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**AT A GLANCE**

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

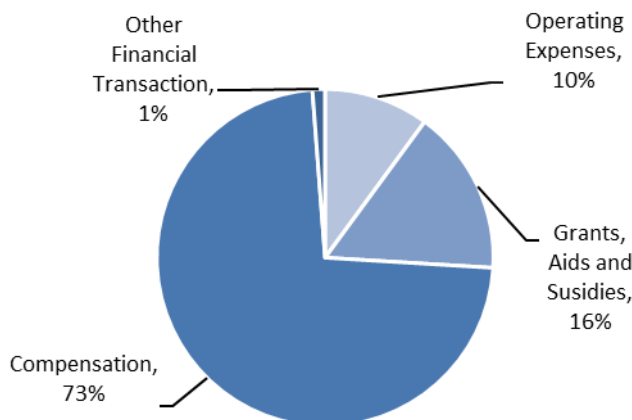
**PURPOSE**

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 ensures that the constitutional rights of the indigent are protected. This helps to protect the rights of all 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**

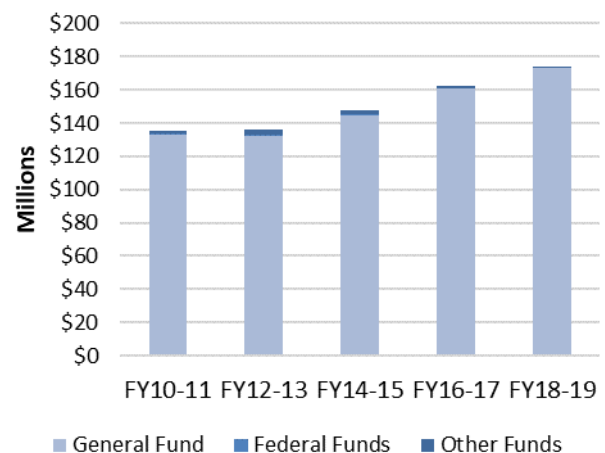
**Spending by Category  
FY 2019 Actual**



Source: Budget Planning & Analysis System (BPAS)

Compensation includes funding of county employees in the 2<sup>nd</sup> and 4<sup>th</sup> Judicial Districts; however, this is included in the grants, aids, and subsidies funding category on the fiscal reports.

**Historical Spending**



Source: Consolidated Fund Statement

## 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/cite/611>) provides the legal authority for the Board of Public Defense

(Dollars in Thousands)

	Actual FY18	Actual FY19	Actual FY20	Estimate FY21	Forecast Base		Governor's Recommendation	
					FY22	FY23	FY22	FY23
<b><u>Expenditures by Fund</u></b>								
1000 - General	79,779	93,767	93,152	104,400	101,178	101,178	110,083	112,968
2000 - Restrict Misc Special Revenue	135		435	788	377	377	377	377
2403 - Gift	110	49	47	138	51	51	51	51
<b>Total</b>	<b>80,024</b>	<b>93,816</b>	<b>93,634</b>	<b>105,326</b>	<b>101,606</b>	<b>101,606</b>	<b>110,511</b>	<b>113,396</b>
Biennial Change				25,120		4,252		24,947
Biennial % Change				14		2		13
Governor's Change from Base								20,695
Governor's % Change from Base								10

**Expenditures by Program**

Appellate Office	6,024	6,260	6,561	7,236	6,603	6,603	6,603	6,603
Administrative Services Office	2,292	2,592	2,176	3,248	2,712	2,712	2,712	2,712
District Public Defense	71,709	84,965	84,896	94,842	92,291	92,291	101,196	104,081
<b>Total</b>	<b>80,024</b>	<b>93,816</b>	<b>93,634</b>	<b>105,326</b>	<b>101,606</b>	<b>101,606</b>	<b>110,511</b>	<b>113,396</b>

**Expenditures by Category**

Compensation	65,006	68,325	75,156	81,887	81,908	81,908	87,478	93,046
Operating Expenses	7,873	9,450	8,751	13,300	9,641	9,641	12,902	10,141
Grants, Aids and Subsidies	5,913	14,904	8,959	9,125	9,043	9,043	9,117	9,195
Capital Outlay-Real Property	0	0	188					
Other Financial Transaction	1,232	1,138	579	1,014	1,014	1,014	1,014	1,014
<b>Total</b>	<b>80,024</b>	<b>93,816</b>	<b>93,634</b>	<b>105,326</b>	<b>101,606</b>	<b>101,606</b>	<b>110,511</b>	<b>113,396</b>

