

LEGAL JURY
SANCTIONS
CONSTITUTIONAL
ETHICS
RESPONSIBILITY
JUDGEMENT
COUNSEL TRIAL
REGULATIONS
ADVOCACY
INTEGRITY
RIGHTS
VIOLATION
JUSTICE DUTY



2013 ANNUAL REPORT

OF THE LANCASTER COUNTY PUBLIC DEFENDER

In the spring of 1970, I was a senior finishing up my studies in undergraduate school at UNL, when I took a job as a part time bartender at the Flame Club owned by T. Clement Gaughan, a long time criminal defense attorney in Lincoln. I could never have imagined at that time that my bartending job would eventually lead to my election as Public Defender for Lancaster County. It was truly a case of being in the right place at the right time.

With the encouragement of Gaughan and his law partner, Dick Goos, I took the admission test for law school at UNL, was accepted, and began law school in the fall of 1970. When the Lancaster County Public Defender's Office was established by the County Board in January of 1971, Gaughan was appointed the first Public Defender and he hired me as the office's first law clerk/investigator. I traded my bartender's apron for law books (there was no such thing as computerized legal research) and a Sherlock Holmes' style cap.

Upon graduation from law school in December of 1972, I took the bar exam in February of 1973 and was hired as a Deputy Public Defender by Gaughan in the same month. I worked as a Deputy Public Defender from 1973-1975 and then joined a law partnership with Kirk Naylor, a local Lincoln attorney who specialized in criminal defense. When Gaughan decided not to run, I was asked by members of the public defender staff, including Dick Goos, to run for the position. I won my first election in 1978 and was sworn in on January 4, 1979. I have served as the Elected Public Defender ever since.

Now, 44 years after that bartending job sent me on a journey I could not have imagined, I am going to leave the job I love. I am not running for re-election, and as of January 8, 2015, I will no longer be the Lancaster County Public Defender. This will be a bittersweet moment for me. Having served in this position virtually my entire professional career, there are many memories (fond and otherwise) I will take with me.

I really enjoyed working directly with clients on cases. Even when the cases involved the most serious charges possible with the death penalty in play, the work was challenging, stressful and exhilarating all at once. Within the first three years of my becoming Public Defender, the office was overwhelmed with a number of serious murder cases any one of which could have been a death penalty case.

I was personally involved in two of those cases and I didn't realize at the time what a toll they take on you personally. One of those cases involved a six week jury trial after months of intensive pre trial preparation. The sentencing hearing resulted in a death sentence. After more than 25 years of appeals and post conviction proceedings, including two trips to the United States Supreme Court, that case eventually ended with the client sentenced to life imprisonment. The other case from that time period required years of investigation and pre trial motion practice and preparation. Our investigation uncovered the fact that our client had falsely confessed to another homicide in another state at the time he was being interrogated for the case that ended up in our office. Because of our investigation and motion practice, both murder cases were dismissed.

What I clearly remember about these cases and the many others I have been involved in over the years, is the incredible teamwork that existed in the office. Attorneys, paralegals, investigators, law clerks and support staff all contributed to the effort to provide the absolutely best outcome possible for the clients. This always made me very proud of our office.

The administrative part of my job grew over the years and it also proved challenging. Developing systems and policies for the office's work, recruiting and retaining high quality staff, organizing and distributing the work fairly and equitably, and trying desperately to keep track of and implement the latest technology were all challenging tasks.

I still remember when I first became Public Defender that some of our client "files" were actually writings on cocktail napkins. We have truly come along way. I am most proud of two accomplishments that fundamentally affect a public defender office's ability to recruit and retain high quality staff. We have implemented a salary plan for attorneys that I think is a very positive step and places us among the best offices in the country to work. Secondly, and probably just as important, we have implemented research based workload limits that allow us to withdraw from cases when we exceed our maximum capacity. We were way ahead of the curve on the workload limits project and our long history of attorneys tracking their time is now considered a model for the rest of the country.

I have great respect for this office and the very important work that is our responsibility. It has been an exhilarating ride and I will miss many aspects of this work (other aspects not so much). One thing remains constant. I love my job and the people I labor with and I am extremely proud of the competent, professional manner in which they carry out the very difficult but important work of the office.

