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Board of Public Defense

Board of Public Defense — Agency Profile

www.pubdef.state.mn.us/

AT A GLANCE

- Provides mandated criminal defense services at the trial and appellate court level.
- 150,000 trial court cases opened annually.
- 4,000 appellate cases opened annually.
- Largest user of the Minnesota Court System.

PURPOSE

The Board of Public Defense (BOPD) is a judicial branch agency whose purpose is to provide legal services mandated by the Constitution and statute.

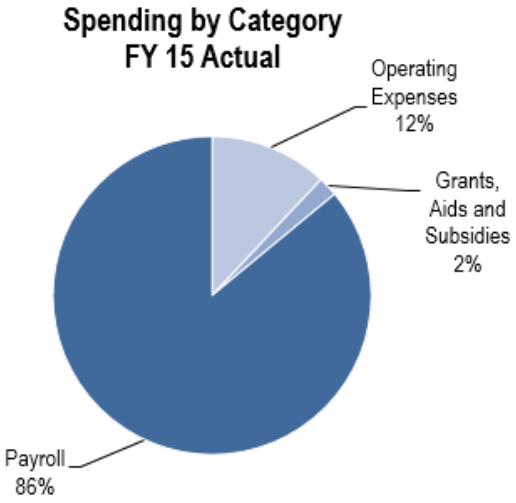
The Board's mission is to provide excellent criminal and juvenile legal defense services to indigent clients through an independent, responsible and efficient public defender system.

We are committed to five major goals: client centered representation, creative advocacy, continual training for all staff, recruitment and retention of excellent staff, and being a full partner in the justice system.

A well-funded and functioning public defender system insures that the constitutional rights of the indigent are protected. This helps to protect the rights of all of our citizens. It also helps to make sure that the work of the court system continues uninterrupted which helps ensure that people in Minnesota are safe.

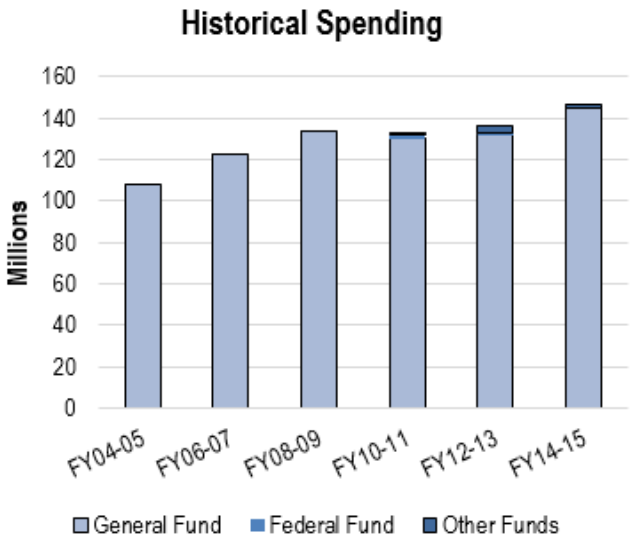
Public defender services are almost exclusively financed by the general fund. In Hennepin County (the 4th Judicial District) there is a cost sharing between the State of Minnesota and Hennepin County.

BUDGET



Payroll includes funding of county employees in the 2nd and 4th Judicial Districts; however, this shows as grants, aids, and subsidies funding on the fiscal pages.

Source: BPAS



STRATEGIES

We have developed various tools to further our mission and goals and to provide effective and efficient service delivery. These include:

- Implementation of quality representation guidelines on the trial and appellate levels
- Development of an electronic content management system
- Commitment to vertical representation
- Commitment to team defense
- Commitment to continual training of all staff
- Using a cost-effective model of representation that combines full and part time defenders
- Development of an internal resource allocation policy to better target attorney resources

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M.S. 611 (https://www.revisor.mn.gov/statutes/?id=611) provides the legal authority for the BOPD.

(Dollars in Thousands)

Expenditures By Fund

	Actual FY14	Actual FY15	Actual FY16	Estimate FY17	Forecasted Base FY18	Forecasted Base FY19	Governor's Recommendation FY18	Governor's Recommendation FY19
1000 - General	70,749	74,196	72,224	88,765	83,012	83,012	89,512	95,579
2000 - Restrict Misc Special Revenue	108	1,814	1,131	210	0	0	0	0
2403 - Gift	47	84	85	148	60	60	60	60
3000 - Federal	349	128	49	1	0	0	0	0
Total	**71,253**	**76,222**	**73,489**	**89,124**	**83,072**	**83,072**	**89,572**	**95,639**
Biennial Change				15,138		3,532		22,599
Biennial % Change				10		2		14
Governor's Change from Base								19,067
Governor's % Change from Base								11

Expenditures by Program

Program: Appellate Office	5,032	5,225	5,404	5,788	5,007	5,007	5,007	5,007
Program: Administrative Services Office	1,849	1,829	1,907	2,233	2,020	2,020	2,020	2,020
Program: District Public Defense	64,372	69,168	66,177	81,103	76,046	76,046	82,546	88,613
Total	**71,253**	**76,222**	**73,489**	**89,124**	**83,072**	**83,072**	**89,572**	**95,639**

