

Lancaster County
Public Defender

2000 Annual Report

Contents

Memoriam - Richard L. Goos

Mission Statement

Philosophy and Goals

Scope of Presentation

Overview of Indigent Defense System

- Contracts
- Assigned Counsel
- Commission of Public Advocacy

Operations of the Lancaster County Public Defender's Office

- Felony Division
- Misdemeanor Division
- Juvenile Division

Key Issues for the Future

2000 Public Defender Staff

Appendix A - Open/Closed Caseload Report 2000
- Historical Comparison of Cases Opened 1991-2000

Appendix B - Lancaster County Public Defender Budget

Appendix C - Constitutional and Statutory Background for Office of Public Defender



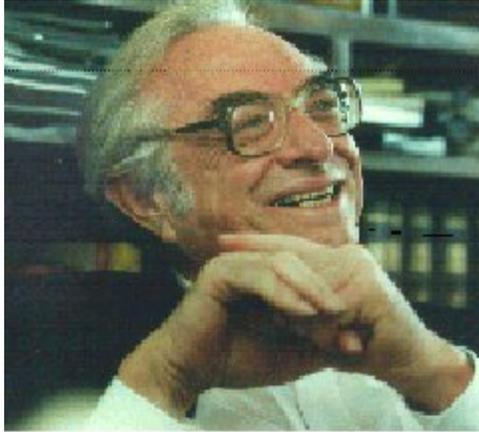
The Lancaster County Public Defender's Office completed its 29th year of operation in 2000. Coincidentally, former United States Attorney General, Janet Reno, was hosting her Second Annual Symposium on Indigent Defense, in Washington D.C. In reflecting back on her tenure as Attorney General, nothing short of "amazing" could describe the attention that she gave to indigent defense. Her fierce commitment to principles of fairness guided her in many of the programs and projects.

When is the last time one can remember an Attorney General of the United States talking about the importance of providing quality legal services to indigents in the criminal justice system? When is the last time such a person started projects dealing with such issues as the inadequate resources devoted to indigent defense and the conviction of innocent people? When was the last time the United States Department of Justice advocated the establishment of standards for improving the indigent defense system.

I was privileged to attend the Attorney General's symposium last summer, along with a team from Nebraska that included Jim Mowbray from the Nebraska Commission on Public Advocacy, Judge Wright of the Nebraska Supreme Court, Judge Luther of the District Court, Judge Foster of the County Court, and Bill Mueller and Linda Crump representing the Nebraska State Bar Association. One of the themes of the conference was the use of standards. As I write this, the Nebraska Legislature is considering a system for such standards in this state, an idea that originated at the Attorney General's Conference.

As an office, 2000 was a busy year and, in ways, a sad year. Mary Gehr, our long time office manager retired in September but promised to come see us once in a while. Dick Goos, one of the founding fathers of the office, died while on vacation in Mexico. This was a terrible shock to everyone and we will miss him dearly. This edition of our annual report is dedicated to his memory.

Dennis R. Keefe



RICHARD LINCOLN GOOS
1933-2000

In Memoriam

The Lancaster County Public Defender's Office lost a good friend, a co-worker, and one of the founding fathers of the office in December of 2000. Dick Goos, who died while vacationing in Mexico, will be missed by all who knew him. In his memory, we dedicate this Annual Report. Reprinted below is a eulogy given at Dick's memorial service.

Richard Lincoln Goos

When Dick announced his retirement from the public defenders office 5 years ago, he made clear to all of us that he did not want to have any kind of reception or coffee to mark the event. Several staff members approached me and asked me to plead with Dick to allow the office to host such a function to honor him for his many years of service. I did my best trying to persuade him, but Dick insisted that he "just didn't want all that attention." When I suggested that he should do it for the staff, he looked at me, smiling firmly, and said "You can go ahead and have a reception, I just won't be there." Although I didn't have the opportunity to talk to him about this memorial service, I'm sure he would have told me the same thing today.

I worked for and with Dick Goos in a variety of capacities over the years - I was his bartender and occasional chauffeur, his law clerk and sometimes investigator, and I was always his student in matters of the law, courtroom advocacy, and life. I met Dick Goos in 1970, during my senior year of undergraduate school at UNL when I took a part time job bartending at The Flame Club, then owned by T. Clement Gaughan, Dick's law partner at the time. Dick and Clem had been practicing together since Dick's graduation from law school in 1961. You can learn a great deal about a person as their bartender. I immediately learned that Dick was a very intelligent, easy to get to know, good-hearted, fun loving person. I also learned that he could be a forceful advocate for any position that he would take. I listened to many discussions between Clem and his friends around their table at the Flame Club.

Political discussions were especially heated because of the times - this was during the Vietnam War and the Watergate investigation. As a new employee who didn't always agree with his boss' politics, I tried to avoid participation in these discussions but Dick would always press me for my opinion. I remember one occasion when Dick was sitting alone at the bar talking to me and he asked what I thought on a certain subject, and when I told him, he forcefully and factually argued the opposite side. Later that evening, I saw him sitting at the table with Clem forcefully and factually arguing the exact opposite position that he had taken with me. Thus he taught me lesson number one for a courtroom advocate - know your facts and know how to argue both sides of an issue.

Dick, among others, encouraged me to go to law school. As luck would have it, this was occurring at the same time that the Lancaster County Public Defenders Office was being established. So Clem and Dick offered me the job of law clerk/investigator and I readily accepted. Following graduation from law school, they offered me a job as a deputy public defender and I was thrilled. As a law clerk and a young lawyer I came to appreciate Dick and all that he stood for, as many young lawyers have since.

In a profession that has given birth to some of the world's largest egos and a win-at-all-cost mentality, Dick was a breath of fresh air with his unpretentious manner and his commitment to ethical principles. In a society that is frequently so self absorbed, Dick gave of himself freely. And in a world that can often be inhumane and intolerant, Dick was a shining example of compassion and respect for all people.