**Full-Time Equivalent**

	<b>705.92</b>	<b>726.85</b>	<b>756.67</b>	<b>756.67</b>	<b>756.67</b>	<b>756.67</b>	<b>783.67</b>	<b>808.67</b>
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(Dollars in Thousands)

	Actual FY18	Actual FY19	Actual FY20	Estimate FY21	Forecast Base		Governor's Recommendation	
					FY22	FY23	FY22	FY23
<b>1000 - General</b>								
Balance Forward In	183	6,763		3,222				
Direct Appropriation	85,949	88,471	96,374	101,178	101,178	101,178	109,583	112,468
Transfers In	3,640	5,784					500	500
Transfers Out	3,250	5,647						
Cancellations		1,604						
Balance Forward Out	6,743		3,222					
<b>Expenditures</b>	<b>79,779</b>	<b>93,767</b>	<b>93,152</b>	<b>104,400</b>	<b>101,178</b>	<b>101,178</b>	<b>110,083</b>	<b>112,968</b>
Biennial Change in Expenditures				24,006		4,804		25,499
Biennial % Change in Expenditures				14		2		13
Governor's Change from Base								20,695
Governor's % Change from Base								10
Full-Time Equivalents	705.79	726.83	756.00	756.00	756.00	756.00	783.00	808.00

**2000 - Restrict Misc Special Revenue**

Balance Forward In	142	208	455	401				
Receipts	200							
Transfers In		247	382	387	377	377	377	377
Balance Forward Out	208	455	402					
<b>Expenditures</b>	<b>135</b>		<b>435</b>	<b>788</b>	<b>377</b>	<b>377</b>	<b>377</b>	<b>377</b>
Biennial Change in Expenditures				1,089		(469)		(469)
Biennial % Change in Expenditures						(38)		(38)
Governor's Change from Base								0
Governor's % Change from Base								0

**2403 - Gift**

Balance Forward In	129	97	113	205	102	86	102	86
Receipts	78	65	138	35	35	35	35	35
Balance Forward Out	97	112	205	102	86	70	86	70
<b>Expenditures</b>	<b>110</b>	<b>49</b>	<b>47</b>	<b>138</b>	<b>51</b>	<b>51</b>	<b>51</b>	<b>51</b>
Biennial Change in Expenditures				25		(83)		(83)
Biennial % Change in Expenditures				16		(45)		(45)
Governor's Change from Base								0
Governor's % Change from Base								0

*(Dollars in Thousands)*

	Actual	Actual	Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY18	FY19	FY20	FY21	FY22	FY23	FY22	FY23
Full-Time Equivalents	0.13	0.02	0.67	0.67	0.67	0.67	0.67	0.67

(Dollars in Thousands)

	FY21	FY22	FY23	Biennium 2022-23
<b>Direct</b>				
<b>Fund: 1000 - General</b>				
FY2021 Appropriations	101,178	101,178	101,178	202,356
Forecast Base	101,178	101,178	101,178	202,356
<b>Change Items</b>				
Maintain Public Defense Services		8,405	11,290	19,695
<b>Total Governor's Recommendations</b>	<b>101,178</b>	<b>109,583</b>	<b>112,468</b>	<b>222,051</b>
<b>Dedicated</b>				
<b>Fund: 2000 - Restrict Misc Special Revenue</b>				
Planned Spending	788	377	377	754
Forecast Base	788	377	377	754
<b>Total Governor's Recommendations</b>	<b>788</b>	<b>377</b>	<b>377</b>	<b>754</b>
<b>Fund: 2403 - Gift</b>				
Planned Spending	138	51	51	102
Forecast Base	138	51	51	102
<b>Total Governor's Recommendations</b>	<b>138</b>	<b>51</b>	<b>51</b>	<b>102</b>
<b>Revenue Change Summary</b>				
<b>Dedicated</b>				
<b>Fund: 2403 - Gift</b>				
Forecast Revenues	35	35	35	70
<b>Total Governor's Recommendations</b>	<b>35</b>	<b>35</b>	<b>35</b>	<b>70</b>

# Board of Public Defense

## FY 2022-23 Biennial Budget Change Item

### Change Item Title: Maintain Public Defense Services

Fiscal Impact (\$000s)	FY 2022	FY 2023	FY 2024	FY 2025
General Fund				
Expenditures	8,405	11,290	11,290	11,290
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	8,405	11,290	11,290	11,290
FTEs	27	52	52	52

### Recommendation:

The Governor recommends funding this request from the Board of Public Defense.

