

Agency Purpose

The Board of Public Defense is a judicial branch agency whose purpose is to provide quality criminal defense services to indigent defendants in the state of Minnesota through a cost-effective and efficient public defender system. Throughout its history the Board has established goals and principles to aid the agency to carry out its mission. Overall the Board is committed to five major goals: client centered representation, creative advocacy, continual training for all staff, recruitment and retention of excellent staff, and being a full partner in the justice system.

The public defense system is the largest customer of the courts, and public defenders provide service in every courthouse in Minnesota, handling over 179,000 cases per year.

Core Functions

The Judicial District Public Defender Offices provide quality trial court criminal defense services to indigent clients charged with crimes in felony, gross misdemeanor, misdemeanor, and juvenile cases. The Appellate Office provides services to indigent clients who appeal their convictions; post conviction proceedings; individuals subject to supervised release/parole revocations; and individuals subject to community notification hearings.

Operations

The ten Judicial District Public Defender Offices provide quality criminal defense services to indigent persons in felonies, gross misdemeanors, misdemeanors, juvenile delinquency, and children over ten years of age in Children In Need of Protective Services (CHIPS) cases. This is accomplished through a system that relies heavily on part-time attorneys (50%). During FY 2007 the districts provided service for 179,000 cases. This program also includes partial funding for four nonprofit public defense corporations. The corporations provide high quality, independent criminal, and juvenile defense services primarily to minority indigents, who otherwise would need public defense services. The four corporations are the Neighborhood Justice Corporation (St. Paul); Legal Rights Center (Minneapolis), Duluth Indian Legal, and the Regional Native Public Defense Corporation which serves the communities of Leech Lake and White Earth Reservations.

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

Budget

During FY 2008-2009 the agency budget totals \$134 million. The entire agency is funded through the General Fund.

At A Glance**Two Year State Budget:**

- ◆ \$134 million - General Fund

Annual Caseloads

- ◆ 179,000 District Public Defense Cases
- ◆ 3,356 Parole Revocation Hearings
- ◆ 841 Appellate Files Opened
- ◆ 709 Community Notification Hearings

Contact

State of Minnesota Board of Public Defense
331 Second Avenue South, Suite 900
Minneapolis, Minnesota 55401

John Stuart, State Public Defender
Website: www.pubdef.state.mn.us
Kevin Kajer, Chief Administrator
Phone: (612) 349-2565
Fax: (612) 349-2568

Dollars in Thousands

	Current		Forecast Base		Biennium 2010-11
	FY2008	FY2009	FY2010	FY2011	
<u>Direct Appropriations by Fund</u>					
General					
Current Appropriation	66,348	68,028	68,028	68,028	136,056
Forecast Base	66,348	68,028	68,028	68,028	136,056
Change		0	0	0	0
% Biennial Change from 2008-09					1.3%
 <u>Expenditures by Fund</u>					
Carry Forward					
Miscellaneous Special Revenue	47	0	0	0	0
Direct Appropriations					
General	66,061	68,315	68,028	68,028	136,056
Statutory Appropriations					
General	600	565	450	450	900
Gift	167	221	180	180	360
Total	66,875	69,101	68,658	68,658	137,316
 <u>Expenditures by Category</u>					
Total Compensation	47,884	45,305	44,755	44,730	89,485
Other Operating Expenses	5,890	10,353	10,460	10,485	20,945
Local Assistance	13,101	13,443	13,443	13,443	26,886
Total	66,875	69,101	68,658	68,658	137,316
 <u>Expenditures by Program</u>					
Appellate Office	4,528	4,627	4,603	4,603	9,206
Administrative Services Office	1,639	2,071	2,052	2,052	4,104
District Public Defense	60,708	62,403	62,003	62,003	124,006
Total	66,875	69,101	68,658	68,658	137,316
Full-Time Equivalents (FTE)	640.1	527.5	527.5	512.5	

Program Description

The Appellate Office provides services to indigent clients in criminal appeals, post conviction proceedings in the District Courts, sex offender community notification and review hearings, and supervised release/parole revocation proceedings.

Program at a Glance

- ◆ 948 Appellate cases opened in FY 2007
- ◆ 3,356 Parole revocation hearings FY 2007
- ◆ 709 Sex offender notification hearings

Population Served

In recent years, there has been a major legislative effort to increase penalties for existing crimes. In addition, new statutory penalties have been enacted to deal with specific populations or issues. Increased penalties and stronger enforcement have resulted in a significant increase in the population of the state's prisons and jails. The Minnesota Department of Corrections (DOC) records indicate that as of 1-1-08 there were 9,270 inmates in the state's correctional facilities, a 22% increase in the last four years. This population is the client base for the Appellate Office.

