

MARION COUNTY PUBLIC DEFENDER AGENCY



ANNUAL REPORT 2003

"THERE CAN BE NO EQUAL JUSTICE WHEN THE KIND OF TRIAL A MAN GETS

DEPENDS ON THE AMOUNT OF MONEY HE HAS."

U.S. SUPREME COURT JUSTICE HUGO BLACK, 1956

Message from the Chief Public Defender, David Cook

Since 1993, the Marion County Public Defender Agency has strived to improve the quality of representation afforded to indigent citizens in Marion County. The Marion County Public Defender Agency has grown and expanded since its creation. We have made many improvements and, as a direct result of the efforts of many, we have changed for the better what it means to be represented by a public defender in Marion County. We, the City-County Council and the Marion County Superior Courts can be proud of what we have accomplished for indigent legal services in Marion County.

There remains one huge task in front of us. The Marion County Juvenile Division is and has been out of compliance with Indiana Public Defender Commission standards since the Agency was created in late 1993. Presently the caseloads and working conditions of these juvenile defenders is at best, deplorable. Our attempts to obtain adequate funding for the Juvenile Division have gone unanswered. We can no longer ignore the burdensome caseloads and oppressive working conditions of the juvenile defenders.

Recently I submitted a funding request that addresses the additional resource needs of the entire Agency while specifically focusing on the plight of the juvenile defenders. In the past and through the cooperation of the council we have avoided the use of system stopping measures to obtain funding for indigent legal services. In the recent funding request, I have advised the City-County Council and the Marion Superior Court Judiciary Executive Committee that continued failure to provide adequate funding for indigent juvenile legal services will create an ethical dilemma that leaves no alternative but to refuse case assignments that exceed state standards. We do not want to engage in system stopping activities. We view refusing cases as a last resort measure. It is however an action that will ensure we fulfill our ethical obligations to the citizens of Marion County and our clients. Our constitutional charge is to provide effective representation of counsel pursuant to federal and state Supreme Court mandates. This we will do within the perimeters of the funding provided.

These are difficult days full of stress. We have worked together and have achieved many good things. We have gone from bad to good. Moving from good to excellent is a greater challenge. Together, and with the help of our City-County Council and the Marion Superior Court Judiciary, we will make the transition from good to excellent. We

will provide, at all levels, the effective representation of counsel that is contemplated in the Supreme Court mandates.

What follows is a brief division by division report of the year 2003.

Indiana Public Defender Commission
Reimbursement 2003

The Marion County Public Defender Agency assigns cases pursuant to Indiana Public Defender Commission standards in all divisions except Misdemeanor and Juvenile. The Misdemeanor Division was exempted from Commission standards in the late 1990s, however, the Juvenile Division remains out of compliance (see Juvenile Division Report).

Marion County receives 40% reimbursement for non capital expenditures made in the budget year for all assignments that are in compliance with commission standards. These monies are paid back into the County General Fund by the Indiana State Board of Accounts on a quarterly basis. Last year the Marion County Public Defender Agency claimed reimbursement for the County General Fund in the amount of \$2,413,039 million.

Achieving Commission compliance in 2004 will push Marion County reimbursement to over \$3 million annually.

• First Quarter 2003	\$600,281
• Second Quarter 2003	561,097
• Third Quarter 2003	643,378
• Fourth Quarter 2003	<u>608,283</u>
Total Claim 2003	\$2,413,039

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Mission Statement

REVISED MARCH 3, 2003

The Marion County Public Defender Agency will vigorously pursue equal justice by providing quality legal representation in an effective, efficient manner to indigent people of Marion County, Indiana, in all proceedings where the right to counsel has been established by law. The Agency will provide a professional work environment and maintain a culture of respect for clients, staff, and the judicial process. The Agency will enhance public value to the Marion County community by working to reduce its client base through education and the creation of and participation in programming that seeks alternative means to incarceration, that secures necessary services for individual clients and proactively identifies methods and programs that benefit Agency clients.

MARION COUNTY PUBLIC DEFENDER AGENCY
BOARD OF DIRECTORS

THE MARION COUNTY PUBLIC DEFENDER BOARD OF DIRECTORS IS THE GOVERNING BODY OF THE MARION COUNTY PUBLIC DEFENDER AGENCY. THE NINE-MEMBER BOARD CONSISTS OF FOUR (4) APPOINTMENTS BY THE PRESIDING JUDGE OF THE SUPERIOR COURTS, FOUR (4) APPOINTMENTS BY THE CITY-COUNTY COUNCIL AND ONE (1) APPOINTMENT BY THE MAYOR OF INDIANAPOLIS.

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ADMINISTRATION

David Cook, Chief Public Defender

Dee Dennis, Office Administrator

The Office Administration is responsible for overseeing all operations of the Marion County Public Defender Agency to ensure efficiency and adherence to office policy, budget guidelines and city-county ordinances. The Chief Public Defender is the chief executive officer and is responsible for the overall operation of the Agency including budget prioritization and approval and general office policy implementation. He is the chief liaison of the Agency to the judges, elected officials and all levels of government and to any other entity that has dealings with the Agency. The Chief Public Defender educates the public as to the functions of the Agency, vigorously pursues equal justice and ensures efficient and constitutionally effective representation to indigent people of Marion County.

