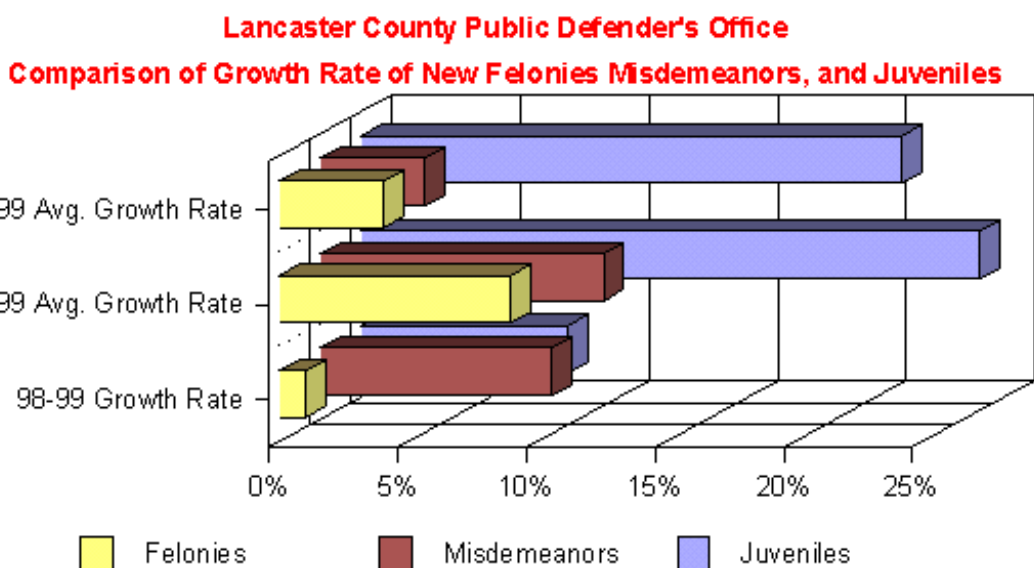
**Lancaster County Public Defender's Office
Historical Comparison of Opened Juvenile Cases By Type 1991-1999**



Key Issues For 2000 and Beyond

Caseload/Workload

With the exception of the Misdemeanor cases, the rate of growth for the other major categories of cases, Felony and Juvenile, slowed in 1999 when compared with the previous three years. In 1999, Misdemeanor cases grew by 9%. This compares to an average annual growth of 11% for the past three years and 4% for the past nine years. Felony cases grew by only 1% in 1999, with a 9% average annual growth rate for the past three years and 4% per year for the past nine years. Juvenile cases showed an 8% increase in 1999. However, Juvenile cases have had an average annual growth rate of 24% for the past three years and 21% for the past nine years.



Given the slowing in the growth rate, we anticipate that new open felonies in 2000 will remain relatively steady. The same will probably hold true for Juvenile cases after years of increases in the 20% range. Misdemeanors appear to be on an upward spiral and we expect a growth rate in the 10% range for the upcoming year. Serious consideration will have to be given to making the part time attorney position in the Misdemeanor Division a full time position if the trend continues.

Technology Changes

During the past year, the Lancaster County Public Defender's Office has been working with the Lancaster County Attorney's Office, in looking at possible upgrading of the two offices' Case Management Information Systems. Discussions have included the Public Defender and county attorney in Douglas County and a presentation was made to a joint meeting of the Lancaster, Douglas, and Sarpy County Commissioners. Following that meeting, a joint resolution was agreed upon which supports the investigation of a system that would accommodate all agencies' needs. We will be exploring funding at the local, state and federal levels.

With the advent of the new high tech courtrooms in the remodeled Hall of Justice, there has been an increased interest in how to use that technology to better represent the clients of the Public Defender's Office. Courtroom demonstrations will surely be a part of the future of defense work and we must plan in order to keep up.

Managing the Growth of Lancaster County's Indigent Defense System

Last year, Lancaster County spent over \$1million on indigent defense services beyond the cost of operating the Public Defender's Office. This represents virtually one-third of the total cost of indigent defense. While some of these funds were contract funds placed in the Public Defender's budget, the model of representation was different from the Public Defender staff attorney model. A significant portion of the \$1million was spent on hourly fees for assigned counsel in all three court systems in Lancaster County.