Expenditures by Category

Compensation	51,312	54,145	57,538	63,861	62,816	62,816	68,914	74,977
Operating Expenses	6,782	8,808	7,981	8,402	7,756	7,756	8,078	7,998
Other Financial Transactions	92	426	281	459	259	259	259	259
Grants, Aids and Subsidies	13,067	12,843	7,689	16,402	12,241	12,241	12,321	12,405
Capital Outlay-Real Property	0		0					
Total	**71,253**	**76,222**	**73,489**	**89,124**	**83,072**	**83,072**	**89,572**	**95,639**
Full-Time Equivalents	**610.0**	**636.0**	**651.1**	**651.1**	**651.1**	**651.1**	**681.1**	**707.1**

(Dollars in Thousands)

1000 - General

	Actual	Actual	Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY14	FY15	FY16	FY17	FY18	FY19	FY18	FY19
Balance Forward In	125	454	167	5,752	0	0	0	0
Direct Appropriation	70,698	73,612	77,429	82,662	82,662	82,662	89,162	95,229
Net Transfers	345	363	379	350	350	350	350	350
Cancellations	0	66	0	0	0	0	0	0
Expenditures	**70,749**	**74,196**	**72,224**	**88,765**	**83,012**	**83,012**	**89,512**	**95,579**
Balance Forward Out	418	167	5,752	0	0	0	0	0
Biennial Change in Expenditures				16,043		5,036		24,103
Biennial % Change in Expenditures				11		3		15
Gov's Exp Change from Base								19,067
Gov's Exp % Change from Base								11
Full-Time Equivalents	609.3	636.0	650.9	650.9	650.9	650.9	680.9	706.9

2000 - Restrict Misc Special Revenue

	Actual	Actual	Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY14	FY15	FY16	FY17	FY18	FY19	FY18	FY19
Balance Forward In	3,215	3,132	1,318	186	0	0	0	0
Net Transfers	24	0	0	24	0	0	0	0
Expenditures	**108**	**1,814**	**1,131**	**210**	0	0	0	0
Balance Forward Out	3,132	1,318	186	0	0	0	0	0
Biennial Change in Expenditures				(580)		(1,341)		(1,341)
Biennial % Change in Expenditures				(30)		(100)		(100)

2403 - Gift

	Actual	Actual	Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY14	FY15	FY16	FY17	FY18	FY19	FY18	FY19
Balance Forward In	74	84	103	88	0	0	0	0
Receipts	56	98	70	60	60	60	60	60
Expenditures	**47**	**84**	**85**	**148**	**60**	**60**	**60**	**60**
Balance Forward Out	83	99	88	0	0	0	0	0
Biennial Change in Expenditures				103		(113)		(113)
Biennial % Change in Expenditures				79		(48)		(48)
Gov's Exp Change from Base								0
Gov's Exp % Change from Base								0
Full-Time Equivalents	0.4	0.1	0.2	0.2	0.2	0.2	0.2	0.2

(Dollars in Thousands)

3000 - Federal

	Actual	Actual	Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY14	FY15	FY16	FY17	FY18	FY19	FY18	FY19
Balance Forward In	142	76	1	1	0	0	0	0
Receipts	284	53	49	0	0	0	0	0
Net Transfers	0	0	0	0	0	0	0	0
Expenditures	**349**	**128**	**49**	**1**	0	0	0	0
Balance Forward Out	76	1	1	0	0	0	0	0
Biennial Change in Expenditures				(427)		(50)		(50)
Biennial % Change in Expenditures				(90)		(100)		(100)
Full-Time Equivalents	0.4							

Board of Public Defense

FY18-19 Biennial Budget Change Item

Change Item Title: Public Defense as a Functioning Partner in the Justice System- Phase II

Fiscal Impact ($000s)	FY 2018	FY 2019	FY 2020	FY 2021
General Fund				
Expenditures	5,864	11,612	11,612	11,612
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	5,864	11,612	11,612	11,612
FTEs	**24**	**45**	**45**	**45**

Recommendation:
The Governor recommends $17.476 million for this request from the Board of Public Defense.

The request is Phase III of a three biennium plan to address historic underfunding of public defense. It will provide the Board with the resources to become, and to maintain itself, as a capable justice system partner. The goal of the three biennium plan is to reach 75%of the attorney staffing levels recommended by state and national standards. In the last two biennial budget sessions the governor and legislature recognized the need to have public defense function as a capable justice system partner by partially funding the first two phases of the three biennium plan.

The budget request for the 2018-2019 biennium would continue the progress that has been made in reaching the 75% goal by 2019. Inherent in this request, is a recognition that 1) along with attorneys there is a need for support staff positions to assist the attorneys; and 2) that in order to recruit and retain employees, salary and benefit increases will need to occur over this time period in order to make compensation competitive with other public sector agencies.