Dick was always unassuming. He had a great intellect and his easygoing manner and unpretentious attitude made him a very effective advocate in the courtroom. This was not something he learned, it was something he was.

Dick was always willing to put his work aside and help others with a question or a project. Oftentimes when I would walk past his office, I would see another staff attorney or law clerk in Dick's office seeking assistance. Calls would come in from attorneys all over the state who just knew that Dick would have the answer to a question and that he would take the time to provide it.

He was always reading cases and putting copies into a series of file folders, the organization of which was a mystery to all but Dick. When he was presented with a question about a matter of law or procedure, we would all marvel at his ability to effortlessly pull out from his many cases and folders, the exact case we needed, directly on point.

Dick helped many young attorneys in the office learn to try jury cases. I was one. I assisted Dick with at least two jury trials when I first started with the office. As a young attorney, I was not sure of myself and was somewhat reluctant to try a case by myself. I know Dick was aware of my insecurities and he continued to encourage me. Then one day, when I was walking down the hall in the old district court, Dick handed me a felony file involving an escape charge and told me to go try the case, because he had been called to trial in two courtrooms at once. I started listing a million reasons why I couldn't do it, but Dick said, "Its only an escape case where the client walked away from a work release center and went to a bar. I know you can do it." He then walked swiftly away to another courtroom. When that case resulted in an acquittal, Dick said I would have to handle all the escape cases from that point forward.

Dennis Carlson, another deputy public defender in the early days of the office, remembers second chairing Dick in one of his first experiences in a jury trial. Carlson said that the case was a horrible one and while he listened to the victim's testimony as it was guided by the prosecutor, he became very nervous and unsettled. He whispered to Dick, "What do we do now?" Dick whispered in reply, "Act like a rabbit in a Texas hailstorm." Dennis Carlson thought he hadn't heard Dick correctly and asked him to repeat it, which Dick did "Act like a rabbit in a Texas hailstorm," Dick said, "just hunker down and take it."

Dick also had great compassion for his fellow man and a respect for all people, whether it be a judge of the Supreme Court, a fellow employee, a prosecutor or one of his clients. Lori McGerr, a long time secretary in the public defenders office recalls how Dick would always give her his tapes of dictation and would politely request that she type them and would then always thank her for her efforts. Everyone was treated with respect by Dick, even clients who had never been shown respect by anyone in their lives.

Judge Blue, one of the district court judges, remembers a post conviction case where a former client of Dick's was alleging that Dick represented him incompetently (such claims are not an uncommon occurrence in our profession). Dick was in the courtroom to hear the testimony of the former client lambasting Dick's efforts on his behalf. As they walked out of the courtroom at the end of the day's testimony, Dick put his arm around the former client's shoulders and wished him good luck.

His compassion and respect for others allowed him to remain calm in the face of adversity. Jerry Soucie, one of the former deputies in the public defenders office recalls a time when Dick invited the attorneys in the public defenders office out to the Congress Inn where Dick would occasionally stop for a drink. Jerry said he felt the atmosphere at the bar becoming more threatening as the night wore on, with a couple at one table arguing and a bottle smashing on the floor. Jerry leaned over and asked Dick if this was a dangerous place, and Dick, continuing to open pickle cards, said "Oh no, they're very good people in here." At that very instant, as if on cue, two guys jumped up at another table and squared off to fight one another. One of their chairs came flying 30 feet across the room and came to rest beside Rosilee. The other attorneys were looking for the nearest exits but Dick never flinched. He continued to open his pickle cards and remarked that "Of course, they can get a little rambunctious at times."

Another incident also illustrates his ability to remain calm in the face of a storm. Every office has its moments, and ours was not the exception. At one point the petty bickering and complaining got so irritating that I called a meeting of the office attorneys for a fall day in Cooper Park. Everyone was given their time to get things off their chest, and many took the opportunity to argue or whine about this or that. Dick sat quietly, never uttering a word during the whole event. At the end, someone asked Dick if he had a comment and he stood and looked at all of us and said, "I love you all like second cousins."

Dick was involved in many of the most notorious cases in Nebraska history and he was always a strong advocate for his clients. But the cases that gave him the most pleasure were not those that captured headlines. He was always a fighter for the underdog. The acquittal he won for the food service worker at the Lincoln Country Club accused of stealing an expensive Rolex watch from a member was one of those cases that Dick always remembered fondly. Another involved a University professor who hired a poor smuck to burn his house down. The professor was given immunity to testify against the poor smuck and Dick represented the poor smuck, who was acquitted by the jury, most surely because of Dick's cross-examination of the professor.

The staffs of the public defenders office have many fond memories of Dick:

- His choice of cars for example. Dick had several standards that he followed in buying a car - it had to be old, it had to be inexpensive, and it had to be huge. One of the attorneys in the office remembers following Dick in one of his huge cars when the muffler fell off Dick's car. The lawyer swears that Dick's muffler was bigger than the compact car he was driving.
- Dick's handwriting was so bad that sometimes even he couldn't decipher it. He recommended that we talk to the secretary who typed for him.
- He always talked fondly about the Sandhills and he loved to go "feeshing" at the Calumus Reservoir.
- He had a great sense of adventure and he loved to travel. Early in his legal career, he had an airplane. He loved to fly but he knew that his eyesight was getting so bad that he wouldn't be able to pass the eye exam- so he tried to memorize the eye chart. Dennis Carlson went flying with him one time and they flew over Denton where Dick once lived. He was flying so low that the farmers that he knew could see him in the cockpit and were waiving at him. Dennis Carlson remembers thinking that he was surely going to die. Dick's brother in law tells me that after that flight he told Dick that he was flying at tree top level and Dick couldn't believe it. Soon after he gave up his pilots license.
- Many of Dick's clients liked him so much that they kept coming back again and again. Late in his career, Dick began keeping a log of clients who he had represented numerous times but would not have to represent again because of the length of the sentence that the judge had imposed.
- He insisted on good grammar. He tried desperately to teach us all proper grammar right up until the end. In May of this year, he presented us all with a one-page explanation of the proper use of "lay" and "lie". I would like to read just an excerpt from his work. "Memorial Day 2000. Attention all Hands. Becoming exhausted on the subject, and in a final attempt to correct certain ungrammaticalities (before I die) I offer the following (free): There are two separate verbs: 1) to lie; and 2) to lay. These are called "intransitive (in the case of lie) and "transitive" in the case of lay. The intransitive verb, to lie, does not transfer action to an object. The action terminates in the

