





2016 was an eventful year for the Public Defender's Office. Chief Deputy Scott Helvie, one of the finest criminal defense attorneys in Nebraska history, officially retired. Paul Cooney, a 20 year employee of the Public Defender's office, became Chief Deputy. Jimmy Sieben joined the office to fill the vacancy caused by Scott's retirement. Jimmy works in the Juvenile Division. George Dungan moved from the Juvenile Division to the Misdemeanor Division, and Matt Meyerle moved to the Felony division. Chelsie Krell took over responsibility for Juvenile Drug Court. Suzi Tast returned to the office on a temporary basis while two attorneys were on leave to help out. Kristi Egger began handling misdemeanors in addition to covering mental health commitments and insanity review hearings to help overloaded attorneys in County Courtroom Number 23.

2016 also saw the addition of a social worker to our staff. Jared Gavin served as our first social worker until he took a position as the District Court Administrator. Rebecca (Becca) Meinders joined our office as the social worker in December. Becca is doing a splendid job, and is making a difference in the services we provide to our clients.

Joe Nigro was appointed chair of the Nebraska Supreme Court Mental Health Court Committee. This committee is working on establishing mental health courts in Nebraska. Joe also served on several committees overseeing the implementation of L.B. 605, including the Justice Reinvestment Coordinating Committee. Joe was also quite active in criminal justice reform efforts at the Legislature.

Most importantly, despite growing caseloads, our office has continued to provide outstanding representation for our clients.

Joe Nigro  
Lancaster County Public Defender

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## MISSION STATEMENT

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

## PHILOSOPHY AND GOALS

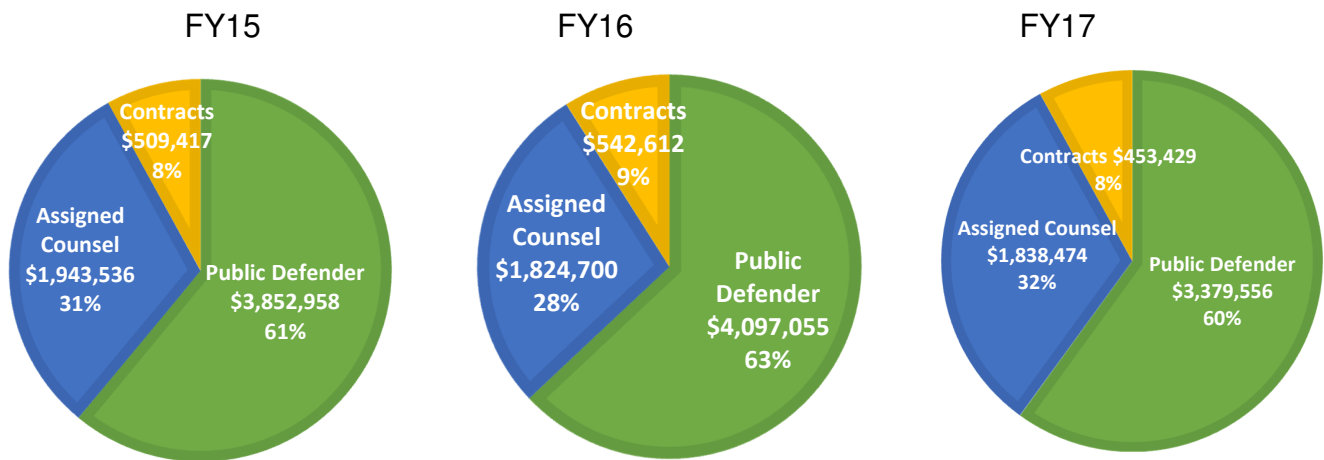
It is the philosophy of the Lancaster County Public Defender's Office to provide client centered legal representation of the highest quality.

## 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 client 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 charts below compare the FY17 projected expenditures as of April 24, 2017. 2016 (as reported by the Budget and Fiscal Office) for each segment of the system with the FY15 and FY16 Actual Expenditures.



### 2016 ASSIGNED COUNSEL NOTES

Of the 2,325 felony cases closed by the Public Defender's Office in 2016, 721 of those cases (31%) involved a conflict of interest which required the appointment of private assigned counsel or the Commission on Public Advocacy. The prior years being 34% and 28%. In addition, 500 felony cases (21.5%) were closed in 2016 because they exceeded the office's caseload standards.

