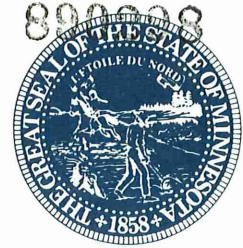




890298

**STATE OF MINNESOTA
BOARD OF PUBLIC DEFENSE**

875 Summit Avenue, LEC 303
St. Paul, Minnesota 55105
(612) 290-6418



1 9 8 8 A N N U A L R E P O R T

Judge Kevin Burke, Chair

Mark Gehan
Harry Burns
Richard Beens
Lee Luebbe
Virginia Lanegran
Paul Benshoof

Richard Scherman,
Chief Administrator

LEGISLATIVE REFERENCE LIBRARY
645 State Office Building
Saint Paul, Minnesota 55155

KF
337
.M6
M57
1988

Pursuant to 1987 Laws, ch 150, sec 4
Coded as Mn Stat 611.215

TABLE OF CONTENTS

Introduction	3
Organizational Chart	7
Board of Public Defense Members	8
Mission Statement	8
Administrative Services	11
State Public Defenders Office	12
Judicial District Public Defender Offices	14
Public Defense Corporations	15
Board Accomplishments	17
Short Term Goals	19
Long Range Goals	22

INTRODUCTION

Under Minnesota law, all individuals accused of a misdemeanor, gross misdemeanor or felony are entitled to be represented by an attorney before, during and after their trial. Individuals undergoing civil commitment, paternity, non-support or contempt proceedings and juveniles subject to judicial proceedings, are also entitled to representation by an attorney.

If an individual who is accused of one of the above proceedings cannot afford the services of a private attorney, and is able to adequately demonstrate an inability to afford such services, the Court will appoint a Public Defender to represent that individual in all judicial proceedings.

The defense of accused persons is constitutionally mandated and must be provided even when such costs are borne by the public. In Gideon v. Wainwright, 372 U.S. 335 (1963), the United States Supreme Court held that the Sixth Amendment right to counsel was applicable to the State, through the due process clause in all felony prosecutions. Juveniles were accorded the right to counsel by the Court in In re Gault, 387 U.S. 1 (1967). Subsequently, in Argersinger v. Hamline, 407 U.S. 25 (1972), the court further extended the right to counsel to those misdemeanor cases that actually lead to imprisonment.

The foundation, for Minnesota's system in the delivery of legal services to the poor, was established in the mid-1960's. In 1967, the Judicial Council of Minnesota was created by the Minnesota Legislature. One of the purposes of this Council was to direct that the State Supreme Court oversee the public defender system that was in operation at that time. In 1978, the Judicial Council was empowered by the Legislature to prepare funding proposals and distribute appropriated money for non-profit criminal and juvenile defense corporations primarily servicing minority populations, located throughout the State. During those years, the Court began visualizing itself in a conflicting role in overseeing public defender services, versus its judicial function.

In 1981, the Judicial Council recommended to the Legislature that it create a Board of Public Defense in an effort to more comprehensively supervise and review public defense operations in the State. During that year, legislation was enacted formally creating the Board of Public Defense and charging it with the responsibility of appointing the Chief Public Defender of the State, and six of its ten Judicial Districts. It also mandated that the Board approve and certify budgets for each Judicial District Public Defender office under its jurisdiction.

In 1987, the Minnesota Legislature expanded the Board of Public

Defense's statutory authority (M.S. 611.215 - 611.27) Its membership was modified, an administrative office was created, greater oversight was instituted in regard to the State Public Defender's Office, two new Judicial District Public Defender positions and offices were created (Third and Eighth), new standards regulating the offices and conduct of all public defender organizations were mandated, and finally, new reporting, budgeting and funding processes were established. These legislative changes created greater administrative controls over public defender activities, and significantly expanded the role of the Board in governing public defender organizations.

Presently, there are six basic organizational entities delivering public defender services in the State of Minnesota. They are:

- State Public Defender's Office
- Judicial District Public Defender Offices
(First, Third, Fifth, Sixth, Seventh, Eighth, Ninth, & Tenth)
- Ramsey County Public Defender Office
(Second Judicial District)
- Hennepin County Public Defender Office
(Fourth Judicial District)
- Public Defense Corporations (five)
- Local Appointed Counsel Systems

Although all of the above offices and corporations have one primary goal, that is, to provide quality legal services to indigent people, the makeup of their staff and administrative services is extremely diversified. For example, the State Public Defender's Office employs full time and contracted personnel, handling all appellate appeals and parole violations, with services primarily oriented towards indigent prison inmates. Eight of ten Judicial District Public Defender offices employ part time attorneys, handling all indigent felony, gross misdemeanor, extradition, and probation violations. Two Judicial District Public Defender offices (Second and Fourth) employ full time attorneys which service the same types of cases that the other eight Judicial District offices provide, but in addition, defend misdemeanor and juvenile cases as well. There are five Public Defense Corporations representing primarily minority indigents in Minneapolis and St. Paul, as well as Indian Reservations in northern Minnesota. Finally, there are appointed counsel systems that may be contracted with by 85 local county jurisdictions for misdemeanor, juvenile and civil commitments.