I believe that, together, we have built one of the best public defender offices in the country. I want to thank all of those who gave me the honor to serve as Lancaster County Public Defender. That list includes all of the people I have worked for and with in this office, the voters of Lancaster County, many members of the Lancaster County Board of Commissioners over the years, judges who have a respect for the work we do and who have supported the office in its efforts to improve the quality of services, members of the private bar who have taken an active interest in the issues of indigent defense, and last, but certainly not least, my family, especially my wife Patty, who has been there through the thick and the thin for all of these many years.

I will miss all of you and the tempo of the office, but I will carry with me many fond memories and a great sense of pride in what we have accomplished. I am very proud to have served as Lancaster County Public Defender.

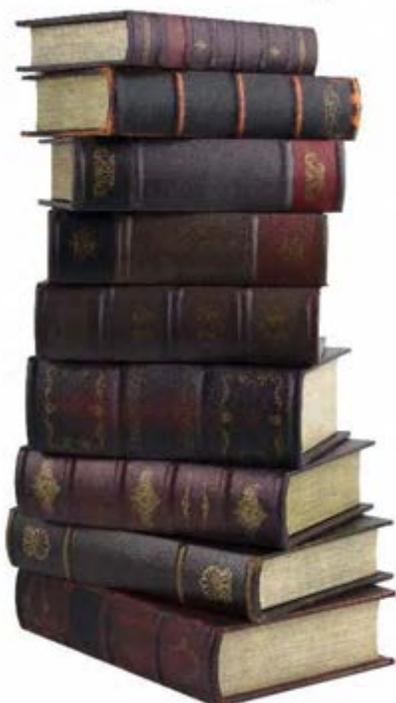


Dennis Keefe



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MISSION STATEMENT

The mission of the Lancaster County Public Defender's Office is to provide high quality legal services for indigents and to advocate zealously on behalf of each individual client.

PHILOSOPHY AND GOALS

It is the philosophy of the Lancaster County Public Defender's Office that each client should receive high quality legal representation which is as good as that provided by the best of the private bar.

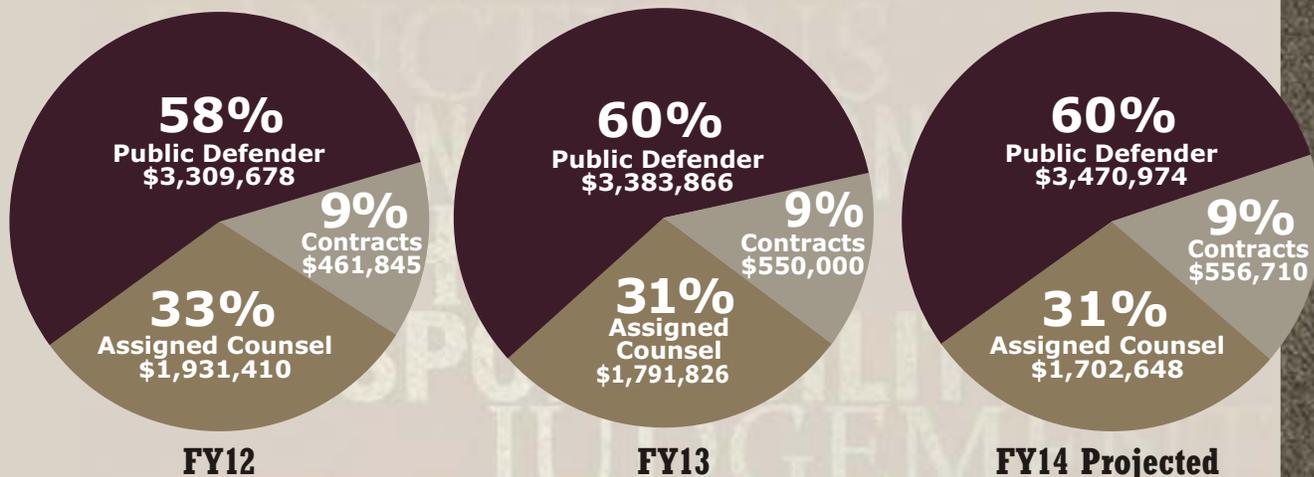
GOALS

1. Recruit and retain attorneys and support staff who will provide high quality legal representation for each client.
2. Maintain reasonable caseload levels for staff attorneys.
3. Provide all resources and ancillary services necessary to represent the clients of the office.
4. Provide continuing training for all staff.
5. Maintain political and professional independence for the office.
6. Maintain a professional work environment.
7. Provide creative representation.
8. Provide visionary management.
9. Provide full-service representation.
10. Maintain adequate and stable funding.



