

**Agency Purpose**

The Board of Public Defense (BOPD) is a judicial branch agency whose purpose is to provide quality criminal defense services to indigent defendants in the state of Minnesota. Overall the BOPD is 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. The BOPD provides the legal services required by the Constitution and statutes. The BOPD is the largest user of the court system in Minnesota.

**At a Glance**

**District Public Defense**

- 170,000 cases including 85% of serious cases, and 90% of juvenile cases.
- \$1.4 million in grant funding.
- In the last three years the program has lost 15% of its attorney staff.

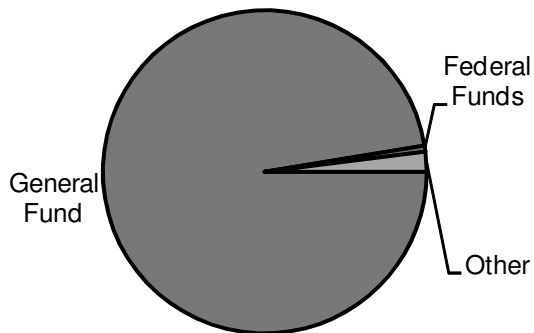
**Appellate Office**

- Over 4,000 cases annually.
- In the last three years the office has lost 14% of its attorney staff.

**Administrative Services Office**

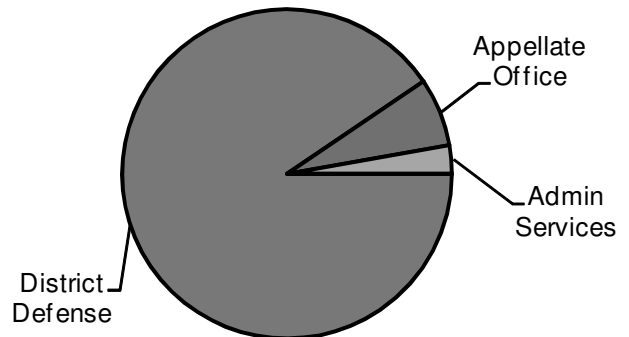
- In the last year the program has reduced staffing by 20%.

**Est. FY 2010-11 Expenditures by Fund**



Source: Consolidated Fund Statement.

**Est. FY 2010-11 Expenditures by Program**



Source: Board of Public Defense

**Strategies**

Due substantial loss of legal staff the BOPD has carried out a number of measures to save attorney time. These include withdrawing from first appearance calendars in half the counties in Minnesota. Although representation at these appearances likely is a constitutional right, it is very time consuming. Therefore unless there is a court ruling to the contrary we cannot be present.

While there is no substitution for the Sixth Amendment's right to counsel, the BOPD is committed to the use of volunteers and law students. We have increased the number of volunteers and law students to perform tasks previously performed by attorneys.

In many instances staff requests continuances on out-of-custody trials. In some counties the trial dates for out-of-custody misdemeanor cases are set a year from the entry of a not guilty plea. In its recent report on the public defender system, the Office of the Legislative Auditor (OLA) found that this is slowing down the justice system.

The BOPD emphasizes collaboration in handling serious matters, so that cost-effective support staff has a greater role in case preparation.

The BOPD is committed to maintaining vertical representation. Vertical representation (an attorney keeping a case from start to finish) is a key strategy that allows an attorney - client relationship to be formed like that between an accused person and a private lawyer. Repeated contact between the client, the public defender, as well as the public defender's staff, encourages the development of trust, a necessary ingredient, to the successful litigation of a case. This sort of meaningful, ongoing relationship would be impossible to develop without vertical representation, and as was noted in the OLA report is one of the keys to resolution of cases through plea agreements.

Finally, as cases become more complex as a result of forensics, "cold hits", enhanced penalties and mental illness issues just to name a few, it has become increasingly difficult for our attorneys to stay up with all of the advances and yet be prepared on all of the cases that are set for litigation. By co-counseling on these more serious matters, the attorneys are able to share their knowledge and expertise while the matter is being litigated. The clients are better served, the attorneys learn from their colleagues, the court is assured that the matter is being litigated correctly the first time, and having experienced co-counsel actually helps in resolution of matters. The experience of having litigated similar cases coupled with the fact of the credibility that is built in with more experienced counsel helps in discussing plea offers with the clients.

## Operations

The ten Judicial District Public Defender Offices provide quality mandated criminal defense services to indigent persons in felony, gross misdemeanor, misdemeanor, juvenile delinquency, and children over ten years of age in Children In Need of Protective Services (CHIPS) cases. This program also includes partial funding for four nonprofit public defense corporations. The corporations provide independent criminal and juvenile defense services primarily to indigent minority clients, who otherwise would need public defender services.