The Office Administrator is responsible for the management of the office and budget. As such, she is responsible for accounts payable, payroll, supervision of clerical staff, personnel grievances, processing insurance, office equipment and furniture, office security and planning. The Office Administrator is the chief liaison between the Chief Public Defender and the Marion County Auditor.

MISDEMEANOR/DOMESTIC VIOLENCE UNIT

Darlene Dayton, Division Supervisor
Molly Larkins, Assistant Supervisor

This division of the Marion County Public Defender Agency, (MCPDA), consists of one Supervisor, one Assistant Supervisor, twenty-five attorneys (25) and eight (8) support staff. The division is responsible for representing indigent clients in four (4) Misdemeanor Courts, three (3) Domestic Violence Courts, Mental Health Court, Community Court, Traffic Court, Title IV-D Court (child support) and the new Arrestee Processing Center. This division was appointed to cover 18,000 new cases in 2003, consisting of Misdemeanor and Felony criminal charges and civil commitment hearings. In addition, this division's staff represented numerous clients at hearings on child support contempt, protective order violations, probation violations, and general civil contempt hearings.

- **Appointed to over 18,000 new criminal cases in 2003**
- **Accepted appointments in child support, protective order court and civil contempt**

Arresting Processing Center

The Arrestee Processing Center (APC) facility opened in August of 2003. This facility is open 24 hours a day, 7 days a week and processes everyone who is arrested in Marion County, Indiana. Any person arrested and charged with a Misdemeanor or lower Felony offense has their initial hearing at the APC. The MCPDA staffs this facility 20 hours a day, seven days a week and our clients are often served by working out diversion or probation violation agreements at this early stage. This early representation enables agency lawyers to prescreen cases, prepare client files, alert personnel about medical issues, prepare medical releases and alternative sentencing documentation, identify mental health, substance abuse and legal issues and keep internal caseload statistics. In 2003, the MCPDA was appointed to approximately 75% of the new cases processed through the APC. This averaged 492 new cases appointed to the MCPDA per week. This representation provides service to the community by working out cases early in order to reduce court caseloads and jail overcrowding.

- **Assigned to 75% of the cases that were processed through the Arresting Processing Center in 2003**
- **Assigned an average 492 new cases per week**
- **Staffed 20 hours a day, 7 days a week**

Misdemeanor Courts

The MCPDA staffs the Misdemeanor Courts with nine (9) attorneys and four (4) support staff. These courts are the training ground for new personnel, both attorneys and paralegal staff, within our office. The misdemeanor staff handles large caseloads and daily court schedules that keep them in court a minimum of four days a week. There were 14,318 misdemeanor cases filed in Marion County in 2003 and the MCPDA misdemeanor staff was appointed to approximately 8,778 of these cases. As a result, each misdemeanor attorney handled approximately 975 cases in 2003. This is an increase of 13 % in one year.

- **Assigned to 8,778 criminal misdemeanor cases representing 61% of misdemeanors filed in 2003**
- **Misdemeanor per case attorney assignments increased in 2003 by 13%**

Domestic Violence Courts

Domestic Violence Courts are staffed with nine (9) attorneys and three (3) support staff to handle Misdemeanor and Felony cases that involve domestic related charges. This staff represents clients charged with domestic violence and they see first hand the increasing problem of domestic violence and its detrimental impact on clients, families, children and the community as a whole. In 2003, this staff was appointed to represent 3590 of the 4972 cases filed in Marion County. This resulted in the MCPDA representing 67% of the cases filed with and average of 399 cases a year handled by each Domestic Violence Court Public Defender. While the total number of cases filed in these courts has not increased significantly, the MCPDA has been appointed to a higher percentage of these clients resulting in a substantial increase in caseload for each attorney during the calendar year.

- **Agency appointed to 67% of the cases filed in Domestic Violence Courts in 2003**
- **Average case load per attorney is 399 cases**
- **Although domestic violence filings have not increased, the percentage assigned to indigent counsel has resulted in increased caseloads per attorney**

Community Court

Community Court has distinctive goals that include restoring neighborhood confidence, increasing offender accountability, crisis intervention, impacting quality of life, encouraging community involvement, and making justice visible. This court is staffed with one (1) Public Defender who was appointed 751 cases in 2003, to represent clients for minor misdemeanor offenses. This was an increase in caseload of 66% over last year. These cases are handled from start to finish in the community. As a member of the community, often the clients are able to view themselves in a more positive light. This aids clients in overcoming some of the difficulties that led to the behavior resulting in their arrest. This program includes alternatives such as drug and alcohol treatment, job placement assistance, English speaking classes, housing, food and clothing assistance. Community Court is a unique opportunity to provide services to clients and to help them not re-offend.