Of the 2,825 misdemeanor cases closed by the Public Defender's Office in 2016, 523 (18.5%) were closed because of a conflict of interest requiring appointment of assigned counsel. There were 182 misdemeanor excessive caseload cases in 2016 (this compares to 311 in 2009, 18 in 2010, 3 in 2011, 0 in 2012, 0 in 2013, 34 in 2014, and 18 in 2015).

Of the 1,244 juvenile law violations and status cases closed by the Public Defender in 2016, 171 (14%) were closed because of a conflict of interest and either Legal Aid of Nebraska or a private attorney was appointed. In 2016, the Public Defender withdrew from 9 juvenile cases because of our workload standards (compared to 114 in 2009, 27 in 2010, 16 in 2011, 0 in 2012, 0 in 2013, 37 in 2014 and 4 in 2015).

## CONTRACT NOTES

The only contract for legal services in the Juvenile Court in 2016 was the contract with Legal Aid of Nebraska.

According to the Separate Juvenile Court, there were 256 new 3(a) (abuse/neglect) cases (including transfers from other counties) filed in the Separate Juvenile Court of Lancaster County in 2016. This represents a slight increase of 1.2% from 2015, which was a 50% reduction from the record high number of new cases in 2010 (415).

2016 was the first year of a new Child Support/Paternity contract between Lancaster County and the Olson, Zalewski and Wynner Law Firm. The contractor opened 422 Child Support contempt cases (compared to 438 in 2015) and closed 390 (464 in 2015), opened 103 new paternity cases (95 in 2015) and closed 81 (80 in 2015) and opened 0 other contempt matters (9 in 2015). The firm logged 766 hours (1,111 in 2015) including 452 attorney hours (723 in 2015) 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. The current committee consists of Sean Brennan, Brad Roth, Jeanelle Lust, Dallas Jones, and Stan Beeder.

## PUBLIC DEFENDER'S OFFICE OPERATIONS

New employees include James Sieben as a Deputy Public Defender in the Juvenile Division, Jared Gavin, Social Worker, later replaced by Rebecca Meinders.

2016 saw two employees reach milestones. Kristi Egger, Deputy Public Defender, for 25 years of service and John Jorgensen, Deputy Public Defender, for 10 years of service.

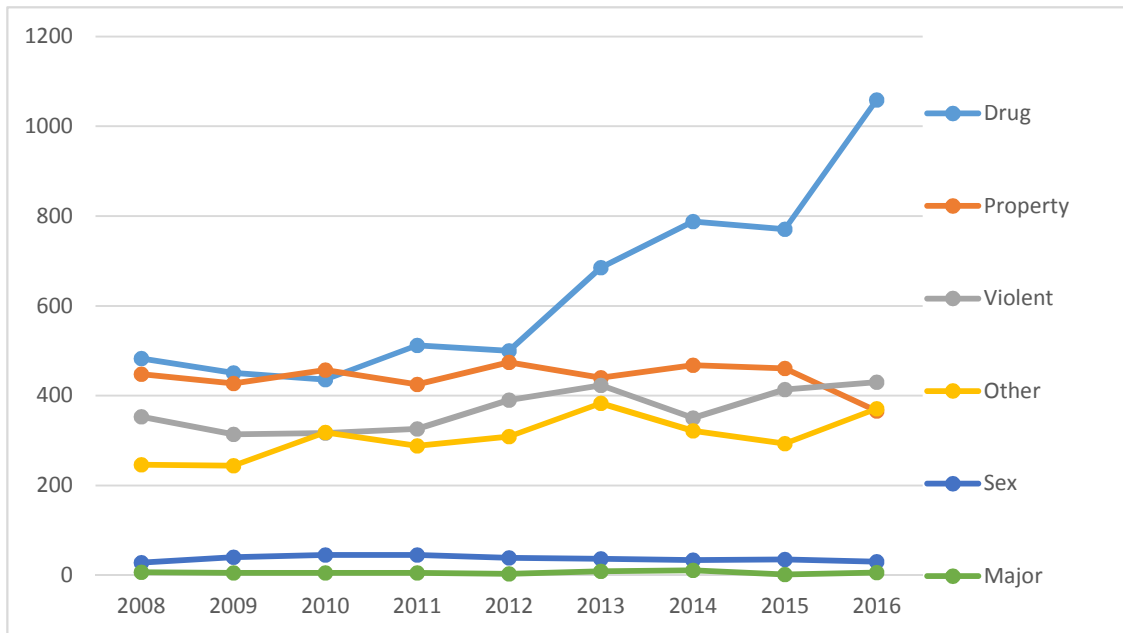
At the Nebraska Juvenile Justice Association Meeting, Margene Timm, Chief Deputy Public Defender, received the Excellent in Leadership Award.