Each of the above systems have a unique historical development, with associated traditions and methods of implementing their services. Some offices have been instituted for decades, with stable and experienced staff, while others have just begun their services (i.e., Third and Eighth Judicial Districts). Total staff serving these offices exceeds 250 employees. In 1987, non-

metro Judicial District Public Defender systems processed over 11,000 felonies and gross misdemeanors. Added to that would be the caseloads of the State Public Defender Office, Public Defense Corporations, Second and Fourth Judicial Districts (Ramsey and Hennepin), and local court-appointed defense cases; the total cases then exceed 25,000.

The Public Defender "system" is an integral part of the State of Minnesota's justice system, and has a profound effect on the lives of thousands of poor people. It is an area which is perhaps the least popular way to spend public funds - infinitely less popular than welfare costs, for at least those people did not allegedly commit murders or rapes in becoming eligible for services.

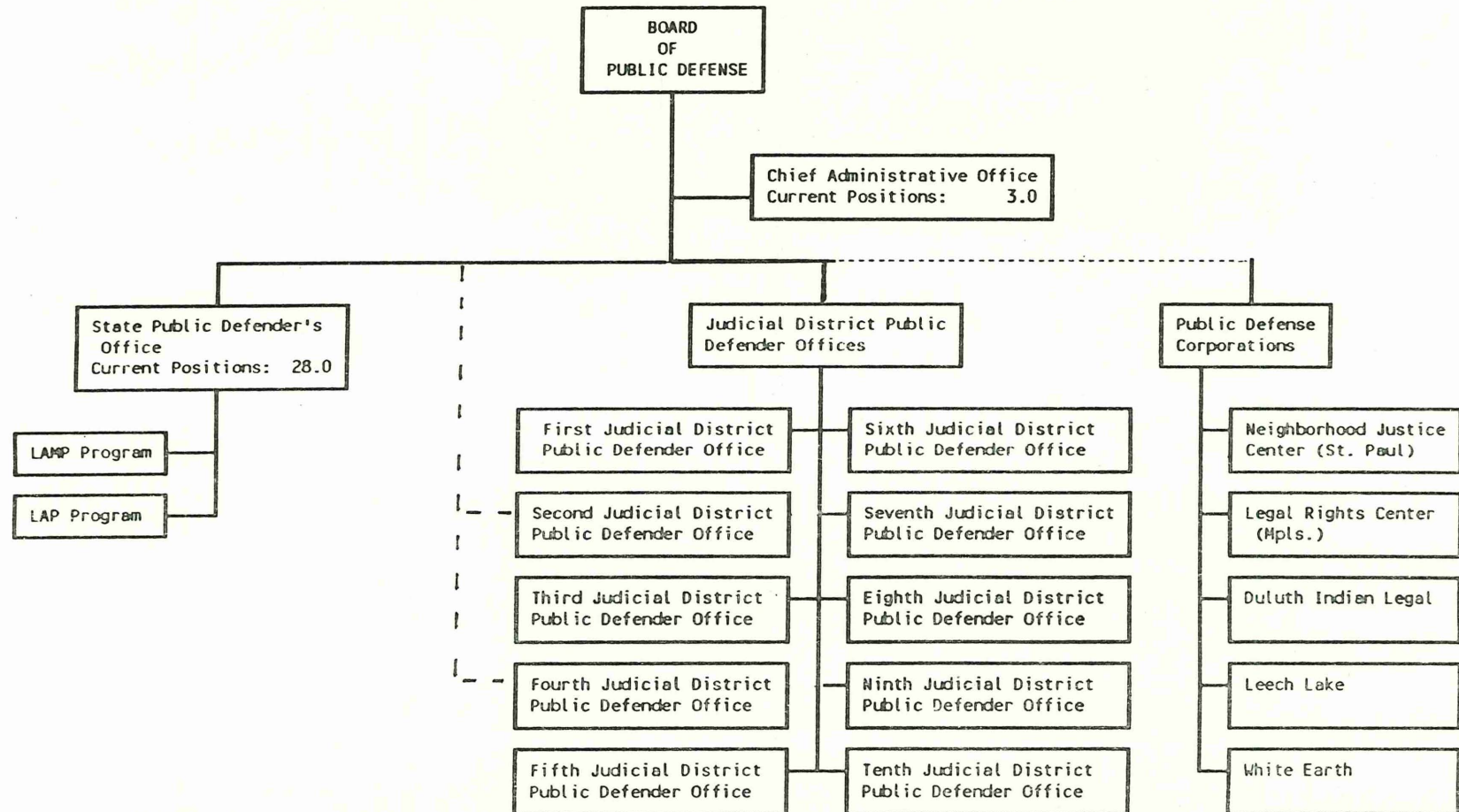
Funding for the State Public Defender's Office, Judicial District Public Defender offices, Public Defense corporations, and local appointed counsel systems, cover a wide array of sources such as state subsidies, local county property taxes, local jurisdiction contracts, private foundations, Bar Association contributions, and charitable institutions. Currently, the Board of Public Defense has direct control over the approval and certification of the State Public Defender and eight of ten Judicial District Public Defender budgets. (Second and Fourth excluded). In addition, the Board is responsible for disbursement of State monies, that may be allocated, to the State Public Defender's Office, Public Defense Corporations (currently five), Distressed Counties, and the Second and Fourth Judicial Districts.