- **Appointed to 751 cases in 2003 representing a 66% increase in caseload compared to the previous year**
- **Providing alternatives to incarceration**

Mental Health Court

The Mental Health Component of the MCPDA provides representation for two programs, the mental health diversion program called PAIR (Psychiatric Assertive Identification and Referral) and Mental Health Civil Commitment Hearings. The MCPDA has (1) one attorney assigned to represent clients in these matters. The PAIR program processes referrals from attorneys from all courts to assist clients diagnosed with a serious mental illness and charged with a criminal offense. The goal is to divert the eligible client out of the criminal justice system and into appropriate treatment.

The mental health civil commitment hearings are held when Indiana law provides that an individual who is suspected of being mentally ill, dangerous and in immediate need of hospitalization is to be detained in a mental health facility. If a civil commitment is then filed, these individuals are required to have a timely commitment hearing with the assistance of counsel. In 2003, the MCPDA represented 417 clients in civil commitment proceedings providing effective representation and protecting the rights of these individuals. This caseload represents an increase of 26% from last year.

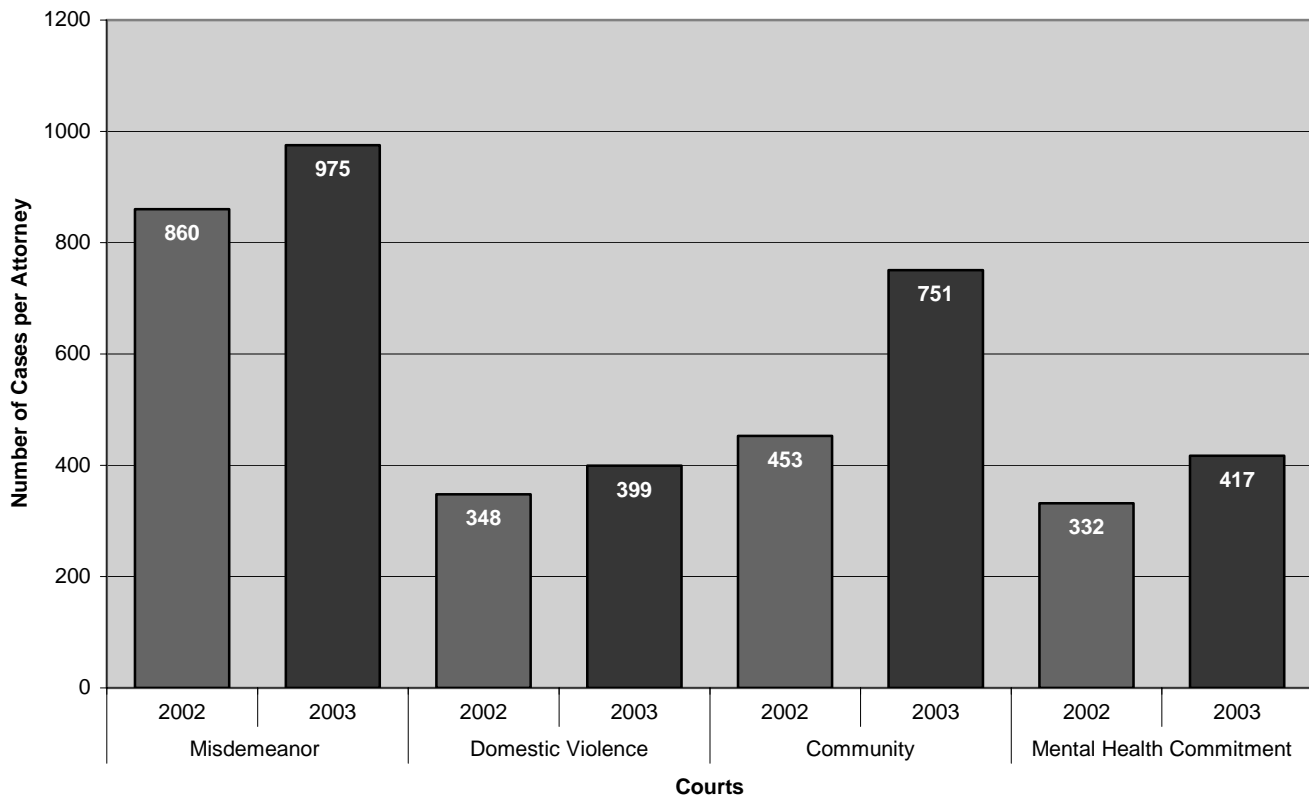
- Represented clients in 417 involuntary civil commitment hearings in 2003
- 26% increase in case assignments compared to the previous year

Traffic Court

Traffic Court is a high volume court designated to handle driving related crimes and infractions. The MCPDA staffs this court with (1) one attorney to represent clients charged with misdemeanor offenses. Of the 8,322 cases filed in Traffic Court in 2003, the MCPDA was appointed to represent 4,454 cases or 53.5% of cases. The MCPDA staff work efficiently and have extensive knowledge of driving records, license suspensions and driving related offenses.