Rationale/Background:

The Legislative Auditor's (OLA) conclusion in the 2010 Evaluation Report of public defense was this: "High public defender workloads have created significant challenges for Minnesota's criminal justice system." Public defense, as seen in the Report, needs to be better funded and better staffed not merely to improve services to its clients, but also to be a functional part of the criminal justice system of Minnesota.

The "challenges" cited by the OLA include: 1) the inability to handle certain case types in anything like a timely manner; 2) aggravation of jail overcrowding; 3) postponement of trial settings, which are already far enough out to impinge on the right to a speedy trial; 4) deterioration in the quality of fact-finding, as witnesses become unavailable; and 5) increased strain on all the other participants in the justice system.

A consequence of uncontrollable public defender caseloads for the entire criminal justice system is that frequently courtrooms--each with a presiding judge, court staff, prosecutors, probation officers, victim/witness assistants, victims, witnesses, family members and the public--are unable to conduct business in a timely manner because the public defenders needed for the resolution of cases are tied up elsewhere.

The high public defender caseloads cited in the OLA report has been the result of a lack of adequate funding over several years. In 2003, 2005 and again in 2009 the lack of funding resulted in reductions in staffing across the state. In fiscal year 2009 staffing was reduced by fifty (50) full time equivalent (FTE) attorney positions on the district level and three (3) FTE positions on the appellate level. This equates to more than 100,000 hours of attorney time, and 15% of the attorney staffing. In the meantime, cases assigned to the attorneys who leave remain pending while new cases continue to be charged.

In 2012 (based on calendar year 2011 case numbers), the Board was operating on approximately 58% of the number of attorneys recommended by state and national standards. As of fall 2014 there were 51 counties (representing 33% of the state's

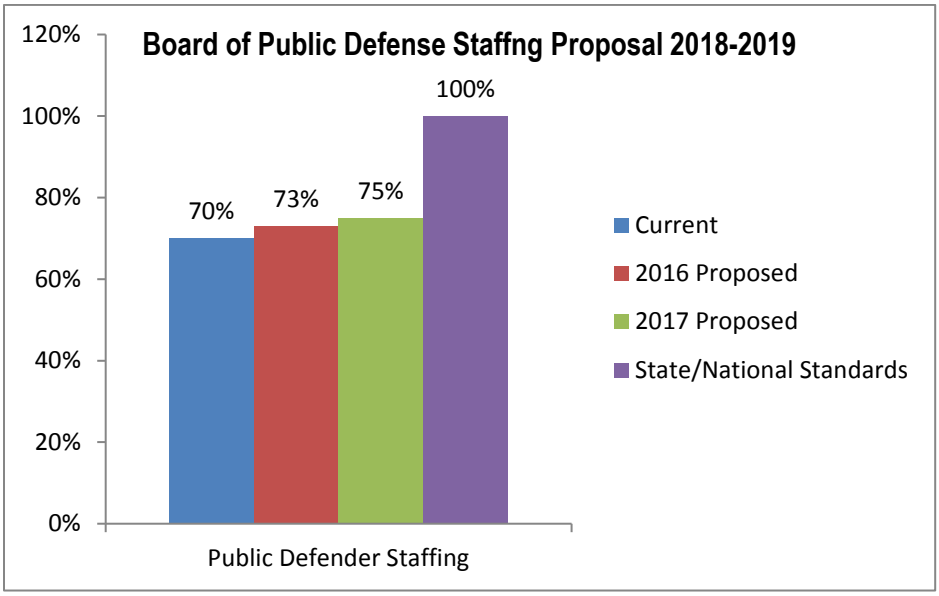
population) around the state where public defenders did not appear with in custody clients at their first appearance. In 37 counties there was no public defender to appear with out of custody clients at their first court appearance.

On the appellate level a lack of funding has meant significant delays in the state's appellate courts. Delays have also occurred at the trial and appellate court levels in post-conviction matters. These matters include all appeals in cases that were not litigated (guilty plea withdrawal, sentencing, conditional release, parole revocation, and cases where new evidence may be found). Staff shortages have caused delays in sentencing appeal cases and appeals of plea withdrawal and conditional release.

In *Missouri v. Frye* and *Lafler v. Cooper*, the United States Supreme Court held that criminal defendants have a Sixth Amendment right to effective assistance of counsel during plea negotiations, including when they evaluate plea bargains and reject them because of bad legal advice. In these cases the United States Supreme Court found that the Sixth Amendment right to effective assistance of counsel extends to the consideration of plea offers that lapse or are rejected. Contrast this with the OLA's other findings: high public defender workloads have created significant challenges for Minnesota's criminal justice system; heavy workloads have hurt public defenders' ability to represent clients, and decreased court efficiency.

Proposal

To continue the progress toward the 2019 goal the request includes funding for 19 FTE attorneys in fiscal year 2018 and 19 new attorneys in fiscal year 2019. Two of these additional attorneys would be in the Appellate Office to address the increase in appeals and post-conviction cases. If funded, the additional attorney positions would bring the board to 75% of the recommended staffing levels by fiscal year 2019 (assuming a 1% annual increase in caseloads).