The process that currently is in place for reviewing, approving and disbursement of monies by the Minnesota Legislature for the State Public Defender's office is governed by standard State practices. In regard to the Judicial District Public Defender budgets (excluding Ramsey and Hennepin County), the Chief Public Defender of each District must yearly submit a budget to the Board in compliance with its uniform budget instructions. The Board's Administrative Office then provides an in-depth financial review of each proposed budget. In addition, each budget is distributed to the respective Judicial District County Boards for comment. Public hearings are then held in each Judicial District on its respective Public Defender budget. At the completion of these hearings and reviews, a final budget is approved and certified by the Board. Each county, as mandated by statute, is then responsible for paying a pro-rata share of its Judicial District Public Defender Budget, based on its population, relative to the total population of the entire District. In regard to the Public Defense Corporations, the Board reviews each of their proposed budgets. After a review process has been completed, the Board then makes a determination as to the distribution of funds allocated by the Legislature. In addition, the Board has instituted quarterly and year-end financial reviews, monitoring all of the expenditures of the public

defender agencies responsible to its authority.

In reviewing the historical background of the development relating to the duties of the State of Minnesota's Board of Public Defense, it becomes evident that its future responsibilities are considerable. The primary purpose of this report is to inform the Governor's Office, the Supreme Court, and the Legislature on the operations of the Board itself, the State Public Defender's Office, Judicial District Public Defender systems, and appointed counsel systems. The following information will cover the period from January 1, 1988, through December 31, 1988, approximately the first full operational year of the Board of Public Defense's Administrative Services Office. The review will cover the Board's accomplishments, management changes, and reorganization, as well as provide short-term and long-range goals for providing quality defense services for the indigent of our State.

BOARD OF PUBLIC DEFENSE



BOARD OF PUBLIC DEFENSE

MISSION STATEMENT: The State of Minnesota's Board of Public Defense is part of the judicial branch of government. Its purpose is to provide quality legal defense services to the indigent of the State of Minnesota, through a cost effective and efficient public defense system.

The State Board of Public Defense's statutory duties and responsibilities are contained in M.S. 611.215 through 611.27. They include, but are not limited to, appointment of and administration thereof, the State Public Defender, and all Judicial District Public Defenders, except for the Second and Fourth Judicial Districts. The Board is also responsible for implementation of standards affecting all public defender offices, and appointed counsel systems state-wide, as well as establishing procedures for the disbursement of state monies to the State Public Defender's Office, all Judicial District public Defender Offices, and Public Defense (Legal Services) Corporations.

The Board of Public Defense is comprised of seven members, five of which are selected by the Supreme Court, and two by the Governor of Minnesota. There are three full time staff positions serving the Board which includes a Chief Administrator, Inter-Governmental Relations Manager, and an Administrative Secretary.

The Board of Public Defense provides policy and implements standards for all public defender operations throughout the State of Minnesota. Those organizations would include the State Public Defender's office, ten Judicial District Public Defender organizations, five Public Defense Corporations, and 87 local appointed counsel systems. The Board's administrative office is located in St. Paul, Minnesota, in the LEC Building of the William Mitchell Law School complex.

The Board of Public Defense receives state funding for allocation and disbursement to the State Public Defender's Office, Public Defense Corporations, as well as Distressed Counties within each Judicial District. In addition, it has statutory authority to direct local (County) jurisdictional payments for all Judicial District Public Defender offices, except for the Second and Fourth Districts.

BOARD MEMBERSHIP:

The Board of Public Defense is comprised of six members and a Chair. Membership must consist of a District Court Judge and four attorneys appointed by the Supreme Court. There must also be two public members appointed by the Governor. Terms of office for each appointee are four years. The Board's Chair is elected

by Board members from among its membership for a term of two years.

BOARD MEMBERS:

Chair: Judge Kevin Burke
1051 Government Center
Minneapolis, MN 55487

Judge Kevin Burke is a graduate of the University of Minnesota, B.A., J.D.; Adjunct Faculty, University of Minnesota Law School (1986 - present); Adjunct Faculty, William Mitchell College of Law (1977 - present); Appointed as Hennepin County District Court Judge, 1984; Member of the Board of Public Defense since 1982 and appointed as its Chair since July, 1984.

Richard Beens, Attorney
403 Jackson Street, #301
Anoka, MN 55303

Dick Beens is a graduate of St. Thomas College, B.A.; University of Minnesota, J.D.; served as a Peace Corps Volunteer from 1962-1964 in West Pakistan; Metropolitan Waste Control Commission member for nine years; Chair, Metropolitan Waste Management Advisory Committee; Vice-Chair, Metropolitan Airport Adequacy Task Force; Past Chair, District Ethics Committee; Senior Partner, directs Litigation Department, lawfirm of Steffan & Munstenteiger, P.A., Anoka. Member of Board of Public Defense since 1987.

Paul Benshoof, Attorney
P.O. Box 1420
Bemidji, MN 56601

Paul Benshoof is a graduate of Carleton College, Magna Cum Laude, B.A.; University of Minnesota, J.D., Cum Laude; Past Director of Bemidji Chamber of Commerce; Civil Trial Specialist; Current partner in Lawfirm of Smith, Carpenter, Benshoof and Kline, P.A., in Bemidji. Member of Board of Public Defense since 1988.

Mark Gehan, Attorney
W-1100 First Nat'l Bank Bldg.
St. Paul, MN 55101

Mark Gehan is a graduate of Notre Dame, B.A.; University of Minnesota, J.D.; served as Metropolitan Area District Prosecutor, 1976-1977; Assistant Ramsey County Attorney, 1972-1976; partner with Collins-Buckley since 1982; Member of St. Paul

Charter Commission; Member of Board of Public Defense since 1981.