OVERVIEW OF LANCASTER COUNTY'S INDIGENT DEFENSE SYSTEM

The indigent defense system in Lancaster County consists of the Lancaster County Public Defender's Office, private assigned counsel in county, district and juvenile court, a contract with Legal Aid of Nebraska for juvenile court, and a contract with a private law firm for the Child Support and Paternity cases. The chart below compares the FY14 projected expenditures as of December 31, 2013 (as reported by the Budget and Fiscal Office) for each segment of the system with the FY13 and FY12 Actual Expenditures.



2013 ASSIGNED COUNSEL NOTES

- Of the 1,967 felony cases closed by the public defender's office in 2013, 559 of those cases (28%) involved a conflict of interest which required the appointment of private assigned counsel or the Commission on Public Advocacy. The 28% figure is exactly the same as in 2012. In addition, 181 felony cases (9%) were closed in 2013 because they exceeded the office's caseload standards. This is the largest number of cases where we have exceeded our felony caseload standards since the standards were adopted in 2008.
- Of the 3,131 misdemeanor cases closed by the Public Defender's Office in 2013, 488 (16%) were closed because of a conflict of interest requiring appointment of assigned counsel. In addition, 14 misdemeanor cases were closed because they were companion cases to felonies that exceeded the public defender's caseload standards. There were no misdemeanor excessive caseload cases in 2013 (this compares to 311 in 2009, 18 in 2010, 3 in 2011, and 0 in 2012).
- Of the 1,145 Juvenile Law Violations and Status Offender cases closed by the public defender in 2013, 149 (13%) were closed because of a conflict of interest and either Legal Aid of Nebraska or a private attorney was appointed. In 2013 the public defender did not have to withdraw from any juvenile cases because of our workload standards (compared to 14 in 2009, 27 in 2010, 16 in 2011, and 0 in 2012).

CONTRACT NOTES

- The only contract for legal services in the Juvenile Court in 2013 was the contract with Legal Aid of Nebraska. The contract was amended in 2013 to decrease the number of new 3(a) abuse/neglect cases that could be assigned from 266 cases to 233 cases, because of a reduction in the number of new filings.
- According to the Separate Juvenile Court, there were 287 new 3(a) (abuse/neglect) cases (including transfers from other counties) filed in the Separate Juvenile Court of Lancaster County in 2013. This represents a decrease of 2% from 2012 and a 31% reduction from the record high number of new cases in 2010 (415). This 31% decrease over a 3 year period would have reduced the number of attorney appointments needed in such cases by approximately 307 appointments per year.
- 2013 was the first year of the Child Support/Paternity contract between Lancaster County and the DeMars Gordon Law Firm, the contractor opened 456 Child Support contempt cases (compared to 302 in 2012) and closed 449 (288 in 2012), opened 89 new Paternity cases (117 in 2012) and closed 99 (119 in 2012), and opened 18 other contempt matters (14 in 2012). The firm logged 1755 hours (1331 in 2012), including 999 attorney hours (903 in 2012) for this work.

LANCASTER COUNTY INDIGENT DEFENSE ADVISORY COMMITTEE

In 1995, at the request of Lancaster County Public Defender Dennis R. Keefe, the Lancaster County Board of Commissioners established the Lancaster County Indigent Defense Advisory Committee to advise the Public Defender and the



Lancaster County Board on all issues relating to indigent defense. Members of the advisory committee are nominated by the Board of Trustees of the Lincoln Bar Association and are appointed by the Board of Commissioners. The advisory committee plays a very important role, especially in the recommendation of new contractors for Lancaster County. In 2013, Sean Brennan and Jeanelle Lust were reappointed to new 3 year terms and Dallas Jones was appointed to a 3 year term, replacing Randy Goyette, who chose not to seek reappointment. Randy was a long time member and Chair of the Advisory Group. We want to thank the volunteer members of this committee who served during 2013. They are Randy Goyette (replaced by Dallas Jones), Sean Brennan, Brad Roth, Jeanelle Lust, and ????????????

ASSIGNED COUNSEL FOLLOW UP

In 2011, the Lancaster County Indigent Defense Advisory Committee was charged by the Lancaster County Board of Commissioners with undertaking an assessment of the cost of legal services in Lancaster County. The County contracted with Elizabeth Neeley, PhD. of Objective Advantage to act as the primary researcher on the project.