The budget request is an attempt to maintain the public defense system in a time of great uncertainty. The budget request provides the staffing necessary to maintain public defense services at first appearances and maintain a stable workforce by being able fund salary and benefit increases.

### Rationale/Background:

The uncertainty created by the COVID-19 pandemic has impacted the criminal justice system. During the early months of the pandemic, the Trial Courts suspended several thousand cases. Courthouses have been or are being reconfigured to meet MDH and CDC Guidelines. Changes have been made to meet MDH and CDC Guidelines for social distancing and other safety measures. The county jails have had to make changes as well to meet the MDH and CDC Guidelines. All these changes have added to the time that it takes to resolve cases.

The Minnesota Supreme Court reported that between March 19<sup>th</sup> and July 30<sup>th</sup>, there were over 10,000 felony and gross misdemeanor cases pending. The Council reported a “judge need” of 78 hours *per judge* to resolve this backlog of cases. As of the end of July there were 40 locations that the Judicial Council has certified as complying with the Judicial Council’s safety guidelines. With just under one half of the courthouse locations certified, the backlog will continue to grow. Taking the Court’s 78 hours per judge and including an additional hour of out of court time needed to prep for the cases this would mean an additional need for 46,000 hours of attorney time to address this backlog.

In addition to the issues surrounding COVID-19, Assistant Public Defenders have been weighed down with additional administrative responsibilities. This has been the result of the introduction of the Court’s e-file and e-service as well as the prosecutors move to providing disclosure in electronic formats. This has also forced the Board to invest and create its own Electronic Content Management System (ECM). Again, while these moves have made the agency more efficient in documenting, filing, and retrieving information, it has increased administrative responsibilities for Assistant Public Defenders.

The Court’s move to an all-electronic process has increased the costs for public defense. With the move to electronic records the courts will no longer provide paper copies of. 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.



The responsibilities and time commitments for case preparation will continue to grow with the increased use of body cameras by police. The increased use of video in criminal proceedings has been and will continue to be a major demand on time and resources. The video must be viewed by the attorneys and must be stored. In a current pilot project with the Ramsey County Attorney's Office, in the period from April-July 2020 we have received just over 3.5 terabytes of data. This is the equivalent of approximately 875 two-hour movies.

Salaries continue to lag behind prosecutors, making it more difficult to recruit and retain qualified employees. Approximately ninety percent (90%) of the Board's budget is personnel, with another six percent (6%) contractually obligated. Because public defenders cannot refuse cases, failure to fund increases in personnel costs is the equivalent of a staffing reduction. This jeopardizes the board's ability to have counsel at first appearances and puts the Board at a competitive disadvantage with other public employers.

The Board's *Quality Representation Best Practices (Best Practices)* for trial level defenders sets forth objectives, goals and strategies that are to be considered in every case given the charges and the client's circumstances. The *Best Practices* set forth the expectations that are client-centered and most likely to lead to effective attorney-client relationships, based on trust. Inherent in the *Best Practices* is a responsibility for providing representation at first appearance. Accordingly, a major emphasis of the Board's recent budget requests has been to increase attorney staffing to have attorneys at first appearances throughout the state. As of this Spring, the current budget supported attorney staffing levels (75% of state and national standards) such that public defenders are able to appear with clients at first appearances for in-custody cases in seventy-seven (77) counties, and in seventy-two (72) counties for out of custody cases.

The four public defense corporations provide legal defense services primarily to the state's minority communities. These cases would otherwise be public defender cases. The state provides approximately \$1.6 million per year through the Board for the public defense corporations. This represents roughly one-half of their funding.

#### **Proposal:**

The proposal seeks to maintain the public defender system by providing the staffing necessary to keep up with caseloads, the case backlog and to maintain and stabilize its work force in the face of competition from other public agencies. Public defenders cannot refuse cases (*Dzubiak v Mott*), and the only funding source the Board has is legislative appropriation. Since 90% of the board's budget is personnel and another five percent (5%) is contractually obligated, failure to fund salary and benefit increases for existing staff would require a reduction in staffing and would result in a reduction in services. This will lead to; the inability to handle certain case types in anything like a timely manner; aggravation of jail overcrowding; postponement of trial settings, which are already far enough out to impinge on the right to a speedy trial; deterioration in the quality of fact-finding, as witnesses become unavailable; increased strain on all the other participants in the justice system.