Harry Burns, II, Attorney
111 9th Avenue North
St. Cloud, MN 56301

Harry Burns is a graduate of St. John's University, B.A.; William Mitchell College of Law, J.D.; Board of Directors, Central Minnesota Red Cross; Workers Compensation Advisory Council; Litigation, Criminal Defense, Workers Compensation, Burns Law Office - Partner. Member of the Board of Public Defense since 1984.

Lee Luebbe, Public Member
1009 W. Howard
Winona, MN 55987

Lee Luebbe is a graduate of Marymount College, Salina, Kansas, B.S., Magna Cum Laude; Chair, Winona City Planning Commission (1976-1978); Winona County Commissioner (1978-present), current Vice-Chair; Association of Minnesota Counties, Achievement of Excellence Award, 1986; Trustee, ST. Mary's College, Winona, (1981-present); Member of Board of Public Defense since 1988.

Virginia Lanegran, Public Member
257 4th Avenue South
So. St. Paul, MN 55075

Virginia Lanegran graduated from Macalester College, St. Paul, B.A.; University of Minnesota, M.A.; South St. Paul City Council (1976-1977/ 1979-1987); South St. Paul Housing and Redevelopment Authority (1977-1979/ 1987-present); Minnesota Humanities Commission (1980-1984); Committee Administrator, House of Representatives (Financial Institutions and Housing) 1989-1990; Metropolitan Affairs, 1987-1988; Member of the Board of Public Defense since 1988.

PROGRAMS

The Board of Public Defense, in 1988, reorganized its functions to clarify its administrative role in providing legal defense services throughout the State. An Administrative Services Office was created to carry out the Board's duties and responsibilities, as well as provide support services to the other departments under its direction. The following descriptive narratives are intended to give a brief overview of the various organizational components comprising the indigent public defense services available throughout the State, as well as their primary duties, functions, and responsibilities.

ADMINISTRATIVE SERVICES

In 1987, the Legislature expanded the Board of Public Defense's statutory and administrative authority for the purpose of providing greater oversight of the State Public Defender's Office, Judicial District Public Defender Offices (ten), Public Defense Corporations (five), and local court-appointed counsel systems (eighty-seven).

In January, 1988, the Office of Administrative Services was implemented and a Chief Administrator for the Agency was employed, as authorized by the 1987 Legislature. In 1988, the Legislature authorized one additional position for the agency. Currently, there are three full time staff positions serving the agency which include a Chief Administrator, a Governmental Relations Manager, and an Administrative Secretary.

The Administrative Services Office of the Board of Public Defense provides policy direction and guidance for the Board's programs and overall management of its activities. It provides general staff support to all public defender organizations in Minnesota, as well as implements the Board's policies, rules and regulations. In addition, it is responsible for implementation and monitoring of management information systems relating to the Board's budget, data, and personnel. This office also directs and coordinates all Board relationships with the Legislature, other State agencies, and local governments.

Some other important specifics that the Administrative Services Office is responsible for are to provide for Board of Public Defense policy implementation, direction and coordination; establish standards for the offices of the State and District Public Defender systems, and for the conduct of all appointed counsel systems; and establish procedures for distribution of state funding to the State and District Public Defender Offices, as well as the Public Defense Corporations.

STATE PUBLIC DEFENDER'S OFFICE

The State Public Defender's Office, as required by the United States and Minnesota constitutions, statutes and law, is responsible for the provision of legal services to indigents appealing their criminal and civil convictions or sentences, to the Court of Appeals and Supreme Court of Minnesota. That office also responds to requests for review of an indigent's conviction, including sentences, by post-conviction proceedings in the district courts throughout the State when the time to appeal has expired or when the facts not in the trial court record must be obtained by testimony. In addition, it represents convicted indigents in parole violations, revocations, and restructuring proceedings before personnel of the Department of Corrections, when requested.

A second major section of the State Public Defender's Office is the Legal Assistance to Minnesota Prisoners (LAMP) program that, with the assistance of supervised law students in a clinical educational setting, screens requests for civil legal assistance and represents persons in custody with a wide variety of civil legal programs, which in the judgment of the attorneys, have legal merit. Every effort is made by the attorneys to resolve the identified legal problems by mutual agreement of the parties without court action when it is in the interest of the client.

A third major section of the State Public Defender's office is the Legal Advocacy Project (LAP) which, with the assistance of supervised law students, provides representation for inmates in prison disciplinary hearings who are charged with violating institutional regulations.

The State Public Defender's range of services include preparation of appellate briefs and oral arguments to the Minnesota Appellate Courts, preparation of post-conviction petitions and representation at hearings in the district courts throughout the State, preparation for and representation of indigents at probable cause and dispositional hearings before the Department of Corrections relative to potential parole revocations, preparation for and representation of inmates at prison disciplinary hearings, and screening requests for legal assistance and representing persons in custody with a variety of civil legal problems. Assisting the State Public Defender's office, under supervision of staff attorneys in a clinical educational setting, are approximately 100 students assigned to that office each year.