subject or doer, e. g. waits, dreams, sleeps, grows. The grass grows, he dreams, she waits, etc." Dick then went on for a full page of explanation and examples of proper usage. He concluded, "In absolutely no instance may one ever say that, 'He lied in the sun...' This is, of course, a capital offense." Scott Helvie says he still doesn't get it.

In November of 1989, Dick received the prestigious Reginald Heber Smith Award from the National Legal Aid and Defender Association. More than 30 people from Lincoln attended the award ceremonies in Kansas City, Missouri. Before a national audience of more than 800, Dick accepted his award, and in typical fashion, gave credit to everyone else. To give you an idea of what the legal community in Nebraska thought of Dick Goos, I would like to read briefly from some of the letters of nomination and support that were submitted on his behalf:

- "His energy and enthusiasm in trying cases, his success in trying and appealing cases, his willingness to assist inmates in a marathon legal battle over good time laws and his willingness to act as a one man resource center for death penalty issues in the state are accomplishments that few attorneys could match. They are a testimony to the man and an example for all public defenders." Robert T. Gritmit, then President of the Nebraska State Bar Association.
- " He is an outstanding trial lawyer, who has not forgotten how to use his good sense. He has faithfully discharged his responsibilities as a member of the bar and particularly as a public defender..." Former Nebraska Supreme Court Chief Justice William C. Hastings.
- "In my eyes, Richard Goos is a hero. He has been an inspiration to me..." Dennis Carlson, a former deputy public defender.
- "Dick Goos is one of those very rare people who cares and is concerned for each and every one of his clients. I have been with him on innumerable occasions when that concern was so intense and apparent that it was actually moving." Rod Rehm, a former deputy public defender.
- "Public defenders everywhere would do well to emulate Mr. Goos' dedication to the law, to his impoverished clients and to justice for all. It can truly be said that he serves his fellow man." Former Nebraska Supreme Court Justice Dale Fahrbruch.
- "Mr. Goos is in the tradition of the finest lawyers who dedicate themselves to equal justice under the law." Former Nebraska Supreme Court Chief Justice C. Thomas White.
- "Dick Goos gives of himself freely to help and encourage young attorneys coming to the public defenders office. He is a living example of the attorney for the damned. He works quietly and with determination. As a result he has the respect and admiration that cannot be gained if sought." UNL College of Law Professor John Snowden.
- "Clients charged with heinous crimes and despised by society, inmates of our jails and prisons, minorities, the homeless and disadvantaged, all find in Dick Goos a zealous advocate and a man of courage and compassion. We are indeed fortunate in Nebraska to have a man of Dick Goos' stature in such an important position." The late Robert M. Spire, former Attorney General for the State of Nebraska

About this time Dick would be looking down, rolling his eyes and wondering when all this talking would be over. So let me close with a few lines from Emerson:

"To laugh often and much; to win the respect of intelligent people and the affection of children; to earn the appreciation of honest critics and endure the betrayal of false friends; to appreciate beauty; to find the best in others; to leave the world a bit better whether by a healthy child, a garden patch, or a redeemed social condition; to know even one life has breathed easier because you have lived. This is to have succeeded."

Dick Goos, you succeeded.

Dennis R. Koops

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 & 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.

SCOPE OF REPRESENTATION

The Lancaster County Public Defender's Office shall represent clients in all matters where the statutory duty of representation exists and when appointed by the court or otherwise authorized by statute. In the sole discretion of the Elected Public Defender, the office may accept appointments in indigent cases where no statutory duty has been imposed.

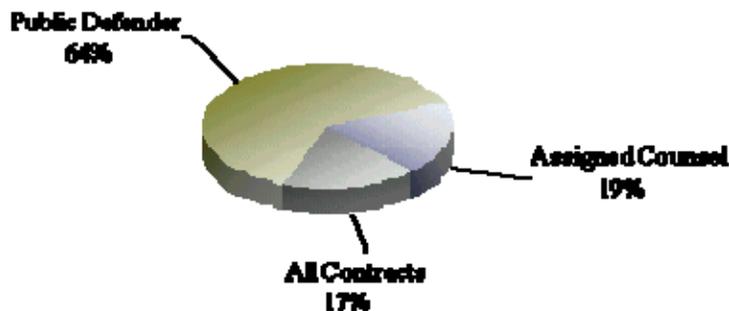
OVERVIEW OF THE INDIGENT DEFENSE SYSTEM IN LANCASTER COUNTY

In Lancaster County, the indigent defense system consists of

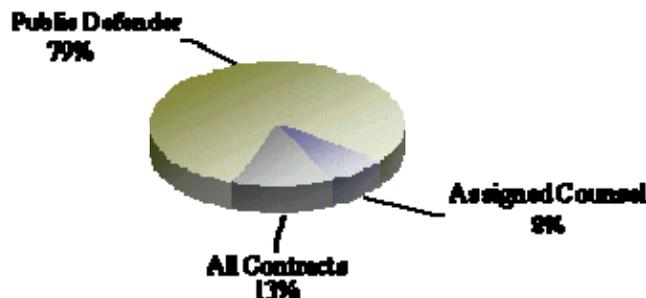
- The Lancaster County Public Defender's Office;
- Contracts with private law firms for the child support/paternity cases and juvenile court cases and a contract with Nebraska Legal Services (NLS) for juvenile court representation;
- An ad hoc system of assigned counsel (in Juvenile, County and District Court) where judges appoint private attorneys who are then paid on an hourly basis.