New developments in the justice system have created demand for more services to clients. These include the increased severity of consequences for certain crimes; civil consequences to criminal charges or convictions; additional hearings required by new legal requirements; language and cultural barriers which add to the time needed to represent clients; courts taking more responsibility for clients with mental illness and chemical dependency than in the past; U.S. Supreme Court decisions which have impacted the practice of law; and the emerging critique of "scientific" evidence that requires that forensic evidence be closely scrutinized by highly trained individuals. In addition, many public defender clients struggle with mental health and chemical dependency issues. All of these issues point toward a need for sentencing alternatives that dispositional advisors provide. The request provide for seven dispositional advisor positions. The Board has about one-half of the number of dispositional advisors that are recommended by the Weighted Caseload and national standards.

The current salary structure for attorneys includes 19 "Steps". The theory being that individuals would progress through the salary structure on their anniversary date taking nineteen years to reach the top. Due to past funding issues there have not been consistent step or progression increases, and during the 2010-2011 contract period there was a total salary freeze. Salaries continue to lag behind those of prosecutors. In order to recruit and retain attorney staff there is a need to compensate

staff as they gain experience and improve their skills. The request includes funding to provide for estimated salary increases over the next biennium (contract period), as well as the mandated increases in the cost of insurance and retirement.

Approximately ninety (90%) of the Board's budget is personnel, with another five (5%) contractually obligated. Failure to fund the increases in personnel costs is the equivalent of staffing reductions.

Results:
The Board does not and cannot control its caseload. It must provide the services specified in statute. The Minnesota State Supreme Court in the case (Dzubiak v Mott) has recognized that a public defender "may not reject a client…"

As the auditor noted:

- high public defender caseloads are dragging down the justice system
- 72% of the state's judges say a lack of defenders is causing delays
- courtrooms are idle because the public defender is tied up someplace else
- public defenders often have just 10 minutes to meet the client, evaluate the case, explain the consequences of various options, and get a decision from the client.
- public defender schedules require some counties to set out-of-custody trials a year out.

The request is meant to address the quality of representation and ultimately efficiency, and to meet constitutional standards of representation. A properly funded public defender system will allow for thorough review of cases. It will mean additional time spent with clients. Time is needed to build trust. Client trust is essential in providing quality representation and ensuring efficient resolution of cases, especially in cases where there is a plea agreement (99 of cases).

Acceptance of a sentence or conditions of probation by the client is often dependent on whether the client perceives that they have been listened to, and "had their "day in court." This means a thorough review of their case by competent counsel who has had the time to listen to them and their story. Time is needed to review cases and prepare where mental health and chemical dependency play a role in the case.

As a part of the process to make the Board a fully functioning partner, the Board looked not only at the budget but also the services and value public defenders can provide if adequate resources are available. These include:

- Provide coverage at first appearances
- Cover all hearings where clients appear.
- Reduce situations where one lawyer covers multiple courtrooms

Finally, the request would provide a modest increase to the four public defense corporations (through the grant process established in M.S. 611.216) to maintain their viability. The four public defense corporations provide legal defense services primarily to the state's minority communities. These cases (approximately 4,000) would otherwise be public defender cases. State funding represents roughly one-half of the corporation funding. The request would provide for a 5% increase in each year of the biennium.

Type of Measure	***Name of Measure***	***Previous***	***Current***	***Dates***
Quantity	Attorney staffing as a Percent of National and Board Standards	58%	70%	2013-2017
Quality	Cover all hearings where clients appear-2019	50%	80%	2011-2017

Statutory Change(s):
None

Board of Public Defense

FY18-19 Biennial Budget Change Item

Change Item Title: Changing Court Practices

Fiscal Impact ($000s)	FY 2018	FY 2019	FY 2020	FY 2021
General Fund				
Expenditures	636	955	955	955
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	636	955	955	955
FTEs	**6**	**11**	**11**	**11**

Request:

The Governor recommends $1.591 million for this request from the Board of Public Defense.

The request would allow the board to keep up with the changes in court filing and document handling procedures. These changes have in some cases resulted in a shift of costs to the public defender system, and in some instances created new costs as the board moves to an electronic way of handling documents.

Rationale/Background:

The Judicial Branch is moving rapidly toward an all-electronic way of doing business. Under the eCourt initiative all transactions or filings with the court are being made electronically. The Minnesota eCourt initiative follows similar transitions already made by law enforcement and prosecutors. Written reports and digital photos already flow electronically from police to prosecutors, then to the court via its new eFiling system. A number of prosecutor offices have moved to electronic transmission and storage of disclosure and files.

The Court's move to an all-electronic way of doing business has actually increased the costs for public defense. With the move to electronic records the courts will no longer provide paper copies of documents as has been required by Minnesota Statutes. The printing costs of those documents have now been shifted to the public defender offices. Paper copies continue to be necessary to provide case files to clients, many of whom are either incarcerated where electronic access is not an option, or where the client lacks the resources to view or keep documents in an electronic format.

Also, the Court's solution to obtaining electronic access to documents related to a client's file is New Minnesota Government Access or (MGA). While New MGA allows a user to download certain documents from the court file, it only allows the download of one document at a time. This download process takes an inordinate amount of time. In addition to the download process, the Courts require documents to be separated when e-filed by the prosecutors, so in many cases what was previously considered one document is now considered three or more separate documents.