# THE FELONY DIVISION

Paul E. Cooney, Chief Deputy  
 Robert G. Hays, Chief Deputy  
 Webb E. Bancroft, Deputy  
 Kristi J. Egger, Deputy  
 Shawn D. Elliott, Deputy  
 Timothy M. Eppler, Deputy  
 John C. Jorgensen, Deputy  
 Jennifer M. Houlden, Deputy  
 Yohance L. Christie, Deputy  
 Todd C. Molvar, Deputy  
 Nathan J. Sohriakoff, Deputy

Joe Renteria, Investigator  
 Nate Kaiser, Investigator  
  
 Steve Schultz, Paralegal  
 Angela Franssen, Paralegal  
  
 Megan Meyerson, Law Clerk  
 Katherine Lesiak, Law Clerk  
 Amy Peters, Law Clerk  
 Megan Theesen-Fenton, Law Clerk  
 Haleigh Brockman, Law Clerk

## NEW OPEN FELONIES BY TYPE



## FELONY CASE NOTES

The number of state filed felony cases in Lancaster County court increased about 10% compared to 2013, 2014, and 2015, and our office’s felony appointments increased 3%.

In 2016 the number of felonies assigned to the Public Defender increased by 286 cases or 14% over 2015 (5% per year on average over the past five years).

Major Cases Opened and Closed in 2016: We opened 6 new major cases of First

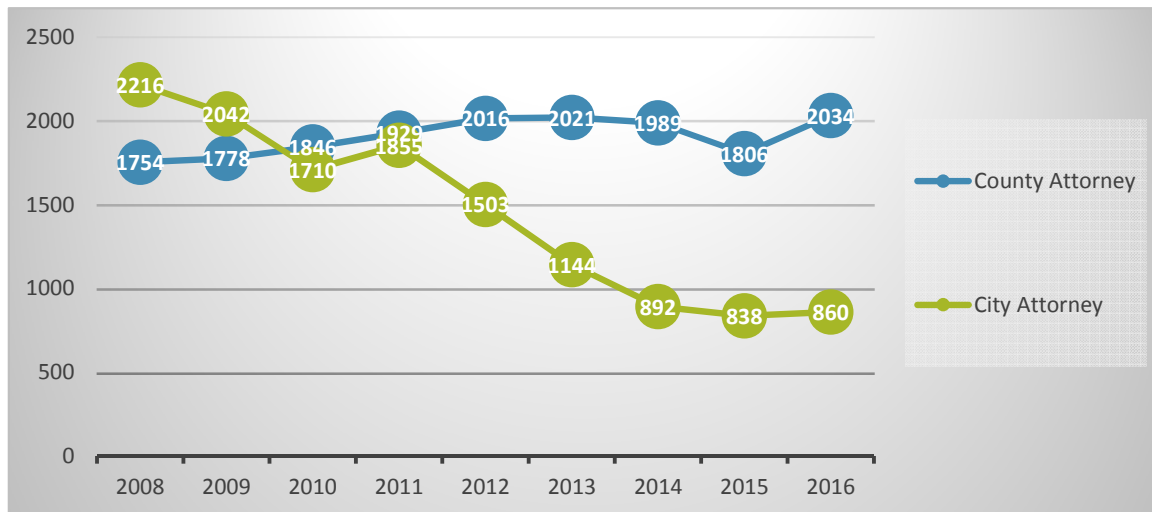
Degree Murder and closed 6 cases, (4 were 1st Degree Murder, 3 by conflict, 1 overload; 2 were 2<sup>nd</sup> Degree Murder, 1 bench trial not responsible by reason of insanity and 1 dismissed).