Parole revocations have increased more than 10% in one year, and 22% in the last three years. After years of double digit growth, the number of appellate files opened has returned to 2004 levels.

In 1996, the legislature enacted the community notification law for sex offenders. The law requires a review process for classifying sex offenders. Indigent offenders have the right to representation by the Appellate Office. Caseloads in this area grew 80% between FY 2004 and FY 2008. During the same time, appeals of these decisions increased by 78%.

Services Provided

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

Historical Perspective

There is a constitutional right to counsel at public expense for indigent prisoners' appeals and parole revocation hearings. As sentence lengths increase, prisoners have more motivation to go through the appellate process, which takes about a year. They also have longer periods of supervised release, leading to more parole revocation hearings.

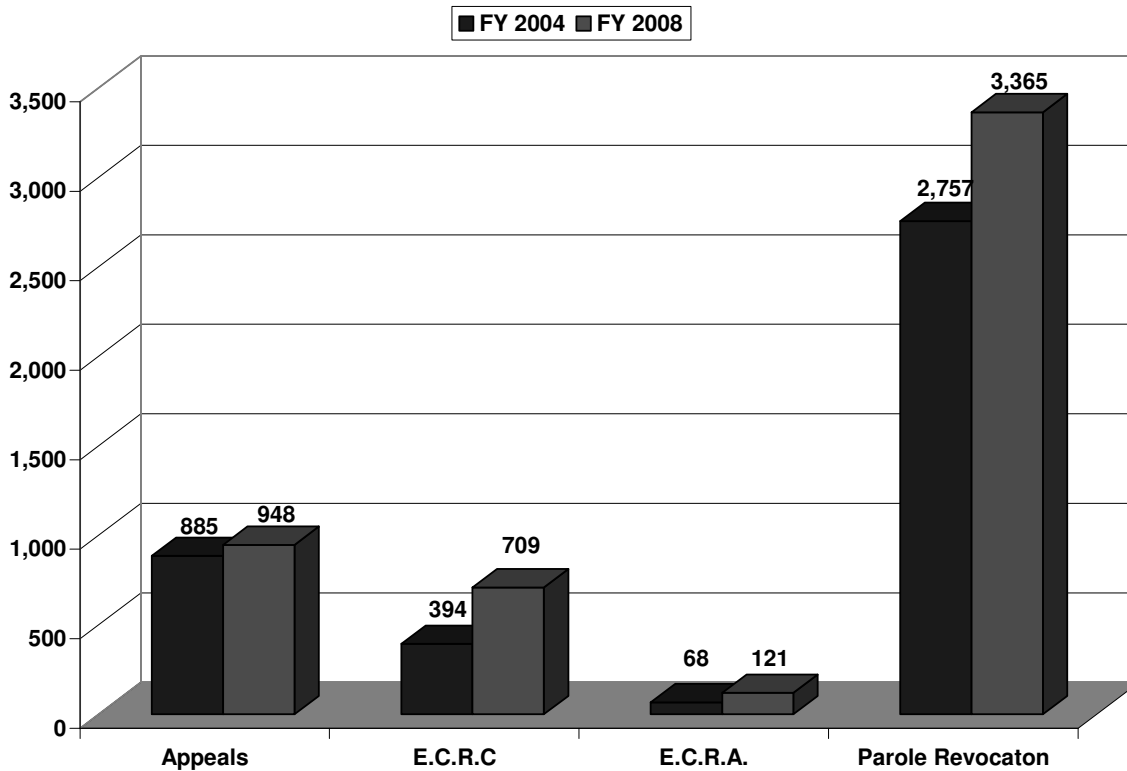
Faced with a \$3.8 million deficit for 2008/2009, the Board adopted a budget plan that included a reduction of three FTE attorneys from the Appellate Office.

This will mean that in fiscal year 2009, as many as 42 appeals in tried cases will not be assigned to a lawyer but will be placed on a waiting list. This is roughly 11% of these cases. The average time that appellate court(s) will have to wait until counsel is assigned will be approximately six months.

Delays will also occur in the post-conviction unit. This group handles all appeals in cases that were not tried (guilty plea withdrawal, sentencing, conditional release), all the parole/supervised release hearings in the state, and all the community notification cases for sex offenders.