In addition to the changes in the ways the prosecutors and the Courts are providing documents, the Board will be launching its own Electronic Content Management System to accept disclosure electronically. The disclosure and court documents will be included in the electronic client file which will need to be stored and backed up on secure file servers. With 150,000 cases per year this amounts to an enormous amount of data that will need to be stored. At least initially there will be little if any cost savings from storing fewer paper documents. This is due to the fact that the existing paper files will need to be retained according to the Board's records retention policy; the current cost for physical storage of paper files in most places is low; and part time defenders currently are responsible for storage of their client files.

Proposal

The budget proposal would provide for an additional eleven (11) Legal Secretary/Office Specialist positions to assist with the opening of files and the additional time commitments brought about by eCourt and electronic filing. Even with the additional staff the board would be at seventy-one percent (71%) of the standard recommended for these positions. The request would also provide funding for electronic storage of client files as the board introduces its electronic content management system.

Program: Appellate Office

www.pubdef.state.mn.us/

AT A GLANCE

- 3,936 appellate files opened in 2015
- 3,982 parole revocation hearings in 2015
- 535 appeals with briefs filed in 2015

PURPOSE & CONTEXT

The Appellate Office provides services to indigent clients in criminal appeals, post-conviction proceedings in the District Courts, and supervised release/parole revocation proceedings.

The goals for the Appellate Office are to provide excellent client-centered representation to clients in criminal appeals, post-conviction proceedings in the District courts, and supervised release/parole revocation hearings. The Appellate Office is dedicated to the principle that all clients are entitled to equal access to justice, and quality representation.

By providing quality representation, the Appellate Office helps ensure that legislation and court decisions are based on sound constitutional and legal principles, thereby ensuring that the rights of all citizens are protected.

Increased penalties and stronger enforcement have resulted in a significant increase in the population of the state's prisons, jails, and individuals on supervision. The Minnesota Department of Corrections (DOC) records indicate that as of 1-1-2016 there were 10,105 inmates in the state's correctional facilities, 6,900 individuals in county facilities, and 122,000 individuals on supervised release, probation, or parole.

SERVICES PROVIDED

The Appellate Office provides mandated services to indigent prisoners who appeal their criminal cases to the Minnesota Court of Appeals and Supreme Court; or who pursue post-conviction proceedings in the District Courts throughout the state; and to defendants in supervised release/parole revocation proceedings.

RESULTS

The practice of criminal law does not readily lend itself to numerical results. However, the Appellate Office has incorporated quality representation guidelines into attorney practice.

Type of Measure	*Name of Measure*	*Previous*	*Current*	*Dates*
Quantity	Appellate Files Opened	2,682	3,936	2011-2015
Quantity	Appeals with Brief Filed	409	535	2011-2015
Quantity	Parole Revocation Hearings	3,450	3,982	2011-2015

M.S. 611 https://www.revisor.mn.gov/statutes/?id=611 provides the legal authority for the Appellate Office.

(Dollars in Thousands)

Expenditures By Fund

	Actual	Actual	Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY14	FY15	FY16	FY17	FY18	FY19	FY18	FY19
1000 - General	5,032	5,225	5,404	5,788	5,007	5,007	5,007	5,007
Total	5,032	5,225	5,404	5,788	5,007	5,007	5,007	5,007
Biennial Change				936		(1,179)		(1,179)
Biennial % Change				9		(11)		(11)
Governor's Change from Base								0
Governor's % Change from Base								0

Expenditures by Budget Activity

Budget Activity: State Public Defender	5,032	5,225	5,404	5,788	5,007	5,007	5,007	5,007
Total	**5,032**	**5,225**	**5,404**	**5,788**	**5,007**	**5,007**	**5,007**	**5,007**

Expenditures by Category

Compensation	3,682	3,985	4,239	4,449	3,788	3,788	3,788	3,788
Operating Expenses	1,350	1,240	1,165	1,339	1,218	1,218	1,218	1,218
Total	**5,032**	**5,225**	**5,404**	**5,788**	**5,007**	**5,007**	**5,007**	**5,007**
Full-Time Equivalents	**40.3**	**44.4**	**45.2**	**45.2**	**45.2**	**45.2**	**45.2**	**45.2**

(Dollars in Thousands)

1000 - General

	Actual FY14	Actual FY15	Actual FY16	Estimate FY17	Forecast Base FY18	Forecast Base FY19	Governor's Recommendation FY18	Governor's Recommendation FY19
Balance Forward In	0	1	0	298	0	0	0	0
Direct Appropriation	4,643	4,643	5,007	5,007	5,007	5,007	5,007	5,007
Net Transfers	390	582	695	484	0	0	0	0
Cancellations	0	1	0	0	0	0	0	0
Expenditures	**5,032**	**5,225**	**5,404**	**5,788**	**5,007**	**5,007**	**5,007**	**5,007**
Balance Forward Out	1	0	298	0	0	0	0	0
Biennial Change in Expenditures				936		(1,179)		(1,179)
Biennial % Change in Expenditures				9		(11)		(11)
Gov's Exp Change from Base								0
Gov's Exp % Change from Base								0
Full-Time Equivalents	40.3	44.4	45.2	45.2	45.2	45.2	45.2	45.2

Program: Administrative Services Office

www.pubdef.state.mn.us/

AT A GLANCE

- Launching an electronic content management system to accept, store and retrieve documents, audio and video files electronically.
- Developing new efficiencies in administration and case handling.
- 1,000 employees receive training at statewide/district events.