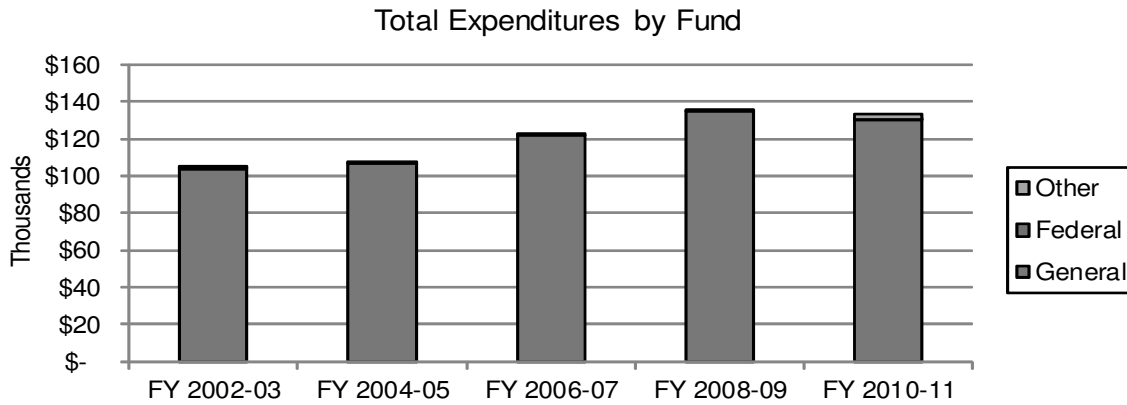
The Appellate Office provides mandated services to indigent clients in state prisons who appeal their criminal cases to the Minnesota Court of Appeals and Supreme Court; or who pursue post conviction proceedings in the District Courts throughout the state; to defendants in supervised release/parole revocation proceedings, and individuals subject to community notification who appeal their end of confinement review determinations.

The BOPD's Administrative Services Office (ASO), under the direction of the State Public Defender and Chief Administrator, provides policy implementation for the agency's programs and overall management of its activities.

The Board has been committed to a cost effective model of representation, namely a combination of full-time and part-time defenders, an approach long recommended by the American Bar Association (A.B.A.). By combining part-time and full-time workforces, the BOPD has been able to deliver services in a manner that is most cost-effective for each part of the state. Statewide, approximately one-half of the public defenders are part-time. Outside of Hennepin and Ramsey Counties the majority of public defenders are part-time.

The model takes into account a number of factors including cost, travel time, geography, conflicts, and what traditionally has been a group of experienced and dedicated part-time defenders. The model has allowed the BOPD to limit the number of full-time offices because the part-time defenders cover much of their own overhead. It has also limited the costs associated with conflicts in multiple defendant cases by having part-time defenders available to take these cases. Full-time offices have been established where caseloads, geography, client services, cost effectiveness and lack of availability of part-time defenders have warranted it.

**Budget Trends**



\* FY 2010-11 is estimated, not actual.

\*\*Other includes public defender client reimbursements which go directly to part-time defenders.

\*\*\* Other in 2010-2011 includes one-time funding from \$75 attorney registration fee imposed by the Supreme Court.

The BOPD cannot limit or control caseload. Eligible clients have both a statutory and a Constitutional right to public defender services. The Minnesota Supreme Court has ruled that a public defender “may not reject a client, but is obligated to represent whoever is assigned to her or him...” Dziubak v. Mott, 1993. At the same time, public defenders, appropriately, are required to meet the same ethical standards of professional conduct as any private attorney.

The criminal justice system is a core function of government driven largely by local decisions. The justice system is often pictured as a funnel. Public defense and in many cases the court itself have no control over who comes in at the top of the funnel. The control is exercised largely on the local level by police and prosecutors. In addition, the Legislature may create new crimes or penalties. The Judicial branch may re-organize its courts. The federal government may provide incentives for more of any or all of these activities to occur. All these decisions may have great merit, but they all come with a cost. The public defenders provide mandated services to those individuals whom these other entities put in the funnel.

- From 1987-2005, the Legislature created 86 sentencing enhancements.
- A 2008 survey showed that county/ city-funded prosecutors statewide outnumber public defenders 2-1.
- From 1998-2008, 26 new judgeships were created, each with a calendar needing services.
- From the 1990’s-present, 33 drug courts created: good for public safety, beneficial to the clients—also very labor-intensive for judges, lawyers, and probation.
- Recently the Department of Public Safety awarded the Stearns County Domestic Violence Partnership \$300,000 for services in Domestic Violence Court.
- Recently the Hennepin County Sheriff’s Office was awarded a federal grant for DNA testing to help reduce a backlog of “thousands” of cold cases.

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