- Represented 4,454 clients (53.5% of total cases filed) in 2003

Annual Average Caseload Per Attorney



D FELONY DIVISION

Mark A. Jones, Supervisor

The D Felony Division is staffed by twenty-eight (28) full time attorneys and a supporting paralegal staff of five (5). This year's explosion in the number of clients we serve has meant that supervision's focus has necessarily been "in the trenches," directly serving our individual clients in the courtrooms.

D Felony Division staffs Courts 9, 14, 15, 18, and 99, all of which are part of the larger Criminal Division of the Marion Superior Court. These courts handle class D felonies, which are the lowest level felonies but for which a client faces from six months to three years in prison. The charges our clients face include: theft; welfare fraud; a second or subsequent incident of operating a motor vehicle while intoxicated; neglect of a dependent; animal cruelty; possession of controlled substances; dealing marijuana; criminal recklessness involving a deadly weapon, and many other offenses.

2003 was the second year in which the D Felony Division has been in compliance with the Indiana Public Defender Commission's standards, which in our case limit the assignment of new cases to 200 cases per lawyer over a 12-month period. We have remained in compliance with Commission standards despite the number of cases to which we were assigned increasing from 4,443 in 2002, to 5,443 in 2003, an increase of 22%. This number does not include the cases that have been assigned to the part-time attorneys on the Conflict Panel.

From our paralegal's first contact with a client at initial hearing through our lawyer's representation in pre-trials, trials, sentencing and probation hearings, we are committed to achieving the best possible results given the facts of the case and each client's needs. Our staff works tirelessly to ensure that indigent people receive high-quality representation. We give action to the words of former United States Supreme Court Justice Hugo Black: *"There can be no equal justice when the kind of trial a man gets depends on the amount of money he has."*

- **Assigned to 5,443 cases in 2003**
- **22% increase in case assignments compared to the previous year**

D FELONY CASES ASSIGNED IN 2002 & 2003

COURT ROOM NO.	2002	2003	TOTAL 2002 & 2003
9	747	1,017	1,764
14	1,246	1,431	2,677
15	883	1,130	2,013
18	886	1,121	2,007
99	681	744	1,425
TOTALS	4,443	5,443	9,886

MAJOR FELONY DIVISION

Kay A. Beehler, Major Felony Supervisor (Past)
David Shircliff, Major Felony Division Supervisor

The Major Felony Division is responsible for the defense of indigent citizens who are charged with serious felony offenses. The Division is comprised of forty-two (42) attorneys and seven (7) support staff members. The major felony attorneys disposed of 2,351 cases in 2003

This division handles cases ranging from C felony offenses to capital murder. Major Felony is in compliance with the Indiana Public Defender Commission standards which govern acceptable attorney caseloads, as well as professional experience requirements. Performance assessments are completed annually for each attorney and paralegal serving this division.

Four (4) Major Felony attorneys are assigned to each of the Marion Superior Criminal Courts including Drug Court which is staffed by seven (7) attorneys. One attorney assigned to each court serves as the Supervisor for the Public Defender staff assigned to that court.

Each criminal court has an assigned paralegal. The paralegal has the responsibility of maintaining data, covering various hearings, client contact, pleadings and a variety of other duties.

The Major Felony staff work diligently to insure each client receives the best representation possible, and collectively, are dedicated to the agency mission to provide effective representation of counsel. Our work goes well beyond the daily tasks of representing those charged with serious felonies. Supporting family members, maintaining vigilance in the face of often overwhelming odds and insuring that justice follows tragedy all are willingly shouldered by our staff.

- **Assigned 61% of all murder cases filed in Marion County in 2003**
- **Assigned one (1) death penalty case**
- **Assigned 2 Life Without Parole**

The Major Felony Division has sixteen (16) full time attorneys on staff. Additionally, the Agency contracts with twenty-six (26) private attorneys, who are assigned felony cases at one-half the rate of the full time staff.

CASE ASSIGNMENTS BY MAJOR FELONY COURT IN 2003

COURT	CASES ASSIGNED	CASES DISPOSED
Court 1	467	315
Court 2	470	334
Court 3	531	377
Court 4	541	319
Court 5	454	308
Court 6	239	104
Court 20	947	594
TOTAL	3,649	2,351

APPELLATE DIVISION

Ann Sutton, Appeals Administrator

In 2003, while the number of appeals leveled, the cost of doing appeals increased. At the end of 2002, we saw an increase in the cost of transcripts. In 2003, that cost translated into over \$211,834.00 spent on transcripts alone.

Our staffing remains the same, except for the addition of one full time attorney in August of 2003. Two more full time attorneys will be added in 2004, bringing the total number of full time attorneys to five (5) plus the appellate administrator, who takes a partial caseload.

The appellate division remains in full compliance with Indiana Public Defender Commission standards.