In 2016 the Public Defender’s Office had 24 clients admitted to the Adult Drug Court program and 30 public Defender Drug Court clients had their cases closed; 16 had their cases closed following successful graduation and case dismissed. This is a slight increase over last year. Ten had their cases closed because of unsuccessful participation and the cases were transferred back to the regular criminal court. There were 4 closed due to conflict of interest. Joe Nigro and Paul Cooney are the attorneys assigned to Adult Drug Court.

## THE MISDEMEANOR DIVISION

Joe Nigro, Public Defender  
 Amanda R. Baskin, Deputy  
 Abbi R. Romshek, Deputy  
 Paul E. Cooney, Chief Deputy  
 George C. Dungan, Deputy

Matthew F. Meyerle, Deputy  
 Chelsie E. Krell, Deputy  
 Angelia Onuoha, Paralegal  
 Jed Rojewski, Paralegal



## MISDEMEANOR CASE NOTES

Overall, Public Defender misdemeanor appointments increased by 9% in 2016, after the lowest level in 2015 we had seen in over 15 years. The number of County Attorney filed misdemeanors opened by the Public Defender (the more time intensive cases) increased by 13%. After a slight decrease in 2014 and 2015.



The number of City Attorney filed misdemeanors assigned to our office slightly increased between 2105 and 2016, after reaching the lowest level of new cases in 2015 in over 15 years.

The major misdemeanor charge categories that showed significant change in 2016 were: Disturb the Peace (up 40%), Thefts (up 20%, after a significant drop last year), Criminal Mischief (up 24%, also after a 20% decrease last year), False Reporting (up 116%), Child Abuse (up 42%), Drunk Drive cases were the only case that went down significantly (10%).

There are 3 Deputy Public Defenders and 1.25 paralegals assigned to the County Attorney filed Misdemeanors which totaled 2,034 new cases in 2016.

There are 1.3 Deputy Public Defenders and 1 paralegal assigned to the City Attorney filed Misdemeanors which totaled 860 new cases in 2016.

We negotiated a 5% increase with the city for the amount they reimbursed the County for our services. They reimbursed Lancaster County, \$409,228 in 2016.

## MENTAL HEALTH COMMITMENTS AND MISCELLANEOUS CASES

Kristi J. Egger, Deputy  
Amy Peters, Law Clerk  
Megan Theesen-Fenton, Law Clerk  
Megan Meyerson, Law Clerk

Haleigh Brockman, Law Clerk  
Katherine Lesiak, Law Clerk  
Amy Swearer, Law clerk

There were 147 new petitions filed in 2016, a slight decrease from the 155 petitions filed in 2015.

Only 1 of the new petitioners in 2016 involved petitions for commitment under the Sex Offender Commitment Act, compared to 6 in 2013, 1 in 2014, and 4 in 2015.

There were 4 appeals filed in the district court from mental health commitment proceedings in 2016.

The Public Defender's Office opened 136 miscellaneous cases in 2016 compared to 153 miscellaneous cases in 2015. The 2016 cases included 77 felony revocation of probation cases, 14 fugitive from justice cases, 24 adult drug court cases, and 1 new insanity review, 4 motions to review post release sentence, 14 probation administrative sanctions, and 2 out of state witnesses.

## THE JUVENILE DIVISION

In January 2014 we changed the manner in which we counted Juvenile Court cases. In 2014 we opened 1,133 Juvenile Cases, 1,181 cases in 2015, and 1,252 cases in 2016.

## JUVENILE CASE NOTES

The Juvenile Court Administrator for Lancaster County reports that there were 1,254 Law Violation filings in the Separate Juvenile Court of Lancaster County, Nebraska, in 2016, a 12% decline from the number of filings in calendar year 2015 (1,420 filings). 2016 Status Offense filings amounted to 316 cases, a slight increase from calendar year 2015 (306 filings).

The Public Defender's Office opened 8 new cases in the Juvenile Drug Court program in 2016 and closed 6. Of the cases closed, 3 were closed following successful completion and graduation and 3 were closed following unsuccessful termination from the program.

## FUTURE ISSUES

The impact of L.B. 605 continues to be assessed. Alternatives to incarceration must be considered due to prison and jail overcrowding, the high cost and ineffectiveness of incarceration, and the high numbers of people incarcerated due to mental health issues.