During 2012, to identify both the factors that contribute to the rising costs of indigent defense and ways in which the justice system can control costs, focus group discussions were conducted with a variety of justice system stakeholders. The Advisory Committee then reviewed the factors and strategies identified through focus group discussions. When applicable and available, the Advisory Committee compiled and reviewed relevant data and national research regarding proposed cost reduction strategies. Elizabeth Neeley presented the results of the study along with the recommendations of the Board of Commissioners. The Board then contracted with Neeley to help the Advisory Committee to implement the recommendations. The full report can be found on the web page of the Lancaster County Public Defender here <http://lancaster.ne.gov/pdefen/pdf/idac.pdf>.

Several important recommendations were implemented in 2013. Legislation was passed to clarify when the juvenile court judges had to appoint attorneys to non parent parties who were involved in abuse/neglect cases. Significant work was done to implement a web based attorney billing software for assigned counsel. At the close of 2013, the software, a product of Justice Works, was being tested in juvenile court.

PUBLIC DEFENDER'S OFFICE OPERATIONS

Comings and Goings

2013 saw major turnover in the office both with support staff positions and attorney positions. In February, Susan Tast, a long time Deputy with the office, retired.



Susan Tast

Susan was originally an Intern in her undergraduate days at UNL, was then hired as a Law Clerk with the office and was eventually hired as an attorney when she was working for Student Legal Services at the University of Nebraska Lincoln. A reception was held in the office for Susan and was attended by the entire office staff as well as judges, prosecutors and court staff, and other justice system players.

Chelsie Goetz was hired to replace Susan and was assigned to the Juvenile Division. Chelsie is from Hartington, Nebraska. In the fall of 2013, Alison Hill resigned as a Client Service Associate in order to start up her own business. Marge Shepard, a long time Client Service Associate retired to spend more time with her family.



Chelsie Goetz



Alison Hill



Marge Shepard

NEW ATTORNEY SALARY PLAN

2013 also saw the implementation of a long overdue change in the salary plan for attorneys in both the County Attorney's Office and the Public Defender's Office. Working with the Personnel Director, Joe Kelly and Dennis Keefe, agreed to an 8 step plan for Attorney I positions and a flexible plan to award those attorneys who have been designated as Attorney II. The Board of Commissioners approved the plan.

CLE

Elizabeth Elliott, one of the Deputies in the office, produced an educational program for attorneys in the office and for the larger legal community. Elizabeth used experts from the Nebraska Department of Correctional Services who provided information on what services the Department provided to inmates and the process of accessing those services.



JAIL OPENS

In late September of 2013, Lancaster County's new jail opened. This change has had significant impact on the Lancaster County Public Defender's Office. Previously, attorneys and other staff could visit clients in the jail just by crossing the street from their offices, or check in with clients in between court hearings. With the new jail, trips require an 11 mile round-trip drive and much pre planning. Video visitation software has been provided to the office and may make some client contacts easier but in person visits will still be necessary.

ANGELIA ONUOHA HONORED FOR 15 YEARS OF SERVICE

In May of 2013, Angelia Onuoha, a paralegal with the Public Defender's Office, was honored by Lancaster County for 15 years of service:

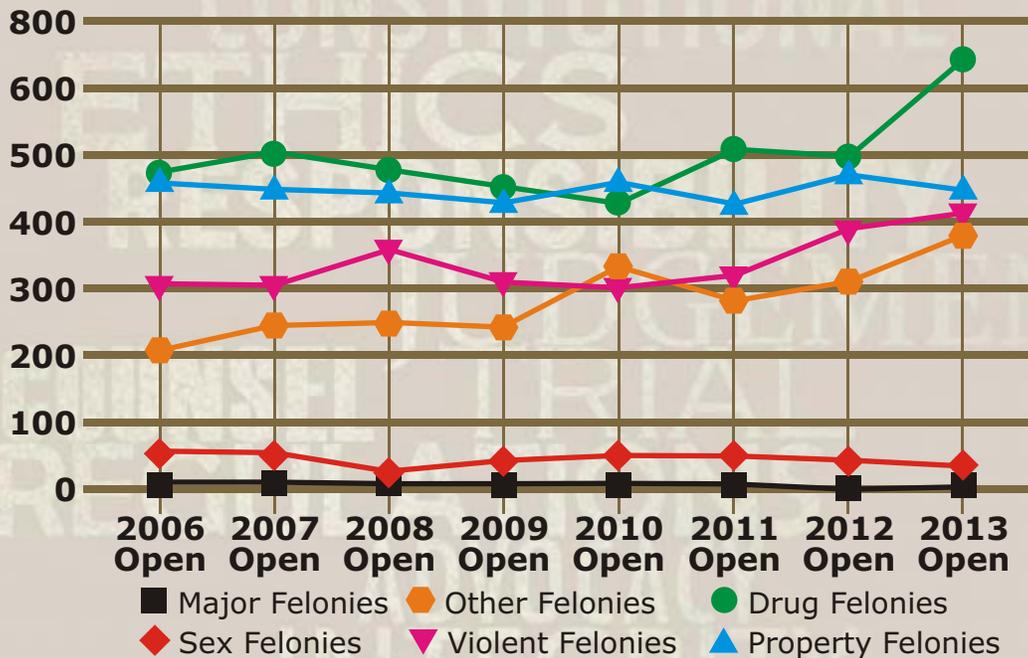


THE FELONY DIVISION

Scott P. Helvie, Chief Deputy
 Robert G. Hays, Chief Deputy
 Valerie McHargue, Deputy
 Webb E. Bancroft, Deputy
 Kristi J. Egger-Brown, Deputy
 Shawn D. Elliott, Deputy
 Elizabeth D. Elliott, Deputy
 Christopher L. Eickholt, Deputy
 Timothy M. Eppler, Deputy
 John C. Jorgensen, Deputy
 Joseph D. Nigro, Deputy

Joe Renteria, Investigator
 Jed Rojewski, Paralegal
 Kristi Gottberg, Paralegal
 Luke Henderson, Law Clerk
 Ariel Johnson, Law Clerk
 Claire Bazata, Law Clerk
 Sarah Safarik, Law Clerk
 Mark Carraher, Law Clerk
 Keenan Gallagher, Law Clerk

NEW OPEN FELONIES BY TYPE



FELONY CASE NOTES

- The state filed 12% more felony cases in Lancaster County Court in 2013 while our office's felony appointments increased by 15%. 87% of the filed felony cases required court appointed counsel in 2013 compared to 83% in 2012.
- In the 4 years since 2009, the number of felonies assigned to the Public Defender has increased by 521 cases or 36% (9% per year on average). The increase between 2012 and 2013 was from 1715 felonies to 1977 felonies. While there are a number of charge types affecting this increase, we have identified Possession of Methamphetamine as one of the major drivers. Possession of Methamphetamine cases have gone from 139 cases in 2009 to 685 cases in 2013 or a 191% increase (48% average increase per year). In just the one year period from 2012 to 2013 Possession of Methamphetamine

FELONY CASE NOTES CONTINUED

cases increased from 220 cases to 405 cases (+ 84%). Another charge type that didn't exist in 2009 is Tampering With An Ignition Interlock Device. The Legislature just recently expanded the scope of that law. The result is that in 2012 we received 4 cases and in 2013, we received 70 cases.

- The 1,977 felony cases opened by the Public Defender in 2013 represents an all time high in terms of new open felony cases for the fourth year in a row.
- Major Cases Opened and Closed in 2013: We opened 9 new major cases and closed 7 cases. The office opened 1 case of Attempted 1st Degree Murder, 4 cases of Second Degree Murder, 1 case of Attempted 2nd Degree Murder, 2 cases of Manslaughter and 1 case of Kidnapping. We closed 1 case of Attempted 1st Degree Murder by plea, 3 cases of Second Degree Murder 2 cases by a conflict and 1 by a plea to a lesser charge, 1 case of Attempted 2nd Degree Murder because of a conflict, 1 case of Manslaughter because of a conflict and 1 case of Kidnapping by a plea to lesser felony.
- In 2013, the Public Defender's Office had 21 clients admitted to the Adult Drug Court Program and 39 Public Defender Drug Court clients had their cases closed; we filed a conflict of interest in one case, but of the remaining 38, 28 clients (74%) had their cases closed following successful graduation and case dismissal and 10 of the clients (26%) had their cases closed because of unsuccessful participation and the cases were referred back to the regular criminal courts. Joseph Nigro was the primary attorney assigned to Adult Drug Court in 2013. He was assisted by Paul Cooney.