Lancaster County has budgeted a total of \$3,101,743 for indigent defense in FY01 and the total number of new cases (of all types) assigned to the system in 2000 was 7,137. The pie charts below show the percentage of the FY01 expenditures allocated to each type of system and the percentage of the total new cases assigned to the system in 2000:

PERCENTAGE OF THE FY01 BUDGETED AMOUNTS BY TYPE OF SYSTEM

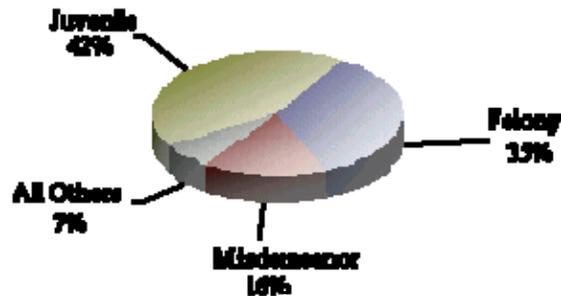


PERCENTAGE OF TOTAL NEW CASES ASSIGNED BY TYPE OF SYSTEM



The following pie chart shows the FY01 budgeted amounts by the type of case (felony, juvenile, misdemeanor, all other). The public defender budget has been allocated according to the number of attorneys assigned to the various divisions within the office:

PERCENTAGE OF THE FY01 BUDGETED AMOUNTS BY TYPE OF CASE



CONTRACTS

At the beginning of the year 2000, Lancaster County had 5 total contracts - 4 with private law firms and 1 with Nebraska Legal Services. The firm of Ugai and Lindgren held the contract for Child Support and Paternity cases. They were paid \$67,200 for the year and were appointed to represent 360 new child support cases and 65 new paternity cases during that time. In December of 2000, Lancaster County assigned the contract to Susan Ugai, Attorney at Law, because Sharon Lindgren had left the firm.

All of the remaining contracts are for representation in the Separate Juvenile Court of Lancaster County. Nebraska Legal Services has a contract which requires them to represent individuals in abuse/neglect, law violation, and status cases. NLS was contracted to receive \$240,500 as compensation during 2000 and they were appointed in 116 new Abuse/Neglect cases, 154 Law Violation cases, and 23 Status Offense cases. The three private firm contractors at the beginning of 2000 were (1) Orton, Thomas and Peterson, (2) Bollerup and Huxoll, and (3) Anderson, Creager, and Wittstruck. In November of 2000, a 4th contract was entered into, upon the recommendation of the Indigent Defense Advisory Committee, with the law firm of (4) Recknor and Associates. Combined, these 4 contractors were paid \$159,100 and were appointed in 157 new Abuse/Neglect cases and 35 new Law Violation cases.

ASSIGNED COUNSEL

In the ad hoc assigned counsel system, the courts pay an hourly rate of \$65 for both in court and out of court work. In some of the homicide cases, the rate is \$85 per hour. In calendar year 2000, the Separate Juvenile Court paid approximately \$389,209 to assigned counsel in approximately 200 Abuse/Neglect cases and approximately 50 Law Violation cases and 30 Status cases which had been filed in previous years.

Of the felony cases assigned to the Lancaster County Public Defender's Office in 2000, 211 cases required appointment of other counsel because of a conflict of interest. In 42 of those cases (20%), the courts appointed the Nebraska Commission on Public Advocacy (NCPA) and in 169 cases (80%), the courts appointed private attorneys. 154 felony cases were closed by assigned counsel in 2000 (including NCPA) for total fees of \$134,471. 1 Capital Appeal was closed for a total fee of \$137,234.

Of the misdemeanor cases assigned to the Lancaster County Public Defender's Office in 2000, 337 cases required appointment of other counsel because of conflicts of interest. Assigned counsel closed 239 misdemeanor cases in 2000 for fees totaling \$72,293.



As noted above, the Nebraska Commission on Public Advocacy (NCPA) was appointed to 42 felony cases in Lancaster County in 2000. This state agency will represent individuals in First Degree Murder cases when the Public Defender's Office has a conflict of interest. Lancaster County is billed only one third of the Commission's actual cost in such cases. In Drug and Violent crime felonies, the agency represents individuals when the Public Defender has a conflict at no cost to the county. Based upon our history of assigned counsel expenditures, these 42 cases, including 2 cases involving charges of First Degree Murder, represent a savings in assigned counsel fees of approximately \$100,000 to Lancaster County.