Finally, in the past the office has staffed ECRC (End of Confinement Review Committee) hearings on behalf of sexual offenders facing placement on the community notification scale as a level 2 or 3. Due to reduced staffing, the office has shifted remaining resources from appearing at the ECRC level to providing statutorily-required representation of individuals who seek review of an ECRC decision if the individual wishes to challenge being ranked as a level 2 or 3 sex offender.

Board of Public Defense Appellate Office Cases FY 2004 & 2008



Key Program Goals

Overall the Board is committed to five major goals: client centered representation, creative advocacy, continual training for all staff, recruitment and retention of excellent staff, and partnership in the justice system. For the Appellate Office, this includes:

- ◆ Providing excellent representation to clients in criminal appeals, post conviction proceedings in the District Courts, sex offender community notification and review hearings, and supervised release/parole revocation proceedings, and;
- ◆ Meeting court imposed deadlines for filing of appeals and other case matters.

Key Program Measures

- ◆ Community notification hearings are estimated to increase 80% from FY 2004 to CY 2008.
- ◆ Parole revocation hearings increased 22% from FY 2005 to FY 2007.

Program Funding

The Appellate Office has attempted to keep up with the ever-increasing caseload within its limited resources. The office has a budget of approximately \$4.6 million, \$300,000 of which is used to pay for the cost of trial transcripts. The increasing caseloads continue to make it difficult for the office to provide constitutionally mandated services, and to meet court-imposed deadlines for appellate matters.

Contact

Kevin Kajer
Phone: (612) 349-2565
E-mail: kevin.kajer@state.mn.us
Web site: www.pubdef.state.mn.us

PUBLIC DEFENSE BOARD

Program: APPELLATE OFFICE

Program Summary

Dollars in Thousands

	Current		Forecast Base		Biennium
	FY2008	FY2009	FY2010	FY2011	2010-11
<u>Direct Appropriations by Fund</u>					
General					
Current Appropriation	4,352	4,603	4,603	4,603	9,206
Forecast Base	4,352	4,603	4,603	4,603	9,206
<u>Expenditures by Fund</u>					
Direct Appropriations					
General	4,528	4,627	4,603	4,603	9,206
Total	4,528	4,627	4,603	4,603	9,206
<u>Expenditures by Category</u>					
Total Compensation	3,581	3,420	3,180	3,112	6,292
Other Operating Expenses	947	1,207	1,423	1,491	2,914
Total	4,528	4,627	4,603	4,603	9,206
<u>Expenditures by Activity</u>					
State Public Defender	4,528	4,627	4,603	4,603	9,206
Total	4,528	4,627	4,603	4,603	9,206
Full-Time Equivalents (FTE)	44.0	38.0	38.0	38.0	

Program Description

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

Population Served

The Administrative Services Office provides staff support to all public defender units.

Services Provided

The Administrative Services Office provides staff support to all public defender units, and implements the Board's policies. In addition, it is responsible for management of the agency systems related to caseloads, budget, personnel, and information systems. It accomplishes this with a small administrative staff. The Administrative Services Office operates on 3% of the agency's budget.

Program at a Glance

- ◆ Budget, information systems, policy and human resources work for 500+ state employees and 200 county employees.
- ◆ Sets standards and policies for provision of public defense services statewide.
- ◆ Information system support for 29 regional offices around the state.
- ◆ Budget support for 10 district offices, appellate office and four public defense corporations.

The Board has developed and implemented policies covering personnel, compensation, budgeting, training, conflict cases, and management information systems. Caseload standards have also been adopted. The Board has also completed work on a strategic plan, a training plan, an information systems plan, and revision of personnel and office policies and is going about the task of implementing these plans. The Board is also implementing a change in the status of personnel in the Second and Fourth Judicial District Public Defender Offices. All new hires in these Judicial Districts as of January 1, 1999, are state employees.

The Information Systems (IS) Office designs, implements, and maintains systems in 12 main offices and 16 satellite offices. They are currently accomplishing this with six staff people. Significant time and effort is dedicated to maintaining and enhancing existing systems. Currently, most of the IS team's time is spent replacing the Board's time and case management system which is 12 years old and runs on software no longer supported by the developer. This updated system will also integrate with the Minnesota Court Information System (MNCIS).

Key Program Goals

Throughout its history the Board has established goals and principles to aid the agency in carrying out its mission. Overall the Board is committed to five major goals: client centered representation, creative advocacy, continual training for all staff, recruitment and retention of excellent staff, and being a full partner in the justice system.