The board is requesting one-time funding to hire attorneys on a temporary basis to help address the backlog of cases. It also includes professional staff to bring these ratios in line with attorney staffing. The requested increase in attorney staffing only addresses the growth in caseloads since the start of the last biennium.

The board is requesting funding to address issues surrounding COVID-19, and the additional administrative responsibilities that have weighted down Assistant Public Defenders.

In order to continue to recruit and retain staff, the request includes funding to provide for salaries that are in line with other public agencies including the Attorney General's Office, and to fund the estimated insurance cost increases during the biennium.

The request also includes a modest increase in grant funding to the four public defense corporations that provide legal defense services primarily to the state's minority communities. The cases handled (3,300 annually) by the corporations would otherwise be public defender cases.

**Impact on Children and Families:**

The budget request is an attempt to maintain the current level of public defender services. Last year public defenders represented clients in 150,000 cases. Many of these clients have families with children. The board has the resources to have public defenders at first appearances in almost all counties in the state. Many times, the first appearance includes arguments on reducing or eliminating bail for clients. For every client that is not kept in jail due to failure to afford bail, a job can be saved, and children provided for.

Along with protecting the constitutional rights of clients, in many of these cases public defenders work hard to find alternatives to incarceration. These alternatives include drug and alcohol treatment and mental health care. For every person that is not incarcerated, not only is there a savings to the county or state, but many times clients can remain employed or can seek employment and keep families together.

Last year public defenders represented almost 9,500 juveniles in juvenile court, and 2,000 children 10 and over in child protection proceedings. In these cases, the work of public defenders often means a second chance for juvenile offenders, and in the child protection area a chance to keep families together.

**Equity and Inclusion:**

Public defenders represent the poorest segment of society. Clients are living in poverty, many are homeless, and a high percentage suffer from mental health issues, and chemical dependency issues, as well as traumatic brain injuries. Estimates of the number of individuals in county jails who suffer from mental illness range anywhere from 30-50%. It is estimated that 90% of Minnesota's criminal cases involve alcohol or other chemical dependency issues.

People of color make up a significant portion of public defender clients. African Americans make up nearly 28% of the felony offenders in the state, and 35% of the state's prisoners. Native Americans make up about 10% of the state's prison population and about 7% of the felony offenders.

**Results:**

This proposal is intended to allow the Board of Public Defense to continue to provide current levels of service and information to the public.

# Board of Public Defense

## FY 2022-23 Biennial Budget Change Item

### Change Item Title: Public Defender Payment Distribution Change

Fiscal Impact (\$000s)	FY 2022	FY 2023	FY 2024	FY 2025
<b>MMB Non-Operating</b>				
General Fund				
Expenditures	(500)	(500)	(500)	(500)
Revenues	0	0	0	0
<b>Board of Public Defense</b>				
General Fund				
Expenditures	500	500	500	500
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	0	0	0	0
<b>FTEs</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

### Recommendation:

The Governor recommends the responsibility for distributing public defender expense reimbursements be transferred from Minnesota Management and Budget (MMB) to the Minnesota Board of Public Defense. Certain public defender expense reimbursements are paid using a portion of the county program aid appropriation. This proposal simplifies the payment process for vendors by ensuring that the Board of Public Defense, which approves the expenses under current law, is also the entity that processes the expense payments. The Governor also recommends removing the requirement that certain public defender costs must be authorized by court order.

### Rationale/Background:

As authorized by Minnesota Statutes Section 611.27, the \$500,000 annual transfer from county program aid can be used for two broad purposes. First, to pay for appellate public defenders' transcript costs and other necessary expenses in appeal and postconviction cases when the Board of Public Defense's own \$500,000 annual allocation has been exhausted. Second, for the costs of alternative counsel in district court cases when a district public defense office indicates it is unable to provide adequate representation. For both types of costs, the expenses must be authorized by the Board of Public Defense. For district-level costs, the appointment of alternative counsel must also be approved by the district court. All expenses are then received by the Board of Public Defense and forwarded to MMB for payment.

MMB processed 927 invoices forwarded from the Board of Public Defense in FY 2020, 1,196 in FY 2019, 1,091 in FY 2018, and 679 in FY 2017.