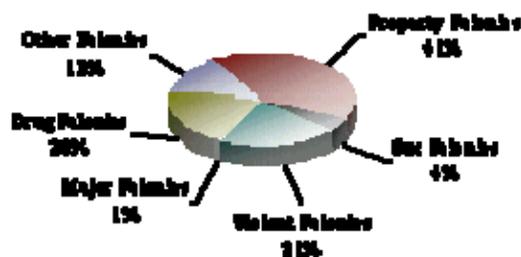
OPERATIONS OF THE LANCASTER COUNTY PUBLIC DEFENDER'S OFFICE

FELONY DIVISION

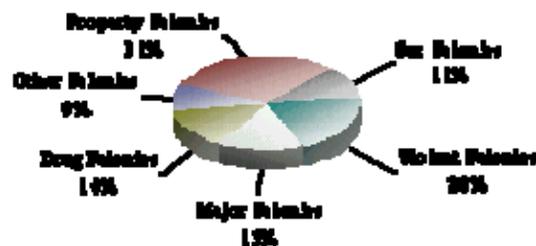
According to "The Courts of Nebraska 2000 - Annual Caseload Report" prepared by the Administrative Office of the Courts/Probation, 1,293 felony cases were filed in Lancaster County Court in 2000, representing a 3% increase from the 1999 filings. The number of new felony cases assigned to the Lancaster County Public Defender's Office in 2000 was 990 (9 Major Felonies and 981 Felonies) compared with 989 cases in 1999 (13 Major Felonies and 976 Felonies). This means that 77% of the felony cases filed in 2000 required appointed counsel in the first instance.

The 2000 Major Felonies opened included 3 First Degree Murder cases, 1 Second Degree Murder Case, 2 Manslaughter cases, 1 Motor Vehicle Homicide case, 1 Conspiracy to Commit First Degree Murder case, and 1 Attempted Second Degree Murder case. During the same year, the office closed 5 First Degree Murder cases, 1 Second Degree Murder case, 2 Manslaughter cases, 1 Motor Vehicle Homicide case, 1 Attempted Second Degree Murder case, and 2 Kidnapping cases. The amount of attorney time devoted to all felony cases remained constant in 2000, representing 46% of the total attorney time recorded for cases that were closed in 2000. Below, we compare the number of new open felony cases by type of felony with the attorney time recorded for closed felony cases by type of felony. The category of Major Felonies includes all types of homicides and attempted homicides and kidnapping cases:

PERCENTAGE OF FELONIES OPENED IN 2000 BY TYPE



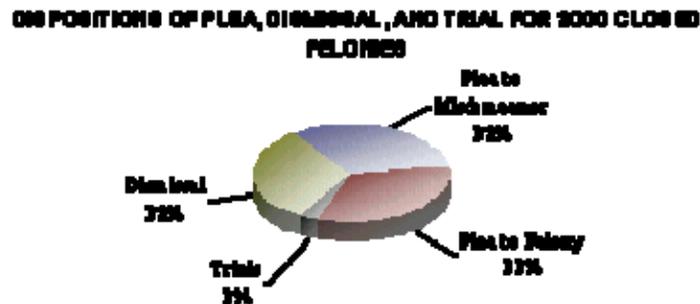
ATTORNEY HOURS FOR FELONIES CLOSED IN 2000 BY TYPE



DISPOSITIONS

There was a total of 61 jury trials in Lancaster County District Court in 2000 and 32 of them (52%) were felony cases. Of those 32 felony jury trials, 22 (69%) were public defender cases, 5 (15.5%) were assigned counsel cases, and 5 (15.5%) were privately retained attorney cases.

For felony cases closed by the public defender's office in 2000 by plea, dismissal, or trial, 32% of the cases were dismissed (this includes pre-trial diversion cases and cases dismissed because they were transferred to juvenile court). In 32% of the cases, the clients pled guilty to misdemeanor charges and in 33% of the cases the clients pled guilty to felony charges. In 3% of the cases, there was a trial, either to a jury or to the bench. These dispositions are displayed in the following pie chart:



FELONY DIVISION STAFF

Shawn Elliott and Paul Cooney, both attorneys in the felony division, were promoted to Attorney II during 2000. Shawn Elliott has been with the office since June of 1996 and Paul Cooney joined us in July of 1996. Monica Ross left the felony division as a paralegal to become the office manager upon the retirement of Mary Gehr in September of 2000.

MISDEMEANOR DIVISION

During the year 2000, the Misdemeanor Division consisted of two full time attorneys, two part time attorneys (one shares a felony caseload), and two paralegals. Cases filed by both the City Attorney (under the Lincoln Municipal Code) and by the County Attorney and the UNL Prosecution Clinic (under the Lincoln Municipal Code and state statutes) are assigned to the Public Defender's Office. The law requires the appointment of counsel in misdemeanor cases if:

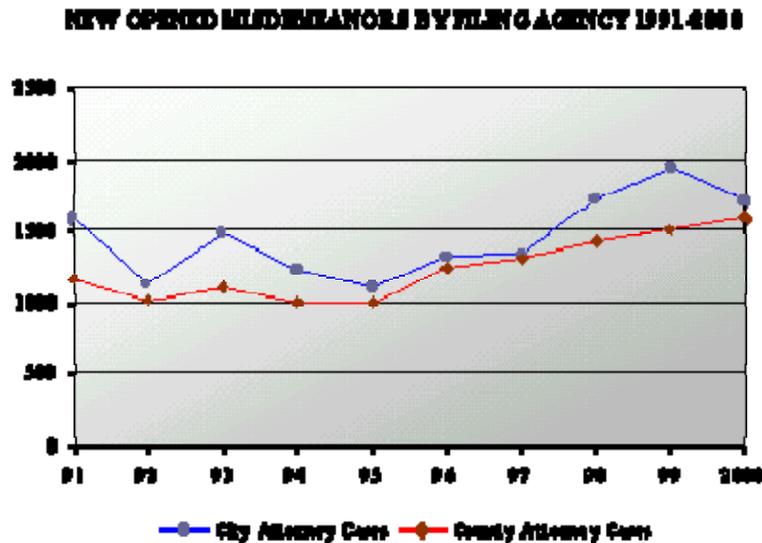
1. the accused is indigent, and
2. a jail sentence is to be imposed.

The charge categories of Drunk Driving, Assault (including Domestic Violence and Violation of Protection Orders), Driving on a Suspended License, and Theft, accounted for 72% of all of the misdemeanor cases opened by the office in 2000.