Given the size of the expenditure and the nature of the work, perhaps it is time to look at the possibility of a professional manager for this portion of the system. Such an individual could not only manage the contracts, assign attorneys and arrange for payment, but he/she could also recruit qualified attorneys to serve on panels, provide support for the contractors and assigned counsel, and serve as a training director for all attorneys in the indigent defense system, including the Public Defender's Office. The discussion must begin with the judges, whose responsibility it is to appoint and order payment of counsel, and it must include the Lancaster County Commissioners' who must pay the bills for these services.

During 1999, the various courts of Lancaster County, and the Lancaster County Board of Commissioners collaborated on a system to determine indigence. The Board agreed to fund a screener position for a three year pilot project. At the end of 1999, the project was still in its planning phase. This project could be the beginning of future collaborations focusing on other management issues for the assigned counsel and the contracts.

Public Defender Staff / Credentials

Public Defender

Dennis R. Keefe

University of Nebraska College of Law, 1972
Elected to Office of Public Defender, November, 1978

Chief Deputy Public Defender

Scott P. Helvie

University of Nebraska College of Law, 1976
Public Defender: 1976 - 1981, Lincoln County, Nebraska
1981 to present, Lancaster County, Nebraska
Felony Division

Deputy Public Defenders

Robert G. Hays

Antioch School of Law, 1977
Started in 1984
Felony Division

Joseph D. Nigro

University of Nebraska College of Law, 1983
Started in 1983
Misdemeanor Division

Webb E. Bancroft

University of Nebraska College of Law, 1983
Started in 1989
Felony Division

Susan R. Tast

University of Nebraska College of Law, 1986
Started in 1989
Misdemeanor division

Margene M. Timm

University of Nebraska College of Law, 1983
Started in 1989
Juvenile Division Supervisor

Kristi Egger Brown

University of Nebraska College of Law, 1988
Started in 1990
Juvenile Division

Shawn D. Elliott

University of Nebraska College of Law, 1989
Started in 1996
Felony Division

Felony Division
Scott Helvie
Robert G. Hays
Webb E. Bancroft
Paul Cooney
Shawn D. Elliott
Timothy Sopinski
Timothy Eppler

Misdemeanor
Division
Susan R. Tast
Joseph D. Nigro

Paul E. Cooney

University of Nebraska College of Law, 1993
Started in 1996
Felony Division

Reggie Ryder

University of Nebraska College of Law, 1997
Started in 1998
Juvenile Division

Julie B. Hansen

University of Nebraska College of Law, 1993
Started in 1998
Felony and Misdemeanor Divisions

Timothy Sopinski

University of Nebraska College of Law, 1997
Started in 1999
Felony Division

Jennifer K. Villebro

Creighton University College of Law, 1999
Started in 1999
Juvenile Division

Timothy Eppler

University of Nebraska College of Law, 1996
Started in 1999
Felony Division

Support Staff

Office Manager

Mary Gehr, 1980

Paralegals

Monica Socha, 1976
Donna Garwood, 1982
Jed Rojewski, 1996
Bob O'Connor, 1997
Angelia Onuoha, 1997
Kristi Gottberg, 1999
Angela Franssen, 1999

Secretaries/Clerks

Lori McGerr, 1983
Angela Owens, 1992
Michelle Scamehorn, 1997
Mayme Shannon, 1997

Law Clerks

Elizabeth Callaghan, Lance Curtright,
Adrienne Davis, Jason Hiveley,
Jess Redman

Juvenile Division

*Margene M. Timm,
Supervisor,
Kristi Egger Brown
Reggie Ryder
Jennifer K. Villebro*

Table 1
Lancaster County Public Defender's Office
1999 Opened, Closed, and Pending Cases By Type

CASETYPE	PENDING START	OPENED	CLOSED	PENDING END
Appeals	45	85	81	49
Felonies	361	976	1030	321
Juveniles	452	1605	1534	510
Major Cases	7	13	9	11
Mentals	4	391	388	7
Miscellaneous	34	134	142	30
Misdemeanors	620	3438	3414	629
Totals	1523	6642	6598	1557