### Proposal:

The proposal moves the \$500,000 annual transfer of county program aid from MMB to the Board of Public Defense. Under current law, the Minnesota Department of Revenue (DOR) transfers this amount from the county program aid account to MMB every July. Under this proposal, DOR will transfer the funds to the board instead, which removes MMB from the process. The proposal also contains related clean-ups to statutory language to clarify how the process works.

These changes streamline the business process by ensuring that the entity approving these public defender expenses—the Board of Public Defense—is the same entity that is consistently processing the payments. These changes will improve processing times and simplify the process for the vendors seeking payment. These vendors

have relationships with the Board of Public Defense and submit their invoices to the board. And in the case of appellate transcripts costs, vendors receive payment from the board during certain months of the fiscal year and from MMB during other months. This proposal ensures that vendors will only need to interact with one agency during all times of the year.

This proposal also contains policy changes requested by the Board of Public Defense that removes the requirement that certain public defender costs must ultimately be authorized by court order. When a district public defense office believes it cannot provide representation for a case, the office contacts the Board of Public Defense. As required by law, the board must approve requests for outside counsel, and if it does, current law also requires court order approval from the district court. This is achieved by the board estimating costs, and the state public defender drafting a court order to be signed by the chief district court judge. The board indicates that it is unaware of any instance when a judge has denied a request. By removing the requirement of court order approval, it further streamlines the process by ensuring that one agency receives the county program aid transfer, reviews and approves requests for outside counsel, and monitors expenses in the account.

**Statutory Change(s):**

Minnesota Statutes, Sections 477A.03 and 611.27

## Program: Appellate Office

[pubdef.state.mn.us/](http://pubdef.state.mn.us/)

### AT A GLANCE

- 4,110 appellate files opened
- 4,268 parole revocation hearings
- 597 briefs filed

### 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 1-1-2020 there were 9,381 inmates in the state's correctional facilities. In 2019 there were more than 6,000 individuals released on parole or supervised release, and there are more than 120,000 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 its attorney practice.

<i>Type of Measure</i>	<i>Name of Measure</i>	<i>Previous</i>	<i>Current</i>	<i>Dates</i>
Quantity	Appellate Files Opened	3,939	4,110	2015 v 2019
Quality	Briefs Filed	532	597	2015 v 2019
Quantity	Parole Revocation Hearings	3,982	4,268	2015 v 2019
Quantity	Post-Conviction Proceedings	414	450	2015 v 2019

M.S. 611 (<https://www.revisor.mn.gov/statutes/cite/611>) provides the legal authority for the program.

(Dollars in Thousands)

	Actual FY18	Actual FY19	Actual FY20	Estimate FY21	Forecast Base FY22 FY23		Governor's Recommendation FY22 FY23	
<b><u>Expenditures by Fund</u></b>								
1000 - General	6,024	6,260	6,561	7,236	6,603	6,603	6,603	6,603
<b>Total</b>	<b>6,024</b>	<b>6,260</b>	<b>6,561</b>	<b>7,236</b>	<b>6,603</b>	<b>6,603</b>	<b>6,603</b>	<b>6,603</b>
Biennial Change				1,514		(591)		(591)
Biennial % Change				12		(4)		(4)
Governor's Change from Base								0
Governor's % Change from Base								0

**Expenditures by Activity**

State Public Defender	6,024	6,260	6,561	7,236	6,603	6,603	6,603	6,603
<b>Total</b>	<b>6,024</b>	<b>6,260</b>	<b>6,561</b>	<b>7,236</b>	<b>6,603</b>	<b>6,603</b>	<b>6,603</b>	<b>6,603</b>

**Expenditures by Category**

Compensation	4,813	4,927	5,388	5,854	5,365	5,365	5,365	5,365
Operating Expenses	1,211	1,333	1,173	1,382	1,238	1,238	1,238	1,238
<b>Total</b>	<b>6,024</b>	<b>6,260</b>	<b>6,561</b>	<b>7,236</b>	<b>6,603</b>	<b>6,603</b>	<b>6,603</b>	<b>6,603</b>

**Full-Time Equivalents**

	47.38	47.53	48.66	48.66	48.66	48.66	48.66	48.66
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(Dollars in Thousands)