The State Public Defender's Office, in conjunction with the Minnesota County Attorneys Association and Attorney General's

Office, sponsors and administers an Annual Joint Trial Advocacy College for prosecutorial and defense attorneys throughout the state. In addition, the State Public Defender's office, in conjunction with the County Attorneys Association, Attorney General's office, Office of Continuing Education for state court personnel of the Minnesota Supreme Court, and the Bureau of Criminal Apprehension, is a sponsor of a major criminal justice course for approximately 700 defense counsel, prosecutors, police, judges and law students. Finally, joint training in parole revocation hearing proceedings and prison disciplinary hearings are sponsored and administered by the Minnesota Department of Corrections and the State Public Defender's Office.

STATISTICS:

Criminal Law Areas:

F.Y. 1988

Interviews in Prison	475
Criminal Appeals or other judicial review <u>not pursued</u> by clients after interviews and written legal advice by attorneys	233
Criminal Appeals filed to protect client right to appeal	233
Criminal Appeals Dismissed (included in total cases <u>not pursued</u> with client approval	49
Appellate Briefs Prepared & Filed	187
Reply Briefs Prepared & Filed	41
Petitions for Review by the Supreme Court Prepared & Filed	100
Post Conviction Petitions Prepared & Filed in District Court	24
Responses in writing to Misc. inquiries	378
Parole Revocation & Restructuring Hearings	646

Civil Legal Areas:

No. of Clients Interviewed & Files Opened	295
No. of Legal Problems from Clients Interviewed	374
Clients Whose Matters were Closed during the year	245
Open Files being worked on at beginning of fiscal year	319
Responses in writing to Misc. inquiries	107

JUDICIAL DISTRICT PUBLIC DEFENDER OFFICES

There are ten Judicial District Public Defender offices in the State of Minnesota. They are statutorily responsible for providing legal services to indigents charged with felony and gross misdemeanor offenses, as well as assist them in extradition hearings and probation violations. The Second (Ramsey) and Fourth (Hennepin) Judicial District Public Defender offices also provide indigent legal services to misdemeanant and juvenile offenders, as well.

The State Board of Public Defense appoints a Chief District Public Defender for each of the Judicial Districts under its administrative jurisdiction (eight). Those Chief Public Defenders of each District are then authorized to appoint Assistant Public Defenders to assist them in the provision of public defense services throughout the District. In most cases, the Chief Public Defenders and Assistant Public Defenders in each District are private, practicing attorneys who perform their defense roles on a part-time basis. Judicial District Public Defenders agree to provide a set number of hours for public defense services during a particular year, and are generally assigned to perform those services in the County in which they reside, thus eliminating the need for a significant amount of travel. During 1988, there were eight Chief District Public Defenders and 115 Assistant Public Defenders serving Minnesota's eight Judicial Districts which are under the jurisdiction of the State Board of Public Defense.

In the cases of the Second and Fourth Judicial District Public Defender offices, they are not directly responsible to the administrative direction of the State Board of Public Defense, but are subject to all of the Board's standards and rule making authority. They are also eligible for distribution of State funds, when appropriated. The Chief Public Defender in these Districts are appointed by their respective County Boards, which also approve and appropriate their budgets.

The Chief District Public Defender in each of the eight Judicial Districts subject to the jurisdiction of the Board of Public Defense, submit a budget to the Board for review and approval. The State Board distributes the proposed budgets of each District to the respective County Boards within the District for comment. The State Board then approves a budget for each District and assesses the cost of the budget back to the County Boards within the District. Each County within each District is responsible for paying a pro rata share of the approved budget, based on its population relative to the total population of the entire District. If the approved budgets are not adequate to meet the actual demand for public defense services within the District, the Counties within that District will then be required to contribute additional funds for public defense services.

STATISTICS:

Judicial District Public Defender Offices terminated 8,796 cases in C.Y. 1987, involving felonies, gross misdemeanors, extraditions, and parole violations. The following are totals for felony and gross misdemeanor cases closed in C.Y. 1987:

	<u>1st</u>	<u>5th</u>	<u>6th</u>	<u>7th</u>	<u>9th</u>	<u>10th</u>
Felonies	882	49	602	474	791	929
Gross Misd.	633	404	22	617	476	786
Total:	1,515	900	524	1,364	1,267	1,715

PUBLIC DEFENSE CORPORATIONS:

The primary purpose of Public Defense Corporations is to provide criminal and juvenile legal defense services to predominantly indigent American Indians, Hispanics, Southeast Asians, and Blacks through community based legal service entities.

State funding for Public Defense Corporations was originated and authorized by the 1978 Minnesota Legislature. Funds appropriated for these Corporations are allocated by the Board of Public Defense under M.S. 611.216. Each Corporation funded by the State, in order to ensure broad support, must provide matching money received from non-state sources, which may include money or in-kind contributions from federal agencies, local governments, private agencies, and community groups equal to 10% of its State appropriation.

There are five Public Defense Corporations currently receiving State funds for the defense of indigents charged with criminal offenses. They also receive monies from sources other than the State for the delivery of their services. Those Corporations are, with the Counties, Indian Reservations, and Judicial Districts they represent, as follows:

<u>Corporation</u>	<u>Counties</u> <u>(Reservations)</u>	<u>Judicial</u> <u>District</u>
Neighborhood Justice Center	Dakota, Ramsey, Washington	First Second
Legal Rights Center	Hennepin	Fourth

Indian Legal Assistance Program	St. Louis, Carlton, Cook, Lake, Itasca, Aitkin, Crow Wing, Kanabec, Pine (Boise Forte, Fond Du Lac, Mille Lacs)	Sixth Seventh Ninth
White Earth	Becker, Mahnomen, Clearwater, Hubbard (Red Lake, Leech, White Earth)	Seventh Ninth
Leech Lake	Cass, Beltrami, Itasca, Hubbard (Red Lake, Leech, White Earth)	Ninth

If Public Defense Corporations were not in existence, their clients would be eligible for public defender services within the Judicial Districts listed in the third column. Current Judicial District Public Defender budgets would then need to be increased to incorporate those clients, which in turn, would mean that local governments (Counties) would have to levy additional property taxes to pay for such.