PURPOSE & CONTEXT

The Administrative Services Office provides district and appellate defenders with the resources they need to provide high quality legal assistance to indigent Minnesotans, and to do so in a cost effective manner.

We implement board policies and provide staff support and training for all public defense functions statewide. In addition, we develop and manage agency systems in the areas of caseloads, budget, personnel, and agency assets.

We are currently in the process of developing an Electronic Content Management system (ECM). The ECM will allow for the transmission, review, and storage of electronic records that flow to and from our justice partners.

Over 700 people in the agency's 29 offices, our part-time lawyers' offices and Public Defense Corporation offices rely on our technology staff for hardware and software assistance and the management of accounts used to access agency systems that are needed in the representation of clients.

SERVICES PROVIDED

- We have developed and implemented policies covering personnel, compensation, budgeting, training, conflict cases, internal controls, and management information systems. We have recently reviewed and implemented quality representation guidelines, and an internal resource allocation policy to better target attorney resources.
- We have and are continuing to work on improving efficiency in case handling.
- Merged administration of the 7th and 8th Judicial Districts allowing for better cross district sharing of resources.
- Developed and implemented a new class of full time attorneys to provide more flexibility in the provision of services and to address the coming retirements of "baby boomer" part time defenders.
- Developed and implemented a new multi-function class of support staff that will give the Board more flexibility by providing various support functions to attorneys.
- Implemented a model for immigration law support as required by the United States Supreme Court.
- Developed an upgraded "defender dashboard" on the case management system to allow defenders to more effectively use additional features of the case management system.
- Worked with the Court to provide automatic scheduling and scheduling updates.
- Developing an electronic content management system to integrate with the Courts E-court project and prosecutors statewide. (first test district goes live this fall).
- Streamlined entry of case opening data and shifted it away from attorney staff.

RESULTS

We have also continued our work in meeting the goals set out by the Board.

- Recruitment and retention of diverse work force- 45% women and 11% people of color.
- 1,000 trainees received training at 9 statewide/district training.
- 360 technology requests for assistance per month with initial response times always within one business day.
- 99% up-time on internal systems.
- Maintenance of 148 servers, 164 desktop computers and 429 surfaces/laptop computers.

We also continue to work with our justice partners to improve and increase the effectiveness of the criminal justice system. This work includes regular meetings with county attorneys, working with district chief public defenders and county attorneys to develop a systematic approach to the use of electronic disclosure in criminal cases. These contributions help to improve efficiency and maintain a capable and reliable justice system.

M.S. 611 https://www.revisor.mn.gov/statutes/?id=611 provides the legal authority for the Administrative Services Office.

(Dollars in Thousands)

Expenditures By Fund

	Actual	Actual	Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY14	FY15	FY16	FY17	FY18	FY19	FY18	FY19
1000 - General	1,849	1,829	1,907	2,233	2,020	2,020	2,020	2,020
Total	1,849	1,829	1,907	2,233	2,020	2,020	2,020	2,020
Biennial Change				462		(100)		(100)
Biennial % Change				13		(2)		(2)
Governor's Change from Base								0
Governor's % Change from Base								0

Expenditures by Budget Activity

Budget Activity: Administrative Services Office	1,849	1,829	1,907	2,233	2,020	2,020	2,020	2,020
Total	**1,849**	**1,829**	**1,907**	**2,233**	**2,020**	**2,020**	**2,020**	**2,020**

Expenditures by Category

Compensation	1,165	1,222	1,278	1,457	1,291	1,291	1,291	1,291
Operating Expenses	654	582	621	768	721	721	721	721
Other Financial Transactions	30	24	8	8	8	8	8	8
Grants, Aids and Subsidies	0	1	0	0	0	0	0	0
Total	**1,849**	**1,829**	**1,907**	**2,233**	**2,020**	**2,020**	**2,020**	**2,020**
Full-Time Equivalents	**10.5**	**10.2**	**10.1**	**10.1**	**10.1**	**10.1**	**10.1**	**10.1**

(Dollars in Thousands)