The Board's Administrative Services Office provides the district public defenders and appellate defenders with the resources they need to provide high quality legal assistance to indigent Minnesotans.

Key Measures

- ◆ 12 main offices and 16 regional offices supported by six Information Technology (IT) staff.
- ◆ A staff of 12 and 3% of the budget supports the public defender system.

Program Funding

The Board is accomplishing its mission and supporting district and appellate public defender programs with a minimal staff. Currently, 3% of the agency's budget is expended on central administration and information systems.

Contact

Kevin Kajer

Phone: (612) 349-2565

E-mail: kevin.kajer@state.mn.us

Website: <http://www.pubdef.state.mn.us>

PUBLIC DEFENSE BOARD

Program: ADMINISTRATIVE SERVICES OFFICE

Program Summary

<i>Dollars in Thousands</i>					
	Current		Forecast Base		Biennium
	FY2008	FY2009	FY2010	FY2011	2010-11
<u>Direct Appropriations by Fund</u>					
General					
Current Appropriation	2,142	2,052	2,052	2,052	4,104
Forecast Base	2,142	2,052	2,052	2,052	4,104
 <u>Expenditures by Fund</u>					
Direct Appropriations					
General	1,639	2,071	2,052	2,052	4,104
Total	1,639	2,071	2,052	2,052	4,104
 <u>Expenditures by Category</u>					
Total Compensation	1,248	1,325	1,283	1,286	2,569
Other Operating Expenses	391	746	769	766	1,535
Total	1,639	2,071	2,052	2,052	4,104
 <u>Expenditures by Activity</u>					
Public Defense Board	1,639	2,071	2,052	2,052	4,104
Total	1,639	2,071	2,052	2,052	4,104
 Full-Time Equivalents (FTE)	 12.0	 12.0	 12.0	 12.0	

Program Description

The ten Judicial District Public Defender Offices provide quality criminal defense services to indigent persons in felony, gross misdemeanor, misdemeanor, juvenile delinquency, and Children in Need of Protective Services (CHIPS) cases. Under Minnesota law, all individuals accused of a felony, gross misdemeanor, misdemeanor or juvenile crime are entitled to be represented by an attorney. If an individual who is accused in one of the above proceedings cannot afford the services of a private attorney, the court will appoint a public defender to represent that individual. This is accomplished through a system that relies on a mix of full-time and part-time attorneys (50 %), as well as support staff. During fiscal year 2007, the districts provided service in 179,000 cases.

Program at a Glance

- ◆ 179,000 cases opened in 2007
- ◆ Largest user of the court system
- ◆ Caseloads nearly double American Bar Association Standards.
- ◆ 40,000 uncompensated part-time public defender hours

Population Served

Trial level public defense serves the attorney needs of indigent Minnesotans.

Services Provided

The public defender system provides trial level representation in criminal defense cases. This includes investigation, expert witnesses, and support services. This program also includes part of the cost of four nonprofit public defense corporations. The corporations provide high quality, independent criminal and juvenile defense services primarily to minority indigent defendants, who otherwise would need public defense services.

Historical Perspective

Over the last several years increased enforcement of complicated felony cases, the implementation of the Children's Justice Initiative statutory changes, and changes in court proceedings have all combined to push the public defender system in an unsustainable direction. Without action by the Board to reduce non-mandatory services, caseloads would have exceeded 810 case units per FTE defender. (A case unit is approximately equal to a misdemeanor). This is more than double the A.B.A. and Board standards. Annually over the last several years part-time defenders have provided approximately 40,000 uncompensated hours in order to handle the increased number and complexity of cases and to keep the court system operating.

The 2007 Public Safety Finance Bill mandated that most of the new funding provided to the Board be allocated to the hiring of new staff. The Board in an attempt to comply with this language began hiring in the Judicial Districts with the highest caseloads. With this funding tied to new positions, in order to fund the projected deficit the Board was facing at the beginning of 2008/2009 and the increased personnel costs for 2008/2009, savings would need to be generated through attrition and salary savings. Higher than expected salary settlements and lower than expected savings from salary savings and attrition contributed to a \$3.8 million deficit for 2008/2009.

In order to address the deficit, the Board adopted a budget for fiscal year 2009 that included an estimated reduction of fifty (50) FTE attorney positions on the district level. This is approximately 100,000 hours of attorney time. The reduction in positions was achieved through attrition, a series of voluntary separation policies, and finally layoffs.