The two largest Corporations, Legal Rights Center (Minneapolis) and Neighborhood Justice Center (St. Paul) receive approximately 75% of their budgets from sources other than the State of Minnesota. The three Public Defense Corporations serving predominantly American Indian Reservations in northern Minnesota are primarily funded with State funds. Total State funding approximates 80% of their budgets.

STATISTICS:

Public Defense Corporations cases terminated in F.Y. 1988 totaled 2,432. The following are categories of criminal offenses that were closed by the Public Defense Corporations in F.Y. 1988.

	<u>L.R.</u>	<u>N.J.C.</u>	<u>DULUTH</u>	<u>LEECH</u>	<u>W.E.</u>
Felony	67	156	59	19	70
Gross Misdem.	39	36	58	54	22
Misdemeanor	359	289	460	215	84
Miscellaneous	30	56	239	91	29
Total:	495	537	816	379	205

BOARD OF PUBLIC DEFENSE ACCOMPLISHMENTS:

Through efforts by the Board of Public Defense, existing legislation affecting the delivery of public defender services in the State of Minnesota were examined as to their current applicability. In 1987, the Minnesota Legislature modified and passed Statutes, specifically M.S. 611.215, through 611.27, which changed many of the management practices in providing public defender services throughout the State. Major changes that were implemented affected the selection of Chief Public Defenders, implementation of policies and standards for public defender staff and organizations, reporting requirements, personnel policies, training, and disbursement of State monies, to name a few.

Another legislative change that occurred in 1987, directed that the Board of Public Defense, in August of that year, initiate processes and public hearings to institute new public defender organizations in the Third and Eighth Judicial Districts. Three public hearings occurred in each of those Judicial Districts involving clarification of policies, selection of a Chief Public Defender, and implementation of a Judicial District Public Defender budget for calendar year 1988. There were many meetings held with various Legislators, County Commissioners, and other local officials in an attempt to gain acceptance of the public defender organizations within those Judicial Districts. Primary problems revolved around State mandated directives that required local jurisdictions to pay for costs of the new public defender system. By June, 1988, as a result of communication and compromise, all local jurisdictions had begun their payments and the public defender organizations for the Third and Eighth Judicial Districts are now in full operation.

Finally, the Minnesota Legislature in 1987, granted the Board of Public Defense the authority to employ a Chief Administrator to direct its duties and responsibilities. Employment of that position commenced in January, 1988. At present, the Administrator is initiating and implementing legislative mandated standards and management techniques including uniform budgeting and data collection systems, identification of training needs, personnel policies, etc.

In preparation for the 1990-91 Biennium Budget for the Minnesota Legislature, a new budgetary management information system was instituted, as well as a reorganization of the Board of Public Defense's departments and functions. These changes are being effectuated in order to better prepare the Board for decision making in the future.

The Board of Public Defense, in pursuing its legislative program for 1987, also requested that that body appropriate monies to Distressed Counties within Judicial Districts to assist them in

off-setting local property tax increases necessary to fund Judicial District Public Defender systems. The Legislature, during that year, appropriated approximately \$750,000 for this request.

During the 1988 legislative session, the Board of Public Defense requested that that body consider funding the following public defender budget categories: Investigation, Expert Witnesses, Liability Insurance, Training, and Contingency Retainer Funds. It was felt by the Board of Public Defense that these expenses are more properly identified as "state expenses" other than local ones. The Board was eventually granted legislative authority to classify all public defenders under its jurisdiction as State employees, thus eliminating the need for those attorneys to have to pay for their own liability insurance. By this action, this cost (\$90,000) was eliminated from the Judicial District Public Defender 1988 budgets, as well as their proposed 1989 budgets, which resulted in direct property tax relief to Counties within Judicial Districts.

Also in 1988, the Board of Public Defense's budgeting system, and the management information system related to its financial affairs was modified to allow for a more clear and concise definition of expense categories, as well as allow for a greater retrieval of pertinent financial data for decision making purposes. In addition, all of the current financial affairs relating to the Board of Public Defense, as well as identification of staff relating to said financial affairs, have been transferred to the Administrative Services Office of the Board.

Finally, a complete examination was initiated to review all existing personnel plans under the Board of Public Defense's jurisdiction. Currently, new employment classifications, salary ranges, and evaluation forms are being reviewed, with the purpose of instituting a new Board personnel plan sometime in the second quarter of 1989.

INTRODUCTION OF GOALS:

In recent years, the Board of Public Defense has exhibited considerable direction in, modification, and the proposal of new legislation in providing a more equitable justice system for indigents within the State of Minnesota. The Board believes that it must continue to define its Mission Statement for the future, as well as initiate goals and objectives to carry out its purposes. Within these roles, the Board of Public Defense will continue to be placed in both a proactive and reactive role concerning the deployment of public defense services in the State of Minnesota. Legislative committees, proposed studies, and interactions with key elected personnel, as well as cooperative

endeavors, with organizations such as the Association of Minnesota Counties, have given credence to projections that major changes involving both the administration of public defense services, as well as its funding, will probably occur over the next several Bienniums. In order to keep pace with those changes, the Board, in the following narrative, has attempted to define several important short-term and long-range goals.