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
Appeals	60	68	67	71	57	81	46	71	58	85
Felonies	721	746	689	686	779	741	774	840	962	976
Juveniles	559	605	636	695	819	792	931	1288	1484	1605
Major Cases	7	8	8	9	10	6	6	9	16	13
Mental Commitment	352	298	266	75	254	322	270	324	379	391
Miscellaneous	127	136	186	148	120	109	115	118	151	134
Misdemeanors	2549	2755	2133	2579	2225	2096	2560	2646	3148	3438
Totals	4375	4616	3985	4263	4264	4147	4702	5296	6198	6642

REPORT ID: 0117

LANCASTER COUNTY
EXPENSE BUDGET ADOPTE

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

OBJECT	DESCRIPTION	ACTUAL EXPENDITURE		BUDGET		ACTUAL	PROPOSED 1999-2000	ADOPTED 1999-2000
		1996 TO 1997	1997 TO 1998	1998 TO 1999	1998 TO 1999			
1051	OFFICIAL'S SALARY	79,712	77,295	81,755	01,777	05,000	81,000	
1052	DEPUTY'S SALARY	79,629	81,607	85,008	85,004	85,500	85,500	
1053	REGULAR SALARIES	724,579	868,606	1,019,400	1,015,433	1,100,191	1,100,191	
1101	FICA CONTRIBUTIONS	64,595	75,451	87,681	86,900	95,734	95,734	
1107	RETIREMENT CONTRIBUTIONS	58,834	66,575	82,188	80,907	86,110	86,110	
1103	GROUP INSURANCE	43,907	73,096	87,025	87,095	97,404	97,404	
1106	OTHER EMPLOYEE BENEFITS	151	126	150	0	0	0	
1107	GROUP DENTAL INSURANCE	2,426	3,517	4,267	4,305	4,769	4,769	
1108	LONG TERM DISABILITY	2,821	5,180	5,124	4,367	5,596	5,596	
1109	POST EMPLOYMENT HEALTH PROGRAM	0	0	4,971	4,857	6,434	6,434	
OBJECT CATEGORY: 10 PERS SERV		1,049,657	1,291,757	1,457,591	1,449,741	1,568,738	1,568,738	
2051	OFFICE SUPPLIES	13,505	13,651	15,000	14,114	15,000	15,000	
OBJECT CATEGORY: 20 SUPPLIES		13,505	13,651	15,000	14,114	15,000	15,000	
3052	LEGAL SERVICES	0	0	0	35	0	0	
3053	DATA PROCESSING SERVICE	47,562	45,009	75,000	74,465	78,562	78,562	
3057	CONSULTING SERVICES	18,990	37,661	40,000	43,446	43,000	43,000	
3062	EQUIP MAINTENANCE AGREEMENTS	2,904	5,176	3,000	3,514	3,524	3,524	
3091	TEMPORARY SERVICES	0	0	3	404	0	0	
3201	MEALS	405	856	1,000	823	1,100	1,100	
3202	LODGING	1,348	2,604	2,256	2,756	2,800	2,800	
3203	TRAVEL	4,211	3,684	3,000	2,110	5,000	5,000	
3204	MILEAGE	2,294	2,666	2,750	3,537	3,000	2,000	
3206	VEHICLE RENTAL	0	771	500	0	500	500	
3251	POSTAGE	5,294	3,202	3,500	3,181	3,000	3,000	
3252	TELEPHONE LOCAL	10,766	14,662	15,874	17,541	15,874	15,874	
3253	TELEPHONE - LONG DISTANCE	1,236	2,422	1,800	1,541	1,900	1,900	
3301	PRINTING	22,995	24,142	30,000	27,596	28,800	28,800	
3302	PHOTOCOPYING	0	0	0	04	0	0	
3304	ADVERTISING	0	431	0	207	207	207	
3305	FILM PROCESSING	0	0	0	30	0	0	
3306	LEGAL PUBLISHING	1,174	2,599	4,000	2,616	3,000	3,000	
3402	NEWS FEES	319	280	500	260	500	500	