THE MISDEMEANOR DIVISION

Susan R. Tast, Deputy
 Paul M. Cooney, Deputy
 Joseph D. Nigro, Deputy
 Yohance L. Christie, Deputy
 Jennifer M. Houlden, Deputy
 Todd Molvar, Deputy

Angelia Onuoha, Paralegal
 Steve Schultz, Paralegal
 Angela Franssen, Paralegal



MISDEMEANOR CASE NOTES

- Non-traffic misdemeanor filings in Lancaster County Court, including filings by the City Attorney and the County Attorney, declined by slightly more than 1% in 2013. This is the third straight year where there has been a decline in these filings.
- Overall, Public Defender misdemeanor appointments decreased by 10% in 2013. This is the lowest level we have seen since 2004. The number of County Attorney filed misdemeanors opened by the Public Defender (the more time intensive cases) remained virtually the same. However, since 2008, these misdemeanor cases have increased on an average of 3% per year.
- The number of City Attorney filed misdemeanors assigned to our office, declined by 24% between 2012 and 2013, reaching the lowest level of new cases in 15 years.
- The only major misdemeanor charge categories that showed significant change in 2013 were Driving on a Suspended License (down 15%) and Theft cases (down 10%).
- There are 3 Deputy Public Defenders and 1.25 paralegals assigned to the County Attorney filed Misdemeanors which totaled 2,021 new cases in 2013.

There are 1.3 Deputy Public Defenders and 1 paralegal assigned to the City Attorney filed Misdemeanors which totaled 1,144 new cases in 2013.

MENTAL HEALTH COMMITMENTS AND MISCELLANEOUS CASES

Joseph D. Nigro, Deputy

Luke Henderson, Law Clerk
Ariel Johnson, Law Clerk
Sarah Safarik, Law Clerk
Claire Bazata, Law Clerk

- There were 181 new petitions filed in 2013, only a slight increase from the 176 petitions filed in 2012.
- 6 of the new petitions in 2013 involved petitions for commitment under the Sex Offender Commitment Act.
- There was 1 appeal filed in the district court from mental health commitment proceedings in 2013.

The Public Defender's office opened 157 miscellaneous cases in 2013 compared to 155 miscellaneous cases in 2012. The 2013 cases included 123 felony revocation of probation cases; 11 fugitive from justice cases; 21 adult drug court cases; and 1 new case involving representation in out of state witness proceedings and 1 Habeas Corpus proceeding.

THE JUVENILE DIVISION

Margene M. Timm, Chief Deputy
Matt Meyerle, Deputy
Chelsie Goetz, Deputy

Angelia Onuoha, Paralegal

JUVENILE CASES

Because of a change in the manner in which we began counting juvenile cases midway through 2013, we are unable to do any meaningful comparisons with the number of cases opened and closed in prior years. New legislation expanded the overall life of the cases and filing practices by the prosecutor collapsed what used to be several cases into one. As a result, our office, for a short period of time tracked each juvenile “client” as a separate “case” regardless of how many charges were filed. Prior to that time, each separate charging document was considered a case.

JUVENILE CASE NOTES

- The Juvenile Court Administrator for Lancaster County reports that there were 1,099 Law Violation filings in the Separate Juvenile Court of Lancaster County, Nebraska in 2013, an 11% decline from the number of filings in 2012 (1,234 filings). 2013 Status offense filings amounted to 520 cases, a 30% increase from 2012 (401 filings).

The Public Defender's Office opened 12 new cases in the Juvenile Drug Court program in 2012 and closed 19. Of the 19 cases closed, 6 were closed following successful completion and graduation and 13 were closed following unsuccessful termination from the program.



FUTURE ISSUES

Leadership Transition. In August of 2013, Dennis R. Keefe announced that he would not seek another term of office in 2014. Keefe, who has been the Elected Public Defender since 1979, announced his support for Deputy Public Defender Joseph Nigro who announced his candidacy in late August. As of this writing, Joe Nigro has filed for the Office and is unopposed for election. The office determined to do strategic planning as a part of the transition process, and Monica Miles-Stephan was retained to facilitate the strategic planning process.