Faced with these challenges, the Board implemented a service plan based on a set of principles which it adopted in 2003 and service delivery priorities it adopted in 2005. On the trial level these service principles include:

- ◆ Prioritize service to clients in custody;
- ◆ Evaluate the staffing of specialty courts; and
- ◆ Eliminate representation in non- mandatory cases.

The Board's service delivery priorities include:

- ◆ Constitutionally mandated criminal defense services for in-custody clients;
- ◆ Statutorily mandated criminal defense services for in-custody clients;
- ◆ Constitutionally mandated criminal defense services for out-of-custody clients;

PUBLIC DEFENSE BOARD

Program: DISTRICT PUBLIC DEFENSE

Narrative

- ◆ Statutorily mandated criminal defense services for out-of-custody clients;
- ◆ Other statutorily mandated services; and
- ◆ Other services as approved by the Board of Public Defense.

Following these principles and priorities, the Board voted to eliminate non-mandated services, namely representation of parents in child protection cases (CHIPS), and appearances at post-adjudication drug courts.

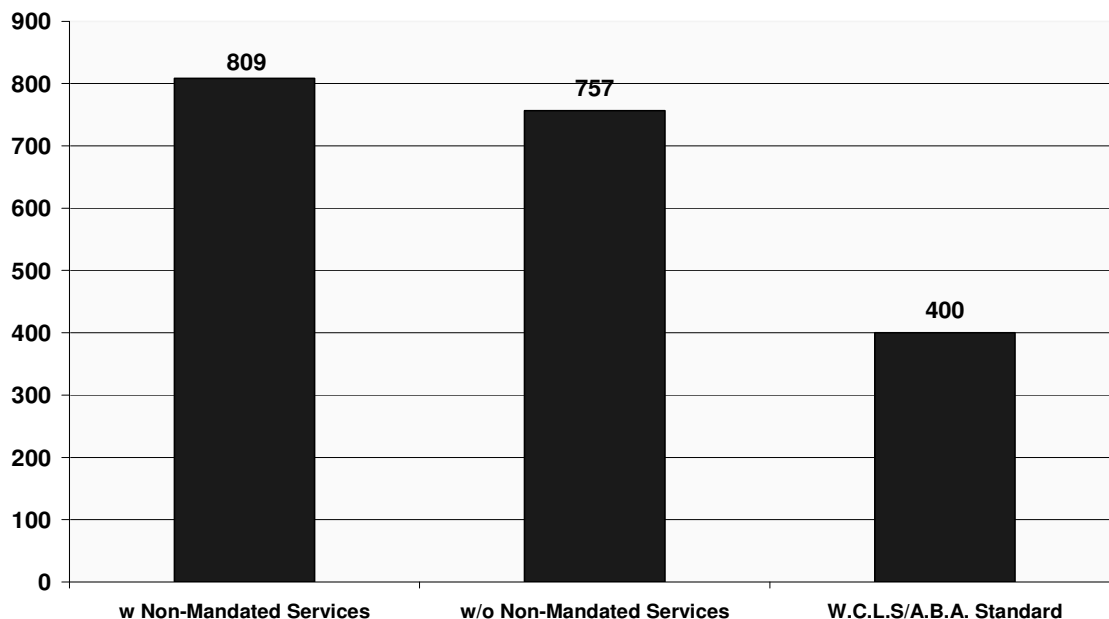
The representation of parents in child protection cases is not a mandated service for public defenders, although this service has been provided in the past. Representation of parents is statutorily a county function (M.S. 260C.331 Subdivision 3(d)). Public defenders continue to represent children over ten years of age in these proceedings. (M.S. 611.14).

There are 33 drug courts operating around the state. Drug courts include initial intensive treatment services with ongoing monitoring and continuing care for a year or more. This results in extensive time commitments for all those involved in drug court including public defenders. Participant contacts with the public defenders are frequent and on-going and occur at each status hearing. The establishment of drug court and the requirements of the court dictate that staff be assigned specifically to that court. This places a burden on the public defender system since a defender is taken out of the regular court, thereby reducing the "economy of scale" in the regular court and putting an extra burden on the remaining defenders.

Except for probation revocation, appeal, and release (parole) revocation cases, the constitutional right to counsel ends when the sentencing hearing ends. Thus "post-adjudication" services in the trial courts, with the exceptions noted are not mandated services. Clients in these "post-adjudication" courts are in the same status as clients who have been convicted and sentenced to probation: they have a right to counsel if they are accused of a violation, but not the constant attention of counsel while probation is going smoothly.