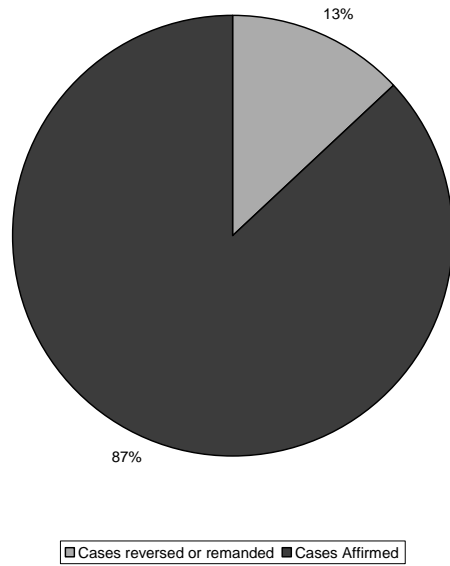
In 2003, the Appellate Division helped with the Public Defender Council's Annual Appellate Update Seminar. This seminar was very well attended and we were happy to welcome Indiana Supreme Court Justice Theodore Boehm as a presenter. We look forward to this annual event and other joint training ventures with the Indiana Public Defender Council.

At the end of 2003, we had thirty-six (36) contract major felony appellate attorneys, and four (4) misdemeanor contract attorneys. Five (5) were new attorneys. At the end of 2002, we had 34 contracts filled; we did not renew one contract for 2003 and we lost one contract when the attorney became one of our full time attorneys. While we maintain a good selection of applicants, the fact that the contract has not increased in pay since 1998 will be an issue that will certainly need to be addressed in the not too distant future. One new and meaningful benefit to our contract attorneys is they no longer have to carry malpractice insurance for the public defender cases and are covered under the county umbrella insurance.

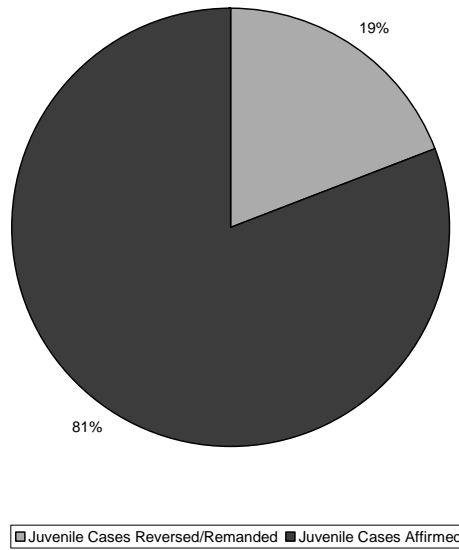
The Appeals Division remains at 129 East Market Street. While the site and the solitude are conducive to our work, we do miss being part of the action with the rest of our team in the City County Building. When appropriate space requirements can be secured, we look forward to the transition back into the action.

- **Filed 456 appeals in 2003**
- **13% reversal rate in adult cases**
- **19% reversal rate in juvenile cases**