Juvenile Legislation. In 2013, the Nebraska Legislature passed a major piece of legislation that significantly changed the way juvenile law violation and status cases are handled in juvenile court. The state office of juvenile services within HHS was eliminated as a disposition option and state probation was significantly expanded to pick up the cases, including youth who were reentering from the Youth Rehabilitative and Treatment Centers in Kearney and Geneva. This places greater demand on the Public Defender's office in terms of cases staying open longer with additional responsibilities for youth who are returning from the YRTC's. As the legislative session began in early 2014, another major change in juvenile procedure was at the final stages of consideration. That change would require that some charges involving youth be instituted in the juvenile court rather than adult court and "waived" into adult court in appropriate circumstances. This is the exact opposite of how all cases are handled at the current time, where the prosecutor decides where to file and the youth has the right to a transfer hearing if the filing is in adult court. Both of these pieces of legislation have the potential to have a major impact on the Public Defender's office.

Felony Cases. As noted earlier in this report, the office has seen a significant growth in felony cases in the past few years, driven mainly by the Possession of Methamphetamine cases. This has resulted in the office exceeding its felony caseload standards by almost 22 cases per month (264 cases per year). The average cost of felony case (including attorney fees and expenses) assigned to private attorneys in 2012 was \$1292/case.

The average annual cost of an entry level attorney in the Public Defender's Office for the first three years of employment is \$88,572 (including all salary, assumed salary increases and benefits at the maximum). Therefore, the break even point for the County in adding a staff attorney to the Public Defender's Office is 69 overload cases. (69 cases x \$1292/case = \$89,148).

The average felony attorney in the office can handle approximately 115 felony cases per year under our standards. This would result in a savings of \$60,008 per year (115 assigned counsel cases x \$1292 per case = \$148,580 - \$88,572 average cost of new attorney per year).

The number of new felonies has not slowed down in the first few months of 2014. While the Board has determined to add 1 felony attorney to the office in 2014, they may want to add another if the cases continue to increase.

APPENDIX A

TABLE 1

**LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE
OPEN/CLOSED CASELOAD REPORT 2013**

CASETYPE	PENDING START	OPENED 2013	CLOSED 2013	PENDING END 2013
Appeals	35	66	62	42
Felonies	690	1968	1960	716
Juveniles	566	1048	1145	472
Major Cases	4	9	7	6
Mentals	6	181	195	8
Miscellaneous	100	157	184	65
Misdemeanors	588	3165	3131	614
Totals	1989	6594	6684	1923

TABLE 2

**LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE
HISTORICAL COMPARISON OF CASES OPENED SINCE 2003**

CASETYPE	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Chg. 12-13
Appeals	109	110	107	119	110	101	95	98	92	73	66	-10%
Felonies	1368	1415	1515	1506	1566	1558	1476	1573	1596	1712	1968	15%
Juveniles	1331	1467	1417	1520	1517	1597	1323	1346	1325	1361	1048	-23%
Major Cases	15	12	11	4	11	7	5	5	5	3	9	200%
Mental Comm.	471	416	415	370	454	289	252	227	176	176	181	3%
Miscellaneous	210	178	187	810	764	749	616	234	230	155	157	1%
Misdemeanors	2749	3157	3551	4101	4291	3970	3820	3556	3784	3519	3165	-10%
Totals	6253	6755	7203	8430	8713	8271	7587	7039	7208	6999	6594	-6%

dD says we opened 390 child support and reviews/paternity cases in 2009, so the adjusted total number of cases for 2009 would be 7,587 - 390 = 7,197. Consequently, the actual decrease in 2010 overall was 2%.



APPENDIX B

LANCASTER COUNTY GENERAL FUND EXPENSE BUDGET

Public Defender EXPENDITURES	ACTUALS 2011-12	PROPOSED BUDGET 2012-13	ADOPTED BUDGET 2012-13	PROPOSED BUDGET 2013-14	ADOPTED BUDGET 2013-14
SALARIES & WAGES	2,293,847	2,309,212	2,309,212	2,401,802	2,401,802
EMPLOYEE BENEFITS	659,924	696,228	696,228	799,999	799,999
OFFICE SUPPLIES	14,175	15,750	15,750	15,750	15,750
OTHER CONTRACTED SERVICES	72,863	68,800	68,800	73,916	73,916
TRANS, TRAVEL & SUBSISTANCE	8,783	13,790	13,790	16,865	16,865
COMMUNICATIONS	22,227	23,743	23,743	23,743	23,743
POSTAGE, COURIER & FREIGHT	5,476	5,537	5,537	5,537	5,537
PRINTING & ADVERTISING	9,424	9,590	9,590	9,590	9,590
CONTRACTED HEALTH SERVICE	2,566	15,000	15,000	15,000	15,000
OTHER CLIENT SERVICES	15	0	0	0	0
MISC FEES & SERVICES	61,441	80,504	80,504	81,174	81,174
INSURANCE & SURETY BONDS	6,618	7,300	7,300	7,300	7,300
REPAIR & MAINTENANCE COST	677	500	500	500	500
RENTALS	151,223	151,223	151,223	150,863	150,863
EQUIPMENT	419	0	0	3,962	3,962
TOTAL PUBLIC DEFENDER	3,309,678	3,397,177	3,397,177	3,606,001	3,606,001