REPORT ID: 0117

LANCASTER COUNTY
EXPENSE BUDGET ADOPTE

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

OBJECT	DESCRIPTION	ACTUAL EXPENDITURE		BUDGET		ACTUAL	PROPOSED 1999-2000	ADOPTED 1999-2000
		1996 TO 1997	1997 TO 1998	1998 TO 1999	1998 TO 1999			
3403	COURT COSTS	230	97	500	297	500	500	
3404	MEMBERSHIP & DUES	6,416	7,120	7,259	0,368	8,500	8,500	
3405	BOOKS & SUBSCRIPTIONS	10,522	11,156	6,500	0,829	8,500	8,500	
3406	ENROLLMENT FEES & TUITION	3,829	4,659	3,000	4,315	4,400	4,400	
3408	OTHER FEES & SERVICES	103,554	93,500	149,700	148,300	190,300	150,300	
3452	LIABILITY INSURANCE	6,108	6,058	6,675	6,524	6,675	6,675	
3455	OFFICIAL'S BONDS	410	320	500	530	500	500	
3553	OFFICE EQUIPMENT P & M	574	590	500	165	500	500	
3604	RENT UTILITIES	28,429	40,081	51,508	51,155	49,997	49,997	
OBJECT CATEGORY: 30 DEBT SERV		275,405	313,809	411,496	417,437	466,175	466,175	
4202	OFFICE EQUIPMENT	26,146	10,084	2,494	3,000	8,905	8,905	
4212	COMMUNICATION EQUIPMENT	0	854	0	0	0	0	
OBJECT CATEGORY: 40 CAPITAL OUTLAY		26,146	10,918	2,494	3,084	8,905	8,905	
5052	INTEREST & SERVICE CHARGES	0	0	0	0	0	0	
OBJECT CATEGORY: 50 DEBT SERV		0	0	0	0	0	0	
TOTAL FOR AGENCY: 625		1,364,795	1,589,435	1,886,581	1,880,371	2,029,116	2,029,116	

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 1991)

Public Defender in certain counties; election; There is hereby created in counties that now have or that shall hereafter attain a population in excess of one hundred thousand inhabitants, and in other counties upon approval by the county board, the Office of Public Defender, who, in counties having a population in excess of one hundred thousand inhabitants which have not elected a Public Defender prior to July 10, 1984, shall be elected at the next general election following July 10, 1984, or the year in which the county attain a population of one hundred thousand inhabitants, and who, in other counties, shall be elected at the first general election of county officers following approval by the county board and every four year thereafter.

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 the provisions of this section.

In counties having a population of more than one hundred seventy thousand inhabitants, the Public Defender shall devote his or her full time to the legal work of the Office of the Public Defender and shall not engage in the private practice of law. All assistant Public Defenders in such counties shall devote their full time to the legal work of such Office of the Public Defender and shall not engage in the private practice of law so long as each assistant Public Defender shall receive the same annual salary as each deputy county attorney of comparable ability and experience shall receive in such counties.

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.

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

Neb. Rev. Stat. §23-3402 (Reissue 1991)

Public Defender duties; appointment; prohibitions.

- (11) It shall be the duty of the Public Defender to represent all indigent felony defendants within the county he or she serves. The Public Defender shall represent indigent felony defendants at all critical stages of felony proceedings against them through the stage of sentencing. Sentencing shall include hearings on charges of violation of felony probation. Following the sentencing of any indigent defendant represented by him or her, the Public Defender may take any direct, collateral, or post conviction appeals to state or federal courts which he or she considers to be meritorious and in the interest of justice and shall file a notice of appeal and proceed with one direct appeal to 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.
- (1) It shall also 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.
- (1) 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.
- (1) 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, not recommend to a court that a defendant be determined or not determined an indigent.

Neb. Rev. Stat. §23-3403 (Reissue 1991)

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

The Public Defender may appoint as many assistant Public Defenders, who shall be attorney licensed to practice law in this state, secretaries, law clerks, investigators, and other employees as are reasonably necessary to permit him or her to effectively and competently represent the clients of his 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, brief-printing, investigative, expert, travel and other miscellaneous expenses reasonably necessary to enable the Public Defender to effectively and competently represent the clients of his 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.