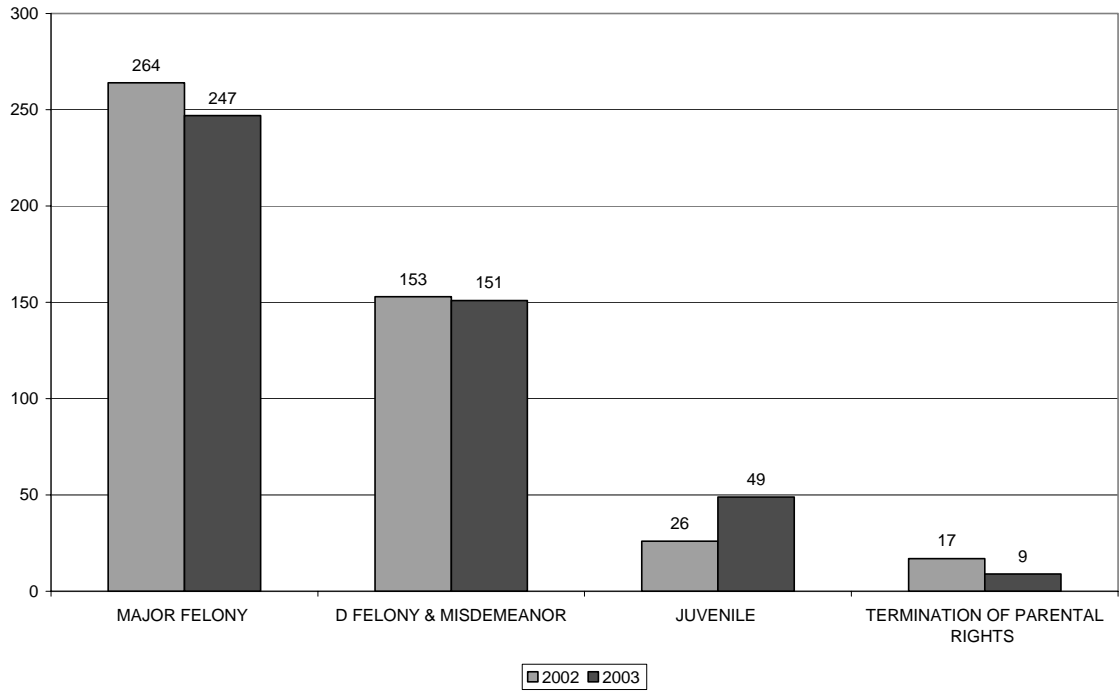
2003 APPELLATE AFFIRMED AND REVERSED/REMANDED : 319 OPINIONS RECEIVED



2003 JUVENILE CASES AFFIRMED REVERSED OR REMANDED: 42 OPINIONS RECEIVED



APPELLATE CASE STATISTICS 2002 AND 2003



JUVENILE DIVISION

Peter Haughn, Juvenile Supervisor

Delinquency Division

The Juvenile Division of the Marion County Public Defender Agency is in a state of crisis. The lawyers in this division represent troubled children in juvenile delinquency cases and indigent parents in child in need of services (“CHINS”) cases and termination of parental rights (“TPR”) cases. Their caseloads exceed all known caseload standards. The division has woefully inadequate support staff and office facilities. As a consequence, the division’s ability to provide ethical and effective assistance of representation to its clients is seriously called into question. Additional resources are needed to prevent refusing cases in 2004.

Here is why:

- Exorbitant caseloads are imposed upon the public defenders.
- Lawyers have little time to set appointments, visit clients, or investigate cases. They are forced to triage all their cases.
- Inadequate support staff. No investigators and one(1) paralegal
- PD lawyers often meet their clients for the first time in the courthouse on the day of trial.
- A child’s access to counsel and the quality of representation received is significantly compromised by the caseloads of the defenders and many children in Marion County are literally left defenseless.
- The poor legal representation translates to significant numbers of children being needlessly detained or incarcerated.
- Physical plant is inadequate.

The public defender caseload standards of the Indiana Public Defender Commission require that a full-time public defender be assigned no more than 200 juvenile delinquency cases in a year (a part-time attorney should be assigned no more than 100 such cases). In 2003, the division's six (6) full-time juvenile delinquency attorneys were appointed on over 3,500 cases. Here is the statistical breakdown of the cases they were appointed to:

	Supervisor	Attorney 2	Attorney 3	Attorney 4	Attorney 5	Attorney 6	Totals
Juvenile "Criminal" Offenses							
* Class A felonies	1	3	1	1	0	2	8
* Class B felonies	50	13	21	24	16	12	136
* Class C Felonies	22	16	12	15	11	17	93
* Class D Felonies	5	144	111	176	119	140	695
* Misdemeanors	18	286	287	417	300	338	1,646
Total Juvenile "Criminal" Offenses	96	462	432	633	446	509	2,578
Juvenile Status Offenses	2	25	25	29	24	34	139
Total Juvenile Delinquency Cases	98	487	457	662	470	543	2,717
Adult Misdemeanor - Failure to Ensure Cases	0	17	14	22	11	15	79
"Other" Category Cases - (VOPs, Contempt's, & Misc.)	4	124	134	174	132	153	721
Total 2003 Case Assignments	102	628	605	858	613	711	3,517

A crushing caseload is not the only problem for the delinquency attorneys. The division's seven (7) small offices (occupied by the six (6) full-time attorneys and three (3) support staff) are inadequate. The offices are located in a hallway of the Marion County Juvenile Justice Complex adjacent to the court's clerk's office. The clients, their families, and the public do not have direct access to the offices – the door is always locked. Parents who are unable to reach their child's public defender by phone frequently come to the office unannounced to learn information about their child's case. They are left to knock on the locked door and hope that someone answers it.

CHINS & TPR Attorneys

The issues arising in CHINS and TPR cases are complex and are very time consuming. It is not uncommon for one of these cases to last up to two (2) years. The clients face a myriad of difficult problems: mental illness, alcoholism, drug addiction, and homelessness, to name a few. There are few known caseload standards for CHINS cases (known as “dependency cases” in some jurisdictions) and TPR cases because historically there were not a great number of these cases and the parents were often not assigned public defenders. The caseload standards of the few states that have them for these cases range from sixty (60) to eighty (80) cases per year for a **full-time** attorney. The division’s CHINS and TPR attorneys are all **part-time** contractors who also maintain busy private practices. Their “part-time” caseloads range from between sixty (60) to eighty-one (81) case assignments per year. Below are the 2003 case assignment statistics for the division’s four (4) CHINS attorneys and six (6) TPR attorneys:

CHINS Attorneys	No. Cases
Court 1	81
Court 2	68
Court 3	60
Court 4	75
Total CHINS Cases	284

TPR Attorneys	No. Cases
1 st attorney	69
2 nd attorney	65
3 rd attorney	67
4 th attorney	75
5 th attorney	73
6 th attorney	70
Total TPR Cases	419

The caseload of these attorneys has continually gone up over the years and it does not appear that there will be a decrease in the number of CHINS and TPR cases filed any time soon. The following table provides information about the total number of CHINS and TPR cases filed in Marion County Superior Court, Juvenile Division during the period from January 1, 1996 through December 31, 2003:

	1996	1997	1998	1999	2000	2001	2002	2003
CHINS cases filed	492	584	1,147	1,341	1,432	1,388	1,787	1,713
TPR cases filed	117	113	115	260	272	272	294	405

There are few resources to provide the CHINS and TPR attorneys. There is no support staff and no office space, case managers, clerks, or investigators. There is no meaningful supervision or training. These attorneys are far from achieving parity with their counterparts employed by the state – the attorneys for the Marion County Office of Family and Children. Here is a breakdown of how the two (2) opposing sides compare:

	Marion County Office of Family and Children	No.	Marion County Public Defender Agency	No.	
Supervisor	<ul style="list-style-type: none"> Supervises the Legal Division Has a minimal caseload. 	1	<ul style="list-style-type: none"> Supervises operation of all division cases (not the CHINS and TPR cases) Personally assigned to represent over one-hundred (100) children charged with in juvenile delinquency cases including over seventy (70) children charged with sex offenses (Rape, Child Molesting or Sexual Deviate Conduct). 	1	
Full-time attorneys	CHINS attorneys	4	NONE	0	
	TPR attorneys	3			
Part-time attorneys	CHINS attorneys	0	CHINS attorneys	4	10
	TPR attorneys	9	TPR attorneys	6	
Paralegals	Full-time paralegals	2	Paralegals (Full or Part time)	0	
	Part-time paralegals	3			
Clerks	Full-time clerks	3	Full-time secretary/receptionist	1	
Social Workers	CPS caseworkers <ul style="list-style-type: none"> investigate allegations of child abuse or neglect 	50	NONE	0	
	Children Services caseworkers <ul style="list-style-type: none"> manage the case and the delivery of services to our clients after a CHINS petition has been filed 	84			

The CHINS and TPR attorneys of the Juvenile Division have historically suffered from a high rate of turnover. It is anticipated that this high rate will continue in the year 2004. As of the final drafting of this report (March of 2004), one (1) CHINS attorney and three (3) TPR attorneys have tendered their resignations since December of 2003.

Solution to the Crisis – More Resources v. Refusal to Accept Case Assignments

The rules of professional conduct require attorneys to provide competent representation to their clients. Juveniles and CHINS and TPR clients also have a constitutionally protected right to effective assistance of counsel. The overwhelming number of cases assigned to the attorneys of the Juvenile Division and the lack of resources provided to support them, directly affect the their ability to provide competent, constitutionally effective representation to their indigent clients. The solution to the division's crisis appears to be an "either or" proposition - **either** provide the resources necessary to employ an adequate number of attorneys and support staff competently manage the current caseloads **or** refuse to accept any further case assignments that would render inadequate the division's ability to provide effective assistance of counsel. Both solutions would be costly to the citizens of Marion County.

TRAINING DIVISION

Kathleen Sweeney, Training Director

The Division hired a new training director in early 2003. Kathleen Sweeney has a long, impressive career in criminal justice ranging from local and federal prosecution to private and public criminal defense work. She is a skilled trial attorney and an accomplished appeals writer. The Division is fortunate to have her directing this critical training effort.

The goals for 2004 include formalized in-house training, creation of a structured orientation program for legal and non-legal staff, continued in-house CLE presentations and customized division training.

- **Agency is certified to conduct in-house CLE presentations**
- **Guarantee full time attorneys free in-house CLE presentations during the year sufficient to meet Supreme Court requirements to maintain their license to practice law**
- **Continuing, customized divisional training**
- **Provide for one Indiana Public Defender Council training seminar per year at agency expense**
- **Sponsored two attorneys to the National Criminal Defense College in Macon, Georgia (assisted by a scholarship provided by Richard Kammen).**

INVESTIGATION UNIT

Kevin Sutton, Chief Investigator

2003 broke new records in the handling of the Agency's investigative needs. Requests are received from every facet of the public defender work force. Full time Agency attorneys, major felony, D-felony, misdemeanor, contract, juvenile, and appeals all need and request investigation services. We also receive and service requests, when time permits, from outside agencies such as the State Public Defender.