	Actual FY18	Actual FY19	Actual FY20	Estimate FY21	Forecast Base FY22 FY23		Governor's Recommendation FY22 FY23	
<b>1000 - General</b>								
Balance Forward In		29		633				
Direct Appropriation	5,943	5,959	7,194	6,603	6,603	6,603	6,603	6,603
Transfers In	110	400						
Cancellations		129						
Balance Forward Out	29		633					
<b>Expenditures</b>	<b>6,024</b>	<b>6,260</b>	<b>6,561</b>	<b>7,236</b>	<b>6,603</b>	<b>6,603</b>	<b>6,603</b>	<b>6,603</b>
Biennial Change in Expenditures				1,514		(591)		(591)
Biennial % Change in Expenditures				12		(4)		(4)
Governor's Change from Base								0
Governor's % Change from Base								0
Full-Time Equivalents	47.38	47.53	48.66	48.66	48.66	48.66	48.66	48.66

**Program: Administrative Services Office**[pubdef.state.mn.us](http://pubdef.state.mn.us)**AT A GLANCE**

- Launching an electronic content management system to accept, store and retrieve documents.
- Developing new efficiencies in administration and case handling.
- 1,000 employees receive training at statewide/district events.
- HR, payroll, technology, and administrative functions for 700+ employees

**PURPOSE & CONTEXT**

The Administrative Services Office provides district and appellate defenders and staff with the resources they need to be successful in providing 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 have developed 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. Currently working with justice partners to accept video.

Over 700 people in 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**

- Implement COVID-19 business plan and leave plan to help ensure employee safety and continuation of services.
- Working with justice partners to develop plans to maintain court functions during pandemic
- We have developed and implemented policies covering personnel, compensation, budgeting, training, conflict cases, internal controls, and management information systems.
- We have implemented quality representation guidelines, and an internal resource allocation policy to better target attorney resources.
- Developed and implemented a new class of full-time attorney to provide more flexibility in the provision of services and to address the coming retirements of "baby boomer" part time defenders
- Implemented a model and training for handling cases involving DNA and other scientific evidence.
- 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. Working on plans to accept and store video content.
- Streamlined entry of case opening data and shifted it away from attorney staff.



## OUTCOMES

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 sessions.
- 400 technology requests for assistance per month with initial response times always within one business day.
- 99% up-time on internal systems.
- Maintenance of 185 servers/appliances, 894 laptop/desktop 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 and 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.

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M.S. 611 (<https://www.revisor.mn.gov/statutes/cite/611>) provides the authority for this program.

# Administrative Services Office

# Program Expenditure Overview

(Dollars in Thousands)

	Actual FY18	Actual FY19	Actual FY20	Estimate FY21	Forecast Base		Governor's Recommendation	
					FY22	FY23	FY22	FY23
<b><u>Expenditures by Fund</u></b>								
1000 - General	2,292	2,592	2,176	3,248	2,712	2,712	2,712	2,712
<b>Total</b>	<b>2,292</b>	<b>2,592</b>	<b>2,176</b>	<b>3,248</b>	<b>2,712</b>	<b>2,712</b>	<b>2,712</b>	<b>2,712</b>
Biennial Change				541		0		0
Biennial % Change				11		0		0
Governor's Change from Base								0
Governor's % Change from Base								0

## **Expenditures by Activity**

Administrative Services Office	2,292	2,592	2,176	3,248	2,712	2,712	2,712	2,712
<b>Total</b>	<b>2,292</b>	<b>2,592</b>	<b>2,176</b>	<b>3,248</b>	<b>2,712</b>	<b>2,712</b>	<b>2,712</b>	<b>2,712</b>

## **Expenditures by Category**

Compensation	1,480	1,536	1,812	2,050	1,853	1,853	1,853	1,853
Operating Expenses	751	654	363	1,194	855	855	855	855
Grants, Aids and Subsidies		356	0					
Other Financial Transaction	60	45	0	4	4	4	4	4
<b>Total</b>	<b>2,292</b>	<b>2,592</b>	<b>2,176</b>	<b>3,248</b>	<b>2,712</b>	<b>2,712</b>	<b>2,712</b>	<b>2,712</b>

## **Full-Time Equivalents**

	10.73	11.00	12.60	12.60	12.60	12.60	12.60	12.60
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# Administrative Services Office

# Program Financing by Fund

(Dollars in Thousands)