SHORT TERM GOALS:

There are two primary efforts that are being conducted by the Board of Public Defense, orientated towards its short term goals. The first effort is in the area of the development of Task Forces to begin accomplishment of several legislative mandated standards for public defense services in the state, as well as begin implementation of Board identified objectives.

During 1988, a survey was conducted of Board members and Chief Public Defenders. The following Public Defender Standards were identified as goals to be achieved for 1989:

- Standards needed to maintain and operate an Office of Public Defender, including requirements regarding qualifications, size of legal and support staff, and uniform caseflow and data collection management information systems.
- Standards necessary to implement state-wide public defender training programs.
- Standards and procedures to determine eligibility of appointment, assessment, and collection of the costs for legal representation provided by public defenders, or appointed counsel.

The first Standard is considerable and will involve all Chief Public Defenders throughout the State. To accomplish this goal, it will be required to pursue a personal services contract with a consultant to provide staff support. The Board is currently working in an attempt to procure State, private foundation and Bar Association funding for this goal.

In regard to the second Standard, an immediate goal of the Board is to secure funding from the 1989 Legislature to identify existing public defense training programs, survey current defense attorneys as to their training needs, and finally, upon formal Board approval, develop a training package for eventual state-wide implementation.

In regard to the third Standard, it is the Board's intent to identify all current eligibility standards being used by the Districts Courts in the State of Minnesota. Upon review of those eligibility standards, the Board would develop a specific standard in compliance with the Rules of Criminal Procedure, and

M.S. 611.25, Subd.2, for institutionalization.

Task Forces, consisting of Chief Public Defenders, throughout the State, have been created and will begin work during the first quarter of 1989 in the development of Standards set forth above. Upon completion of those task force's work schedules, their products will be presented to the Board for final approval and implementation.

The Board of Public Defense is also instituting Task Forces of Chief Public Defenders throughout the State of Minnesota for the purposes of implementing other short term objectives. One such objective is to incorporate a uniform caseflow information and data system. A preliminary review of these systems by the Board of Public Defense indicates that said systems are not uniformly defined, interpreted, or applied insofar as implementation is concerned. In order to implement correct and informed decision making processes, there must be a uniform management information system relating to caseflow and data systems. The Board is in the process of securing additional State monies for personal service contracts to evaluate the current management information system relating to caseflow and data collection, make recommended changes to the Board for eventual approval, and eventually implement a computerized system incorporating both.

Another short term objective of the Board is to employ a budget analyst to assist the Administrative Services Office in reviewing the budgets for the State Public Defender's Office, eight Judicial District Public Defender offices, five Public Defense Corporations, and its own Administrative budget. All of these beforementioned budgets are not uniformly calendarized, as some are allocated funds for fiscal years, while others for calendar years. The management time applied to the review of these budgets is extensive and without the assistance of a budget analyst, would seriously detract from the time available to perform other functions of the Board.

A second primary effort in the area of short-term goals for the Board of Public Defense relates to its legislative program. It is the Board's intent to pursue changes in current Minnesota Statutes, affecting the following:

- Investigation and Expert Witness fees
- Public Defense Fringe Benefit Costs
- Training

In the areas of Investigation and Expert Witness costs for indigent defendants, public defense attorneys may request said services from the Court in an ex-parte application. If, after an appropriate inquiry in an ex-parte proceeding, the Court finds that the services are necessary and that the defendant is

financially unable to obtain them, the Court shall authorize counsel to obtain the services on behalf of the defendant. The Court shall determine reasonable compensation for the services and direct payment by the County for which the prosecution originated. The compensation to be paid to an attorney for such services rendered to a defendant shall not exceed, at present, \$300.

This Minnesota Statute has not been amended since 1969. It was basically modeled after federal legislation which has since been amended and has a ceiling that cannot be exceeded, in an amount of \$1,000. The Board of Public Defense, as a result of a unanimous request by all of its Chief Public Defenders, will be pursuing legislative changes to amend M.S. 611.21 to increase the amount not to be exceeded to match the current federal legislation of \$1,000, require the Court to make Findings of Fact and Conclusions of Law that specifically state the basis for determining that counsel may not obtain services on behalf of the defendant, if it so orders; and finally, allow the defendant to appeal immediately that order to the Court of Appeals if he or she wishes.

In regard to fringe benefits (insurance) for public defenders in all Judicial Districts other than the Second and Fourth Judicial Districts, there continues to be confusion as to their eligibility for group insurance policies covering life, health, accident, and other benefits, as provided by M.S. 471.61. In some Judicial Districts, public defenders are allowed to belong to the "host county" group insurance programs, while in others, it is disallowed. In a recent Dakota County Attorney opinion, that office determined that the First Judicial District public defenders were eligible for group benefits. As this was listed as a high priority for all Judicial District Public Defender offices, it is the Board's recommendation that M.S. 471.61 be modified to state that a District Public Defender may be considered a political subdivision for the purpose of insuring employees under group health insurance policies covering health, life, accident, and other benefits.