In 2000, the office opened 3306 total misdemeanor cases, representing a 4% decline over the 1999 openings (cases filed by the City Attorney decreased by 12% returning to the 1998 levels) and cases filed by the County Attorney increased by 6%. Despite the overall decline in new opened cases, the office actually recorded a 3% increase in the amount of attorney time devoted to misdemeanor cases closed in 2000.

This is most probably due to the increase in the number of County Attorney filed cases which historically have required more than twice the attorney time on average as the City Attorney filed misdemeanors. For example, the Domestic Violence cases filed by the county attorney require, on average, three and a half times the number of attorney hours to resolve compared to an assault case filed by the City Attorney.

As can be seen in the chart below, the number of new misdemeanor cases has zig zagged up and down over the years, depending upon which judges were in the appointing courts for a particular time period. The clear trend of the County Attorney filed cases has been up for at least the last 5 years.



MISDEMEANOR STAFF CHANGES

Susan Tast remains with the Misdemeanor Division, representing clients in cases filed by the City Attorney. She is assisted by Jed Rojewski, a paralegal. The County Attorney filed Misdemeanors were handled by Joe Nigro, Julie Hansen, and Richard Goos, who was a part time attorney in the office during 2000. Dennis Keefe and Scott Helvie assisted with some of the jury cases. Angela Franssen was the paralegal for this docket.

JUVENILE DIVISION

According to the report from the Separate Juvenile Court of Lancaster County, a total of 1,984 petitions and supplemental petitions/motions were filed by both the City Attorney and the County Attorney in 2000. This represents a 2% decline in filings from the 1999 figures. 599 of those filings (30%) were made by the City Attorney in Law Violation cases. The rest were filed by the County Attorney in all juvenile case types.

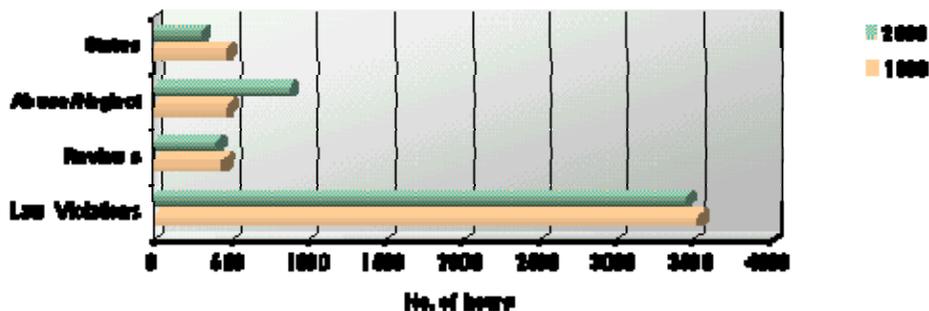
In the Abuse/Neglect cases, the Separate Juvenile Court reports 167 new petitions filed in the year 2000 (compared to 161 in 1999), although the Lancaster County Attorney says that number should be 171 (compared to 155 in 1999). In any event, the Lancaster County Public Defender's Office was appointed in 126 new Abuse/Neglect cases during the year. The contractors were also busy. The four private contractors received 157 appointments and Nebraska Legal Services received 118 appointments. There were a small but unknown number of private attorney appointments also. This means that for every new case filed there were approximately 2.4 attorney appointments made. For the Public Defender's Office these cases require significantly more attorney time per case than any other type of juvenile case, and they have the longest case life.

In the Law Violation cases, the City and County Attorney combined report that they filed 1,674 new and supplemental petitions/motions in 2000 which was only a .5% decrease from the 1999 filings. The Lancaster County Public Defender's Office was appointed in 1017 Law Violation cases (new and supplemental filings) in 2000 which represents a 10% decrease from our 1999 figures. This also represents 61% of the total Law Violation filings for 2000 (our juvenile Law Violation indigency rate). The nature of the Law Violation cases changed very little in 2000 from previous years, with the exception of drug offenses. 9% of the Public Defender's new cases were drug offenses, the highest figure in the history of the office (in 1999, only 3% of the Law Violation cases were drug offenses). In terms of dispositions for closed Law Violation Cases, the number of Dismissals was down from the previous year (at 38%) while the number of Informal Hearings (59%) and Formal Hearings (3%) were up from the 1999 figures.

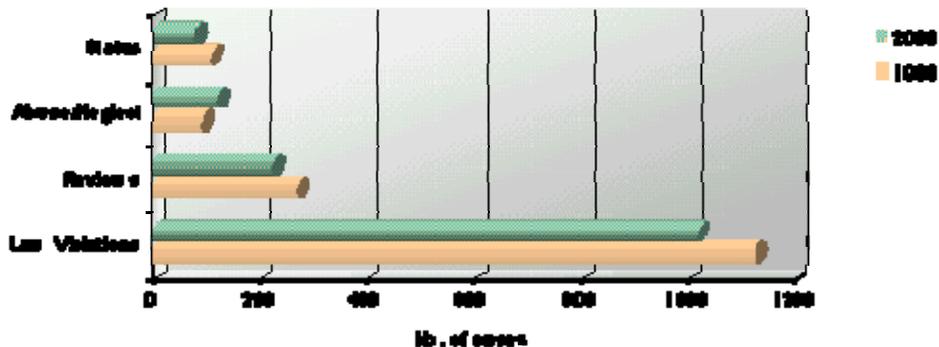
While the overall time devoted to juvenile cases closed in 2000 was up 3%, it is interesting to note that the case mix is changing. For example, of all the juvenile cases closed in 2000, the attorney time recorded for Abuse Neglect cases represented an 87% increase from that recorded for cases closed in 1999, while the amount of attorney time recorded for Law Violation cases decreased by 2% in that same time period. This means that in one year, the Abuse/Neglect cases went from representing a little over 9% of all attorney time devoted to juvenile cases to 17%.