Appendix A

**TABLE 1  
LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE  
OPEN/CLOSED CASELOAD REPORT 2016**

<b>CASETYPE</b>	<b>PENDING START</b>	<b>OPENED 2016</b>	<b>CLOSED 2016</b>	<b>PENDING END 2016</b>
<b>Appeals</b>	54	120	130	46
<b>Felonies</b>	674	2256	2319	622
<b>Juveniles</b>	415	1252	1244	417
<b>Major Cases</b>	4	6	6	4
<b>Mentals</b>	18	147	96	31
<b>Miscellaneous</b>	73	136	119	94
<b>Misdemeanors</b>	690	2894	2824	668
<b>Totals</b>	1928	6811	6738	1882

**TABLE 2  
LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE  
HISTORICAL COMPARISON OF CASES OPENED SINCE 2006**

<b>Casetype</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Chg 15-16</b>
<b>Appeals</b>	119	110	101	95	98	92	73	66	76	118	120	2%
<b>Felonies</b>	1506	1566	1558	1476	1573	1596	1712	1968	1962	1974	2256	14%
<b>Juveniles</b>	1520	1517	1597	1323	1346	1325	1361	1048	1133	1181	1252	6%
<b>Major Cases</b>	4	11	7	5	5	5	3	9	11	2	6	200%
<b>Mental Commitment</b>	370	454	289	252	227	176	176	181	151	155	147	-5%
<b>Miscellaneous</b>	810	764	749	616	234	230	155	157	141	153	136	-11%
<b>Misdemeanors</b>	4101	4291	3970	3820	3556	3784	3519	3165	2881	2643	2894	9%
<b>Totals</b>	8430	8713	8271	7587	7039	7208	6999	6594	6355	6226	6811	9%

Appendix B

**LANCASTER COUNTY  
GENERAL FUND EXPENSE BUDGET**

<b>625 PUBLIC DEFENDER</b>	<b>ACTUALS FY16</b>	<b>ENCUMBR FY16</b>	<b>MODIFIED BUDGET FY17</b>	<b>ACTUALS FY17</b>	<b>ENCUMBR FY17</b>	<b>PROPOSED BUDGET FY18</b>	<b>ADOPTED BUDGET FY18</b>
SALARIES & WAGES	\$2,739,054	\$0	\$2,768,553	\$2,810,872	\$0	\$2,915,536	\$2,915,536
EMPLOYEE BENEFITS	\$940,280	\$0	\$921,058	\$914,345	\$0	\$1,014,551	\$1,014,551
OFFICE SUPPLIES	\$12,576	\$0	\$14,500	\$11,844	\$0	\$13,000	\$13,000
OTHER CONTRACTED SERVICES	\$85,579	\$0	\$92,507	\$80,480	\$0	\$92,421	\$92,421
TRANS, TRAVEL & SUBSISTANCE	\$44,913	\$0	\$20,750	\$29,282	\$0	\$23,250	\$23,250
COMMUNICATIONS	\$6,040	\$0	\$6,243	\$5,026	\$0	\$4,943	\$4,943
POSTAGE, COURIER & FREIGHT	\$5,254	\$0	\$5,537	\$5,497	\$0	\$5,500	\$5,500
PRINTING & ADVERTISING	\$9,862	\$0	\$10,090	\$8,113	\$0	\$8,800	\$8,800
CONTRACTED HEALTH SERVICE	\$10,492	\$0	\$18,000	\$5,219	\$0	\$12,000	\$12,000
OTHER CLIENT SERVICES	\$37	\$0	\$0	\$0	\$0	\$0	\$0
MISC FEES & SERVICES	\$76,516	\$0	\$73,456	\$51,057	\$0	\$67,708	\$67,708
INSURANCE & SURETY BONDS	\$6,423	\$0	\$6,783	\$6,478	\$0	\$850	\$850
REPAIR & MAINTENANCE COST	\$342	\$0	\$500	\$372	\$0	\$0	\$0
RENTALS	\$150,863	\$0	\$161,794	\$169,429	\$0	\$222,225	\$222,225
EQUIPMENT	\$8,823	\$0	\$0	\$1,753	\$0	\$9,908	\$9,908
<b>TOTAL PUBLIC DEFENDER</b>	<b>\$4,097,055</b>	<b>\$0</b>	<b>\$4,099,771</b>	<b>\$4,099,765</b>	<b>\$0</b>	<b>\$4,390,692</b>	<b>\$4,390,692</b>

## 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 in 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 hold 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.

## **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 section s71-945 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