1000 - General

	Actual FY14	Actual FY15	Actual FY16	Estimate FY17	Forecast Base FY18	Forecast Base FY19	Governor's Recommendation FY18	Governor's Recommendation FY19
Balance Forward In	0	104	0	213	0	0	0	0
Direct Appropriation	1,920	1,920	2,020	2,020	2,020	2,020	2,020	2,020
Net Transfers	33	(184)	100	0	0	0	0	0
Cancellations	0	11	0	0	0	0	0	0
Expenditures	**1,849**	**1,829**	**1,907**	**2,233**	**2,020**	**2,020**	**2,020**	**2,020**
Balance Forward Out	104	0	213	0	0	0	0	0
Biennial Change in Expenditures				462		(100)		(100)
Biennial % Change in Expenditures				13		(2)		(2)
Gov's Exp Change from Base								0
Gov's Exp % Change from Base								0
Full-Time Equivalents	10.5	10.2	10.1	10.1	10.1	10.1	10.1	10.1

Program: District Public Defense

www.pubdef.state.mn.us

AT A GLANCE

- 144,000 cases opened annually
- Largest user of the trial court system
- Caseloads far in excess of American Bar Association Standards
- 40,000 uncompensated part-time public defender hours

PURPOSE & CONTEXT

The District Public Defense Program provides legal services required by the Constitution and statutes to indigent persons in Minnesota's trial courts.

This is accomplished through a system that relies on a mix of full-time and part-time attorneys as well as support staff. Trial level public defenders provide service in approximately 144,000 cases per year (80%-90% of all criminal cases).

This program also includes statutory (M.S. 611.215) funding for four nonprofit public defense corporations. The corporations provide criminal and juvenile defense services primarily to minority indigent defendants, who otherwise would need public defense services.

SERVICES PROVIDED

Under Minnesota law, all individuals accused of a felony, gross misdemeanor, misdemeanor or juvenile crime are entitled to be represented by an attorney. The District Defense Program provides quality mandated criminal defense services to indigent persons in these cases. We also provide representation to children under ten (10) years of age in Children in Need of Protective Services (CHIPS) cases.

The public defense corporations are nonprofit corporations that provide criminal and juvenile defense services primarily to minority indigent defendants, who otherwise would need public defense services. The four corporations are the Neighborhood Justice Center (St. Paul); Legal Rights Center (Minneapolis), Duluth Indian Legal, and the Regional Native Public Defense Corporation (serving Leech Lake and White Earth).

RESULTS

The Office of the Legislative Auditor's first conclusion in the 2010 Evaluation Report of public defense is this: "High public defender workloads have created significant challenges for Minnesota's criminal justice system."

The public defender system is operating with approximately 70% of the attorney staff that American Bar Association and Board of Public Defense Weighted Caseload Standards recommend.

According to the Legislative Auditor, the most immediate cause of high public defender workloads was the staffing cuts sustained in 2008/2009. The report described several other factors that make settlement of cases more difficult and time consuming. These include: legislation that has increased the severity of consequences for certain crimes; criminal charges or convictions that have civil consequences; additional hearings mandated by new legal requirements; language and cultural barriers; and more clients with mental illness and chemical dependency. Two other factors that have served to increase the workload for public defenders are recent U.S. Supreme Court decisions, and the needed review of scientific evidence.

Public defense has not been a fully functioning partner in the criminal justice system. In its report, the OLA observed that due to time pressures public defenders often had about 10 minutes to meet each client for the first time to evaluate the case, explain the client's options and the consequences of a conviction or plea, to discuss a possible deal with the prosecuting attorney, and allow the client to make a decision on how to proceed*. State and national standards recommend four hours of work for the same cases.

In 2014 in approximately 50% of Minnesota's counties public defenders were not with the client at their first court appearance. While that number has increased to approximately 75%, high workloads, time demands and court imposed deadlines for resolving cases continue to hamper efforts to provide quality representation. Client trust is essential in providing quality representation and ensuring efficient resolution of cases. This is especially true in cases where there is a plea agreement, which is the vast majority (99%) of cases.

This situation also jeopardizes the right to effective assistance of counsel as outlined by the United States Supreme Court.

The United States Supreme Court held in Missouri v. Frye and Lafler v. Cooper, that criminal defendants have a Sixth Amendment right to effective assistance of counsel during plea negotiations. The Court in Padilla v Kentucky determined that the immigration consequences of a guilty plea are an integral part of the punishment that could result from a criminal conviction and thus are within the scope of the Sixth Amendment's right to counsel. These decisions make it incumbent upon public defenders to spend more time with clients and to document conversations more carefully.

Several factors have made the practice of law much more complicated over the last several years. These include the increased use of scientific evidence. Such evidence must be analyzed for the ways in which this forensic evidence is collected, processed, analyzed, and reported. This includes computer forensics, drug analysis, fingerprint analysis, DNA, ballistics, arson reports, and other forensic evidence.

The criminal justice system as a whole has also had to deal with an increased number of defendants who suffer from mental illness and/or drug and alcohol addiction. It is estimated that anywhere from 30%-50% of inmates in county jails suffer from some form of mental illness. According to the Minnesota Department of Health alcohol/drug abuse is a factor in 80%-90% of Minnesota's criminal cases.

* State and national standards v Office of Legislative Auditor observed during field visits.

Type of Measure	***Name of Measure***	***Previous***	***Current***	***Dates***
Quantity	Trial Rates for All Case Types	.61%	.93%	2013-2016
Quality	Counties with public defender at first appearance	50%	75%	2013-2016

M.S. 611 https://www.revisor.mn.gov/statutes/?id=611 provides the legal authority for District Public Defense.