Below is a chart displaying the four types of juvenile cases in the public defender's office first by the number of cases opened in 2000 and then by the percentage of Juvenile Division attorney time devoted to those case types:

ATTORNEY HOURS FOR CLOSED JUVENILE CASES



NEW OPENED JUVENILE CASES BY TYPE



JUVENILE DIVISION STAFF

The Juvenile Division Staff did not have any changes in 2000. Margene Timm, the Juvenile Division Team Leader, spent considerable time working on two major projects outside of her caseload. The first was her work on a planning committee for a juvenile drug court which should be operational in early 2001. She also participated in the Stakeholders Group for Families First and Foremost (F3), which is a new federally funded program designed to serve seriously emotionally disturbed youth in Lancaster County. Margene was assisted in the Juvenile Division by attorneys Kristi Egger-Brown, Reggie Ryder, and Jennifer Villebro. Angela Onuoha is the paralegal for Abuse/Neglect Cases and Donna Garwood is the paralegal for Law Violation and Status cases.

MENTAL HEALTH AND MISCELLANEOUS CASES

Historically, the Lancaster County Public Defender's Office has utilized a portion of one Felony Division attorneys' time to represent clients before the Lancaster County Board of Mental Health. With the crisis in the felony division workload in 1999, that changed. In 2000, the two Felony Division Team Leaders and the Elected Public Defender began rotating responsibility for the Mental Health cases. Later in 2000, the Juvenile Division Attorneys were also worked in to the rotation. For a number of reasons that we will discuss later in this report, this coverage has not worked satisfactorily. The number of new Mental Health cases climbed to 406 in 2000, an office record. In addition, the number of cases requiring a contested hearing to resolve has increased by 10% in recent years. Because of the number of cases and hearings, there has been continuing discussions of going to twice weekly hearings, which could create scheduling problems.

The Miscellaneous category of cases consists mainly of Felony Revocation of Probation matters and Fugitive From Justice cases, both handled by the Felony Division attorneys. The number of new cases has remained fairly constant the past three years, averaging 146 new cases per year.

ADMINISTRATION AND SUPPORT

In September of 2000, Mary Gehr, longtime Administrative Services Officer for the Lancaster County Public Defender's Office, retired from that position. Mary had been in that position for 20 years providing us with her assistance in a variety of ways. She was always willing to help, no matter how busy, and she always kept her sense of humor. Mary was our friend, co-worker, and "mom". She always made sure that we had treats, expertly prepared by either herself or her family under her supervision. A reception was held in the public defender's office in her honor and it was attended by a large group of people who worked with Mary in City and County government over the years. Her family attended the Lancaster County Board meeting immediately before her departure to see Mary receive the "Commissioner's Award of Excellence" for her service to the county.

The newest member of our staff, Mayme Keagy, also resigned from our office staff in 2000. Mayme was our "Runner" and she performed her duties very well. Mayme got married in the fall of 2000, and she and her new husband moved to Madison, Wisconsin where he found new employment.

KEY ISSUES FOR THE FUTURE

STAFFING

With the reduction in the number of Major Cases pending in the office at the end of 2000 (particularly First Degree Murder Cases), the office made two staff changes which affects the way in which we provide coverage to the various caseloads. First, we moved the part time attorney position from the Misdemeanor Division to Mental Health cases. Secondly, we moved the felony attorney who carries a part time Misdemeanor caseload to Misdemeanors, full time. These are probably just temporary moves, because once the Major cases begin to increase, we will have to shift an attorney position back to the Felony Division.

The number of misdemeanors has been a problem for some time, and if the numbers continue at their present level, we will need to have a full time position added to the Misdemeanor Division. This is not due solely to the number of cases, but also to the type of cases and the nature of those cases. Specifically, the domestic violence cases have consumed more of our attorney time in recent years. The County Attorneys Office has added staff, both attorneys and paralegals to prosecute these cases. There is no plea bargaining in most of these cases which makes the time to resolve the case even greater.

The Mental health docket deserves more attention than we have been able to provide in the past. The part time attorney position is ideal for this docket but we anticipate that the part time may include upwards of 13-15 hours per week. In an attempt to move the cases along and provide better representation, we will try to become involved earlier in the process and utilize the independent evaluation process to a greater extent.

TECHNOLOGY

We are in the very beginning phases of the development of a new case management information system that can be shared between the County Attorney and the Public Defender. A requirements study is to begin as we publish this annual report. The new system should allow us to realize greater efficiencies as we enter the 21st century.

Hardware upgrades are inevitable given the uses that computers are being put to these days. It is also inevitable given the City County Email-Calendering system that will be installed. We anticipate that we will begin the upgrade in FY02 and spread it over two years.

INDIGENCE SCREENER

After years of anticipation, Lancaster County hired a "Defense Eligibility Technician" to screen individuals who were requesting appointed counsel, for eligibility. The Lancaster County Board is providing funding for the three-year pilot project, and the Nebraska Supreme Court approved model rules for the District and County Courts to implement the system. An Advisory Committee drafted policies and procedures and

interviewed candidates for the position. Ms. Catherine Rech was hired and serves under the County Court Judicial Administrator by written agreement between the state and the county.

INDIGENT DEFENSE SYSTEM

The Lancaster County Indigent Defense Advisory Committee is a group of 5 attorneys, nominated by the Lincoln Bar Association and Appointed by the Lancaster County Commissioners , to advise the Public Defender and the County Board on indigent defense issues. This committee consists of Sean Brennan, Rodney Confer, Randy Goyette, Virginia Johnson, and Andrew Strotman. Two of their recommendations made in 2000, which were acted upon favorably by the County Commissioners, were the addition of juvenile law violation conflicts to three of the private attorney contractors in Juvenile Court, and the selection of a fourth contractor for work in abuse and neglect cases in Juvenile Court. The new contractor selected was Recknor and Associates (Steve Williams and Randy Wertz, attorneys).