M.S. 611.25, Subd.2, requires "that the State Public Defender shall design and conduct programs, with approval by the Board of Public Defense, for the training of all State and District Public Defenders, appointed counsel, and attorneys for Legal Service Corporations, funded in Section 611.216." The Board of Public Defense will seek to amend that legislation in 1989, for the purpose of changing the responsibility of development for all training programs for public defenders state wide, from the State Public Defender's Office, to the Chief Administrator's Office of the Board of Public Defense. In addition, it will be an immediate goal of the Board to secure funding from the 1989 Legislature to identify existing training programs, survey current defense attorneys as to their training needs, and

finally, upon formal Board approval, develop a training package for eventual State wide implementation.

In summary of the Short Term Goals, the Board of Public Defense is attempting to institute necessary management components that will expedite the process in which it can carry out its administrative responsibilities. Other components that the Board is currently reviewing also include the creation of Judicial District Brief Banks, with a centralized state-wide Brief Bank available to all public defense counsel, the creation of a Public Defense Newsletter for communication purposes, a state-wide weighed caseload study for all Judicial District Public Defender systems, as well as the State Public Defender's Office, in order to better prepare for staffing and budgetary needs, the eventual implementation of Westlaw for all organizational units under the Board's auspices, and finally, the eventual computerization of informational components in all Judicial District and State Public Defender organizations, with the final goal of eventually centralizing those informational components in the Administrative Services Office of the Board.

LONG RANGE GOALS:

The primary long range goal of the Board of Public Defense is to centralize the Public Defense System in the State of Minnesota under a uniform operational entity, and as part of that goal, it is also the Board's intent to eliminate County funding for such and institute state-wide financing.

The Board of Public Defense, in 1986, began recommending State financing of Judicial District Public Defender budgets because it felt strongly that the quality of defending an indigent should not be predicated upon the financial ability of a particular Judicial District to pay for those services. Although the Board has statutory authority to set appropriate standards and certify yearly budgets in the delivery of legal defense services in each Judicial District in the state, local County Governments must raise the necessary revenue through property tax levies to pay for such. The issue of centralizing public defense systems and requiring County units of government to pay for state mandated public defender programs relates directly to a major policy examination of "State versus Local Funding of Legislative Mandated Programs" that was recently conducted by several governmental committees. Concerning that policy examination, the Governor's Council on State and Local Relations, in a recent document, stated that the responsibilities of the State and Local Governments for the provision and delivery of specific services continue to be based on the historical roles of each level of government for the provision of specific services. Decisions regarding the structure, standards and operations of public defender systems used to be the responsibility of local County

governments, but now are made by the State Board of Public Defense and the Legislature. Although the evolution of public defender services has resulted in a more centralized system, the responsibility for financing those services continues to rest with Counties, based primarily upon the historical role of County governments in the provision of those services.

The question of whether the State should direct and fund the Judicial District Public Defender systems, instead of Counties, was recently examined by two State committees that were created by the 1988 Legislature. The first committee was the State and Local Services/Fiscal Responsibility Study Committee, which was instituted by the Governor's Council on State and Local Relations. The second committee, created by Chapter 582, Sec. 2, is the Supreme Court Task Force on Financing of the Trial Courts. As part of their charge, it was their responsibility to examine the existing administration and funding of public defender systems state-wide and make recommended changes.

After examining the effectiveness of different funding mechanisms dependent upon the property tax base, both Task Forces concluded that the State General Fund was the appropriate funding mechanism to provide an adequate and stable funding source for public defense systems in the state. The Task Forces further recommended that all public defense functions be administered by the Board of Public Defense and that funding of such systems be phased in over two Bienniums.

During the Fiscal Year 1990-91 Biennium, it was recommended that State funding of all felony and gross misdemeanor indigent defense costs in Judicial Districts other than the Second and Fourth (Ramsey and Hennepin Counties), and in the case of the Second and Fourth Judicial Districts, total State funding of all indigent defense costs should occur. In regard to total State funding of misdemeanor, juvenile, paternity, civil commitment and indigent defense functions for the eight Judicial Districts other than the Second and Fourth, it was recommended that total State funding occur during the F.Y. 1992-93 Biennium.

The Board of Public Defense, in working closely with both of the above committees, agrees with those before-stated goals relating to the administrative structure and funding of public defense systems in the State of Minnesota. The Board believes that funding by the State for public defense services will provide for a more equitable level of public defense services throughout the state. By centralization and unification of the funding of public defense systems within the state, this change should bring greater administrative coordination and provide for a more unifying focal point in the provision of public defense services in the State of Minnesota.

JUDICIAL DISTRICT PUBLIC DEFENDER BUDGETS
(FELONIES & GROSS MISDEMEANORS)

1988

<u>Judicial District</u>	<u>1988 Budget</u>
FIRST	638,119
SECOND	1,950,000*
THIRD	748,222
FOURTH	5,695,000*
FIFTH	482,460
SIXTH	378,032
SEVENTH	685,214
EIGHTH	375,000
NINTH	642,986
TENTH	704,394
Subtotal:	<hr/> \$ 12,299,747
BOARD OF PUBLIC DEFENSE	68,000
STATE PUBLIC DEFENDER	1,450,000
PUBLIC DEFENSE CORPORATIONS	518,000
Subtotal:	<hr/> \$ 2,036,000
TOTAL:	\$ 14,335,747

* Includes Misdemeanor and Juvenile caseloads