(Dollars in Thousands)

Expenditures By Fund

	Actual	Actual	Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY14	FY15	FY16	FY17	FY18	FY19	FY18	FY19
1000 - General	63,869	67,142	64,912	80,744	75,985	75,985	82,485	88,552
2000 - Restrict Misc Special Revenue	108	1,814	1,131	210	0	0	0	0
2403 - Gift	47	84	85	148	60	60	60	60
3000 - Federal	349	128	49	1	0	0	0	0
Total	64,372	69,168	66,177	81,103	76,046	76,046	82,546	88,613
Biennial Change				13,741		4,811		23,878
Biennial % Change				10		3		16
Governor's Change from Base								19,067
Governor's % Change from Base								13

Expenditures by Budget Activity

Budget Activity: District Public Defense	64,372	69,168	66,177	81,103	76,046	76,046	82,546	88,613
Total	**64,372**	**69,168**	**66,177**	**81,103**	**76,046**	**76,046**	**82,546**	**88,613**

Expenditures by Category

Compensation	46,465	48,938	52,020	57,955	57,737	57,737	63,835	69,898
Operating Expenses	4,778	6,986	6,194	6,295	5,817	5,817	6,139	6,059
Other Financial Transactions	62	401	274	451	251	251	251	251
Grants, Aids and Subsidies	13,067	12,842	7,689	16,402	12,241	12,241	12,321	12,405
Capital Outlay-Real Property	0	0	0	0	0	0	0	0
Total	**64,372**	**69,168**	**66,177**	**81,103**	**76,046**	**76,046**	**82,546**	**88,613**
Full-Time Equivalents	**559.2**	**581.4**	**595.8**	**595.8**	**595.8**	**595.8**	**625.8**	**651.8**

(Dollars in Thousands)

1000 - General

	Actual FY14	Actual FY15	Actual FY16	Estimate FY17	Forecast Base FY18	Forecast Base FY19	Governor's Recommendation FY18	Governor's Recommendation FY19
Balance Forward In	125	350	167	5,242	0	0	0	0
Direct Appropriation	64,135	67,049	70,402	75,635	75,635	75,635	82,135	88,202
Net Transfers	(77)	(36)	(416)	(133)	350	350	350	350
Cancellations	0	54	0	0	0	0	0	0
Expenditures	**63,869**	**67,142**	**64,912**	**80,744**	**75,985**	**75,985**	**82,485**	**88,552**
Balance Forward Out	314	167	5,242	0	0	0	0	0
Biennial Change in Expenditures				14,645		6,315		25,382
Biennial % Change in Expenditures				11		4		17
Gov's Exp Change from Base								19,067
Gov's Exp % Change from Base								13
Full-Time Equivalents	558.5	581.3	595.6	595.6	595.6	595.6	625.6	651.6

2000 - Restrict Misc Special Revenue

	Actual FY14	Actual FY15	Actual FY16	Estimate FY17	Forecast Base FY18	Forecast Base FY19	Governor's Recommendation FY18	Governor's Recommendation FY19
Balance Forward In	3,215	3,132	1,318	186	0	0	0	0
Net Transfers	24	0	0	24	0	0	0	0
Expenditures	**108**	**1,814**	**1,131**	**210**	0	0	0	0
Balance Forward Out	3,132	1,318	186	0	0	0	0	0
Biennial Change in Expenditures				(580)		(1,341)		(1,341)
Biennial % Change in Expenditures				(30)		(100)		(100)

2403 - Gift

	Actual FY14	Actual FY15	Actual FY16	Estimate FY17	Forecast Base FY18	Forecast Base FY19	Governor's Recommendation FY18	Governor's Recommendation FY19
Balance Forward In	74	84	103	88	0	0	0	0
Receipts	56	98	70	60	60	60	60	60
Expenditures	**47**	**84**	**85**	**148**	**60**	**60**	**60**	**60**
Balance Forward Out	83	99	88	0	0	0	0	0
Biennial Change in Expenditures				103		(113)		(113)
Biennial % Change in Expenditures				79		(48)		(48)
Gov's Exp Change from Base								0
Gov's Exp % Change from Base								0
Full-Time Equivalents	0.4	0.1	0.2	0.2	0.2	0.2	0.2	0.2

(Dollars in Thousands)

3000 - Federal

	Actual FY14	Actual FY15	Actual FY16	Estimate FY17	Forecast Base FY18	Forecast Base FY19	Governor's Recommendation FY18	Governor's Recommendation FY19
Balance Forward In	142	76	1	1	0	0	0	0
Receipts	284	53	49	0	0	0	0	0
Net Transfers	0	0	0	0	0	0	0	0
Expenditures	**349**	**128**	**49**	**1**	0	0	0	0
Balance Forward Out	76	1	1	0	0	0	0	0
Biennial Change in Expenditures				(427)		(50)		(50)
Biennial % Change in Expenditures				(90)		(100)		(100)
Full-Time Equivalents	0.4							