2000 PUBLIC DEFENDER STAFF

Public Defender

Dennis R. Keefe

University of Nebraska College of Law, 1972
Elected to Office of Public Defender, November, 1978

Chief Deputy Public Defender

Scott P. Helvie

University of Nebraska College of Law, 1976
Public Defender: 1976 - 1981, Lincoln County, Nebraska
1981 to present, Lancaster County, Nebraska
Felony Division Team Leader

Deputy Public Defenders

Robert G. Hays

Antioch School of Law, 1977
Started in 1984
Felony Division Team Leader

Joseph D. Nigro

University of Nebraska College of Law, 1983
Started in 1983
Misdemeanor Division

Webb E. Bancroft

University of Nebraska College of Law, 1983
Started in 1989
Felony Division

Susan R. Tast

University of Nebraska College of Law, 1986
Started in 1989
Misdemeanor division

Margene M. Timm

University of Nebraska College of Law, 1983
Started in 1989
Juvenile Division Team Leader

Kristi Egger-Brown

University of Nebraska College of Law, 1988
Started in 1990
Juvenile Division

Shawn D. Elliott

University of Nebraska College of Law, 1989
Started in 1996
Felony Division

Paul E. Cooney

University of Nebraska College of Law, 1993
Started in 1996
Felony Division

Reggie L. Ryder

University of Nebraska College of Law, 1997
Started in 1998
Juvenile Division

Julie B. Hansen

University of Nebraska College of Law, 1993
Started in 1998
Felony and Misdemeanor Divisions

Timothy E. Sopinski

University of Nebraska College of Law, 1997

Felony Division

Scott P. Helvie
Robert G. Hays
Webb E. Bancroft
Paul E. Cooney
Shawn D. Elliott
Timothy E. Sopinski
Timothy M. Eppler
Julie B. Hansen

Misdemeanor Division

Susan R. Tast
Joseph D. Nigro
Julie B. Hansen

Juvenile

Margene M. Timm
Kristi Egger-Brown
Reggie L. Ryder
Jennifer K. Villebro

Started in 1999
Felony Division

Jennifer K. Villebro

Creighton University College of Law, 1999
Started in 1999
Juvenile Division

Timothy M. Eppler

University of Nebraska College of Law, 1996
Started in 1999
Felony Division

Support Staff

Office Manager

Mary Gehr, 1980

Paralegals

Monica Ross, 1976
Donna Garwood, 1982
Jed Rojewski, 1996
Angelia Onuoha, 1997
Kristi Gottberg, 1999
Angela Franssen, 1999

Secretaries/Clerks

Lori McGerr, 1983
Angela Owens, 1992
Michelle Scamehorn, 1997
Mayme Keagy, 1997

Law Clerks

Elizabeth Callaghan, Lance Curtright,
Adrienne Davis, Jason Hiveley,
Jess Redman, Mark Bestul

APPENDIX A

Table 1
Lancaster County Public Defender's Office
Open/Closed Caseload Report 2000

Casetype	Pending Start	Opened 2000	Closed 2000	Pending End 2000
Appeals	48	86	85	52
Felonies	321	981	1014	300
Juveniles	506	1453	1519	457
Major Cases	11	9	12	7
Mentals	7	406	436	4
Miscellaneous	30	152	143	40
Misdemeanors	625	3306	3304	680
Totals	1548	6393	6510	1540

Table 2
Lancaster County Public Defender's Office
Historical Comparison of Cases Opened 1991-2000

Casetype	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Appeals	68	67	71	57	81	46	71	58	85	86
Felonies	746	689	686	779	741	774	840	962	976	981
Juveniles	605	636	695	819	792	931	1288	1481	1605	1453
Major Cases	8	8	9	10	6	6	9	16	13	9
Mental Commitment	298	266	75	254	322	270	324	379	391	409
Miscellaneous	136	186	148	120	109	115	118	151	134	152
Misdemeanor	2755	2133	2579	2225	2096	2560	2646	3148	3438	3306
Totals	4616	3985	4263	4264	4147	4702	5296	6198	6642	6393

APPENDIX B

Lancaster County Public Defender Budget

APPENDIX C

Constitutional & 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 1997)

Public Defender in certain counties; election; There is hereby created in counties that now have or that shall hereafter attain a population in excess of one hundred thousand inhabitants, and in other counties upon approval by the county board, the Office of Public Defender, who, in counties having a population in excess of one hundred thousand inhabitants which have not elected a Public Defender prior to July 10, 1984, shall be elected at the next general election following July 10, 1984, or the year in which the county attain a population of one hundred thousand inhabitants, and who, in other counties, shall be elected at the first general election of county officers following approval by the county board and every four year thereafter.

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 the provisions of this section.

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 shall receive the same annual salary as each deputy county attorney of comparable ability and experience shall receive in such counties.

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.

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 the county in 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.

Neb. Rev. Stat. §23-3402 (Reissue 1997) Public Defender duties; appointment; prohibitions.

- I. 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 post conviction 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 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.
 1. It shall also 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 83-1049 to 83-1051.
 2. 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.
 3. 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, not recommend to a court that a defendant be determined or not determined an indigent.

Neb. Rev. Stat. §23-3403 (Reissue 1997)

Public Defender; assistants, personnel; compensation; office space, fixtures and supplies; county furnish. The Public Defender may appoint as many assistant Public Defenders, who shall be attorney 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 his 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, brief-printing, investigative, expert, travel and other miscellaneous expenses reasonably necessary to enable the Public Defender to effectively and competently represent the clients of his office.

Neb. Rev. Stat. §29-3901(3) (Reissue 1995)

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.