	Actual FY18	Actual FY19	Actual FY20	Estimate FY21	Forecast Base		Governor's Recommendation	
					FY22	FY23	FY22	FY23
<b>1000 - General</b>								
Balance Forward In		98		536				
Direct Appropriation	5,120	6,984	2,712	2,712	2,712	2,712	2,712	2,712
Transfers Out	2,750	4,400						
Cancellations		90						
Balance Forward Out	78		536					
<b>Expenditures</b>	<b>2,292</b>	<b>2,592</b>	<b>2,176</b>	<b>3,248</b>	<b>2,712</b>	<b>2,712</b>	<b>2,712</b>	<b>2,712</b>
Biennial Change in Expenditures				541		0		0
Biennial % Change in Expenditures				11		0		0
Governor's Change from Base								0
Governor's % Change from Base								0
Full-Time Equivalents	10.73	11.00	12.60	12.60	12.60	12.60	12.60	12.60

## Program: District Public Defense

[pubdef.state.mn.us](http://pubdef.state.mn.us)

### AT A GLANCE

- 150,000 + cases opened annually
- Largest user of the trial court system
- Increased complexity of cases with scientific evidence and collateral consequences
- Caseloads far in excess of State and American Bar Association standards
- Thousands of 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 150,000 cases per year (80%-90% of all criminal cases). This program also includes statutory (M.S. 611.215) (<https://www.revisor.mn.gov/statutes/cite/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

"High public defender workloads have created significant challenges for Minnesota's criminal justice system."<sup>1</sup> 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. Compare this to state and national standards which recommend four hours of work for the same cases.<sup>2</sup>

The public defender system is operating with approximately 75% of the attorney staff and approximately 62% of the professional staff that American Bar Association and Board of Public Defense Weighted Caseload Standards recommend. The Board continues to experience significant employee turnover with a corresponding loss of experience. In the period January -July of 2020 thirty (30) public defenders resigned or retired. The retirees

<sup>1</sup> Office of Legislative Auditor 2010 Program Evaluation Public Defender System.

<sup>2</sup> OLA field visits versus American Bar Association Recommendations and State Board of Public Defense Weighted Caseload Standards.

represented over 290 years of experience. The average experience for those employees who resigned to take other positions was almost six (6) years.

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.

The OLA report described several 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 ( Missouri v. Frye and Lafler v. Cooper-criminal defendants have a Sixth Amendment right to effective assistance of counsel during plea negotiations, and Padilla v Kentucky-immigration consequences of a guilty plea are an integral part of a criminal conviction and thus are within the scope of the Sixth Amendment’s right to counsel).

The increased use of video (body, dashboard, business and government) in criminal proceedings has been and will continue to be a major demand on time and resources. The video must be viewed by the attorneys and must be stored. In a pilot project with the Ramsey County Attorneys Office, in the period from April-July 2020 we have received just over 3.5 terabytes of data. To put this in perspective, that would be the equivalent of approximately 875 two-hour movies.

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

Finally, the criminal justice system as a whole has also had to serve an increased number of defendants who suffer from mental illness and/or drug and alcohol addiction. It is estimated that approximately 50% of inmates in county jails suffer from some form of mental illness, and alcohol/drug abuse is a factor in 80%-90% of Minnesota’s criminal cases.

These factors have become more acute with the onset of the COVID-19 pandemic. The limited ability to meet with clients in person, and the length of time needed to deal with and resolve cases has placed additional burdens on public defense staff. In addition, while several thousand court cases have been delayed due to the virus, these cases will need to be heard and resolved by the courts. This backlog will put additional pressure on staff. The loss of experienced attorneys and staff compounds these factors.

<i>Type of Measure</i>	<i>Name of Measure</i>	<i>Previous</i>	<i>Current</i>	<i>Dates</i>
Quality	Counties with public defender at first appearance (in custody cases)	89%	89%	FY 2018 & FY 2020
Quantity	Video Transmitted- Ramsey County-3 months.		3.5 Terabytes	3 months
Quality	Counties with public defender at first appearance (out of custody cases)	60%	85%	FY 2018 & FY 2020

M.S. 611 (<https://www.revisor.mn.gov/statutes/cite/611>) provides the legal authority for District Public Defense.