Even with the elimination of non-mandated cases the average caseload is expected to increase to approximately 760 case units per FTE attorney. This again assumes no increase in the overall caseload.

STATE OF MINNESOTA BOARD OF PUBLIC DEFENSE CASE UNITS PER F.T.E. ATTORNEY w CY 2007 CASELOADS



Over the past ten years, 26 new judgeships have been created. With each of these judgeships comes another calendar (court room) where public defenders must appear. These new judgeships were created without a corresponding increase in public defender staff.

The board is the largest user of the state court system. Caseload increases, changes in court procedures, calendaring of cases, statutory changes, and changes in prosecution directly impact the board's ability to provide quality legal services to its clients. The efficiency and integrity of the judicial system are dependent on the public defender system's ability to provide quality legal services. If it cannot provide these services, court cases are continued, jails sit filled, and appeals and complaints rise. In short, the criminal justice system stops.

The public defender system does not and cannot control its client intake or workload. These important variables are controlled by external circumstances, such as: local government decisions that increase police and prosecution, new constitutional mandates, Supreme Court Rules, sentencing guideline changes, statutory changes, and judicial calendaring changes. Among the new challenges are the increased emphasis on prosecution of sex offenders, methamphetamine, and child protection cases.

Key Program Goals

Throughout its history the Board has established goals and principles to aid the agency to carry out its mission. Overall the Board is committed to five major goals:

- ◆ Client centered representation
- ◆ Creative advocacy
- ◆ Continual training for all staff
- ◆ Recruitment and retention of excellent staff
- ◆ Full partner in the justice system

Key Measures

- ◆ 179,000 cases were opened in FY 2007.
- ◆ Countless resources are lost as judges, court staff, prosecutors, victims and witnesses wait due to a lack of public defenders.
- ◆ 33 drug courts are operating statewide.
- ◆ District public defenders carry caseloads that average nearly twice the recommended standards.
- ◆ Prosecutors outnumber defenders by more than 2 to 1 statewide.
- ◆ Part time public defenders provided in excess of 40,000 uncompensated hours in FY 2007.

Program Funding

The current appropriation for this program is approximately \$55 million annually. Increased personnel costs as well as costs related to insurance and retirement have strained district budgets. A lack of public defenders and increased caseloads and time demands mean that the court system often has to sit idle and wait for public defenders to become available. The result is a weakened court and a criminal justice system which experiences major delays and often must stop the processing of defendants.

Contact

Kevin Kajer

Phone: (612)-349-2565

Email: kevin.kajer@state.mn.us

Website: www.pubdef.state.mn.us

PUBLIC DEFENSE BOARD

Program: DISTRICT PUBLIC DEFENSE

Program Summary

Dollars in Thousands

	Current		Forecast Base		Biennium
	FY2008	FY2009	FY2010	FY2011	2010-11
<u>Direct Appropriations by Fund</u>					
General					
Current Appropriation	59,854	61,373	61,373	61,373	122,746
Forecast Base	59,854	61,373	61,373	61,373	122,746
<u>Expenditures by Fund</u>					
Carry Forward					
Miscellaneous Special Revenue	47	0	0	0	0
Direct Appropriations					
General	59,894	61,617	61,373	61,373	122,746
Statutory Appropriations					
General	600	565	450	450	900
Gift	167	221	180	180	360
Total	60,708	62,403	62,003	62,003	124,006
<u>Expenditures by Category</u>					
Total Compensation	43,055	40,560	40,292	40,332	80,624
Other Operating Expenses	4,552	8,400	8,268	8,228	16,496
Local Assistance	13,101	13,443	13,443	13,443	26,886
Total	60,708	62,403	62,003	62,003	124,006
<u>Expenditures by Activity</u>					
District Public Defense	60,708	62,403	62,003	62,003	124,006
Total	60,708	62,403	62,003	62,003	124,006
Full-Time Equivalents (FTE)	584.1	477.5	477.5	462.5	

PUBLIC DEFENSE BOARD

Agency Revenue Summary

Dollars in Thousands

	Actual FY2008	Budgeted FY2009	Current Law		Biennium 2010-11
			FY2010	FY2011	
<u>Non Dedicated Revenue:</u>					
Total Non-Dedicated Receipts	0	0	0	0	0
<u>Dedicated Receipts:</u>					
Grants:					
Gift	178	178	178	178	356
Other Revenues:					
Gift	2	2	2	2	4
Total Dedicated Receipts	180	180	180	180	360
Agency Total Revenue	180	180	180	180	360