APPENDIX C

CONSTITUTIONAL AND 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 2012) Public defender in certain counties; election; qualifications; prohibited practices; residency.

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

(2) The public defender shall be a lawyer licensed to practice law in this state. He or she shall take office after election and qualification at the same time that other county officers take office, except that upon the creation of such office in any county, a qualified person may be appointed by the county board to serve as public defender until such office can be filled by an election in accordance with 32-523.

(3) In counties having a population of more than one hundred seventy thousand inhabitants, the public defender shall devote his or her full time to the legal work of the office of the public defender and shall not engage in the private practice of law. All assistant public defenders in such counties shall devote their full time to the legal work of such office of the public defender and shall not engage in the private practice of law so long as each assistant public defender receives the same annual salary as each deputy county attorney of comparable ability and experience receives in such counties.

(4) No public defender or assistant public defender shall solicit or accept any fee for representing a criminal defendant in a prosecution in which the public defender or assistant is already acting as the defendant's court-appointed counsel.

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



APPENDIX C CONTINUED

LANCASTER COUNTY GENERAL FUND EXPENSE BUDGET

Neb. Rev. Stat. 23-3402 (Reissue 2012)

Public Defender duties; appointment; prohibitions.

(1) It shall be the duty of the public defender to represent all indigent felony defendants within the county he or she serves. The public defender shall represent indigent felony defendants at all critical stages of felony proceedings against them through the stage of sentencing. Sentencing shall include hearings on charges of violation of felony probation. Following the sentencing of any indigent defendant represented by him or her, the public defender may take any direct, collateral, or postconviction appeals to state or federal courts which he or she considers to be meritorious and in the interest of justice and shall file a notice of appeal and proceed with one direct appeal to either the Court of Appeals or the Supreme Court of Nebraska upon a timely request after sentencing from any such convicted felony defendant, subject to the public defender's right to apply to the court to withdraw from representation in any appeal which he or she deems to be wholly frivolous.

(2) It shall be the duty of the public defender to represent all indigent persons against whom a petition has been filed with a mental health board as provided in sections 71-945 to 71-947.

(3) It shall be the duty of the public defender to represent all indigent persons charged with misdemeanor offenses punishable by imprisonment when appointed by the court.

(4) Appointment of a public defender shall be by the court in accordance with sections 29-3902 and 29-3903. A public defender shall not represent an indigent person prior to appointment by the court, except that a public defender may represent a person under arrest for investigation or on suspicion. A public defender shall not inquire into a defendant's financial condition for purposes of indigency determination except to make an initial determination of indigency of a person under arrest for investigation or on suspicion. A public defender shall not make a determination of a defendant's indigency, except an initial determination of indigency of a person under arrest for investigation or on suspicion, nor recommend to a court that a defendant be determined or not determined as indigent.

(5) For purposes of this section, the definitions found in section 29-3901 shall be used.

Neb. Rev. Stat. 23-3403 (Reissue 2012)

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

The public defender may appoint as many assistant public defenders, who shall be attorneys licensed to practice law in this state, secretaries, law clerks, investigators, and other employees as are reasonably necessary to permit him or her to effectively and competently represent the clients of the office subject to the approval and consent of the county board which shall fix the compensation of all such persons as well as the budget for office space, furniture, furnishings, fixtures, supplies, law books, court costs, and brief-printing, investigative, expert, travel and other miscellaneous expenses reasonably necessary to enable the public defender to effectively and competently represent the clients of the office.

Neb. Rev. Stat. 29-3901(3) (Reissue 2008)

Indigent shall mean the inability to retain legal counsel without prejudicing one's financial ability to provide economic necessities for one's self or one's family. Before a felony defendant's initial court appearance, the determination of his or her indigency shall be made by the public defender, but thereafter it shall be made by the court; and