# District Public Defense

# Program Expenditure Overview

(Dollars in Thousands)

	Actual FY18	Actual FY19	Actual FY20	Estimate FY21	Forecast Base		Governor's Recommendation	
					FY22	FY23	FY22	FY23
<b><u>Expenditures by Fund</u></b>								
1000 - General	71,464	84,915	84,414	93,916	91,863	91,863	100,768	103,653
2000 - Restrict Misc Special Revenue	135		435	788	377	377	377	377
2403 - Gift	110	49	47	138	51	51	51	51
<b>Total</b>	<b>71,709</b>	<b>84,965</b>	<b>84,896</b>	<b>94,842</b>	<b>92,291</b>	<b>92,291</b>	<b>101,196</b>	<b>104,081</b>
Biennial Change				23,065		4,844		25,539
Biennial % Change				15		3		14
Governor's Change from Base								20,695
Governor's % Change from Base								11

## **Expenditures by Activity**

District Public Defense	71,709	84,965	84,896	94,842	92,291	92,291	101,196	104,081
<b>Total</b>	<b>71,709</b>	<b>84,965</b>	<b>84,896</b>	<b>94,842</b>	<b>92,291</b>	<b>92,291</b>	<b>101,196</b>	<b>104,081</b>

## **Expenditures by Category**

Compensation	58,713	61,862	67,956	73,983	74,690	74,690	80,260	85,828
Operating Expenses	5,910	7,463	7,214	10,724	7,548	7,548	10,809	8,048
Grants, Aids and Subsidies	5,913	14,548	8,959	9,125	9,043	9,043	9,117	9,195
Capital Outlay-Real Property	0	0	188					
Other Financial Transaction	1,173	1,092	579	1,010	1,010	1,010	1,010	1,010
<b>Total</b>	<b>71,709</b>	<b>84,965</b>	<b>84,896</b>	<b>94,842</b>	<b>92,291</b>	<b>92,291</b>	<b>101,196</b>	<b>104,081</b>

## **Full-Time Equivalent**

	<b>647.81</b>	<b>668.32</b>	<b>695.41</b>	<b>695.41</b>	<b>695.41</b>	<b>695.41</b>	<b>722.41</b>	<b>747.41</b>
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# District Public Defense

# Program Financing by Fund

(Dollars in Thousands)

	Actual FY18	Actual FY19	Actual FY20	Estimate FY21	Forecast Base FY22 FY23		Governor's Recommendation FY22 FY23	
<b>1000 - General</b>								
Balance Forward In	183	6,636		2,053				
Direct Appropriation	74,886	75,528	86,468	91,863	91,863	91,863	100,268	103,153
Transfers In	3,530	5,384					500	500
Transfers Out	500	1,247						
Cancellations		1,386						
Balance Forward Out	6,635		2,053					
<b>Expenditures</b>	<b>71,464</b>	<b>84,915</b>	<b>84,414</b>	<b>93,916</b>	<b>91,863</b>	<b>91,863</b>	<b>100,768</b>	<b>103,653</b>
Biennial Change in Expenditures				21,951		5,396		26,091
Biennial % Change in Expenditures				14		3		15
Governor's Change from Base								20,695
Governor's % Change from Base								11
Full-Time Equivalents	647.68	668.30	694.74	694.74	694.74	694.74	721.74	746.74

## 2000 - Restrict Misc Special Revenue

Balance Forward In	142	208	455	401				
Receipts	200							
Transfers In		247	382	387	377	377	377	377
Balance Forward Out	208	455	402					
<b>Expenditures</b>	<b>135</b>		<b>435</b>	<b>788</b>	<b>377</b>	<b>377</b>	<b>377</b>	<b>377</b>
Biennial Change in Expenditures				1,089		(469)		(469)
Biennial % Change in Expenditures						(38)		(38)
Governor's Change from Base								0
Governor's % Change from Base								0

## 2403 - Gift

Balance Forward In	129	97	113	205	102	86	102	86
Receipts	78	65	138	35	35	35	35	35
Balance Forward Out	97	112	205	102	86	70	86	70
<b>Expenditures</b>	<b>110</b>	<b>49</b>	<b>47</b>	<b>138</b>	<b>51</b>	<b>51</b>	<b>51</b>	<b>51</b>
Biennial Change in Expenditures				25		(83)		(83)
Biennial % Change in Expenditures				16		(45)		(45)
Governor's Change from Base								0
Governor's % Change from Base								0

**District Public Defense**

**Program Financing by Fund**

*(Dollars in Thousands)*

	Actual	Actual	Actual	Estimate	Forecast Base		Governor's Recommendation	
	FY18	FY19	FY20	FY21	FY22	FY23	FY22	FY23
Full-Time Equivalents	0.13	0.02	0.67	0.67	0.67	0.67	0.67	0.67