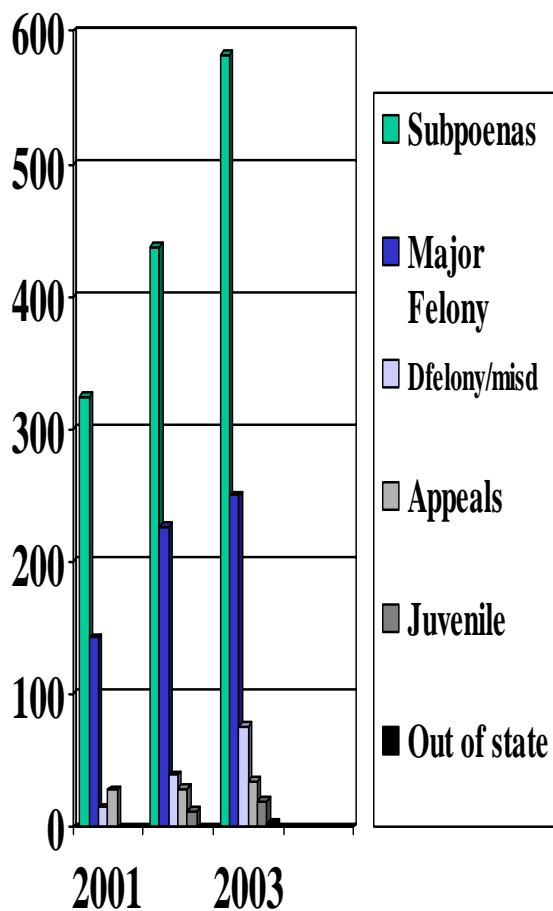
The Investigation Division is mindful of scarce resources and conserve wherever possible. Doubling up on the use of city cars saves gas and time and provides a degree of safety when we are conducting investigations in unfamiliar and unsafe neighborhoods. The use of digital cameras eliminates the cost of having pictures developed.

Accused citizens have a right to an independent investigation of the state's case. Two full time investigators are wholly inadequate for an agency with 83 full time attorneys and another 70 part time contractors. Indiana Public Defender Commission standards indicate there should be one (1) full time investigator for every four (4) major felony attorneys and a for every six (6) juvenile attorneys. We obviously have a long way to go.

Adequate and thorough investigation often reduces the average life of a criminal case by either, validating the state's case or demonstrating weaknesses. Having this information enables prosecutors and public defenders to make accurate legal analysis of the individual cases and determine the most equitable disposition, often short of trial.

- **Served 583 subpoenas**
- **250 major felony investigations**
- **76 misdemeanor investigations**
- **20 juvenile investigations**
- **3 Out of State PD investigations**
- **35 assists in locating appeals clients**

MARION COUNTY PUBLIC DEFENDER AGENCY Investigations



2001 Investigation requests

- Subpoenas...325
- Major Felony...143
- Dfelony /misd...15
- Appeals...28
- Juvenile...not tracked
- Out of State...not tracked

2002 Investigation requests

- Subpoenas...437
- Major Felony...226
- Dfelony / misd...39
- Appeals...29
- Juvenile...12
- Out of State...not tracked

2003 Investigation requests

- Subpoenas...583
- Major Felony...250
- Dfelony / misd...76
- Appeals...35
- Juvenile...20
- Out of State...3

DEPOSITION UNIT

Jennifer Hylden, Supervisor

The Deposition Unit of the Public Defender Agency takes depositions for the deputy public defenders in preparation of discovery for trial. Two (2) full time certified court reporters administer an oath to deponents, take and transcribe depositions accurately and in a professional and timely manner. Other duties include scheduling, organizing and filing depositions tapes and disks, keeping an accurate record of completed work, keeping and maintaining records to support accurate data retrieval, and accommodating deposition emergencies when possible.

The Deposition Unit took 700 depositions in 2003, which resulted in 18,120 transcribed pages. Three copies are made of each deposition – an original, a copy for the deputy public defender, and a copy is provided to the deputy prosecutor assigned. That means that 54,360 pages of deposition copy were printed.

- **700 depositions in 2003**
- **Over 18,000 transcribed pages**

SENTENCING PROJECT

Judy Spray, Sentencing Coordinator

The Marion County Public Defender Agency represents indigent adults and juveniles charged with criminal offenses in Marion County, representing in excess of 36,000 clients in 2003. The majority of these persons lack training in basic life and employment skills. Public defender caseloads are consistent with national statistics that between 70% and 90% of our clients are dependent on or addicted to drugs or alcohol, and 10% to 30% have serious mental illness. Of those with mental illness, over 70% have a co-occurring mental illness and substance abuse disorder. Without training and/or treatment, these persons continue to re-offend, clogging the court system, burdening the already over-crowded jail, and draining taxpayer dollars. Incarceration of non-violent, mentally ill or drug-addicted offenders fails to address the issues leading to recidivism. The availability and utilization of alternative sentencing options, including treatment facilities and community-based correctional facilities (whose curriculums include anger management, job readiness training, educational opportunities, and substance abuse counseling) provide the means to break the cycle.

The Sentencing Project provides sentencing options to public defenders, their clients and the courts, as alternatives to incarceration. Staff consists of the Project Director and Juvenile Coordinator. In 2002, a much-needed Mental Health Coordinator was added, contracted through Midtown Mental Health Center. The Project also contracts with Sentencing Consultants (specialists in fields such as addiction, social work and mental health) to prepare written social histories and sentencing plans for especially difficult cases. Much of the work of the Sentencing Project is funded through grant awards.

The Project Director supervises the operation of the Juvenile and Mental Health Divisions, writes and manages grants, and collaborates with other agencies and consortiums on issues relevant to sentencing, addictions and mental health. The Director screens cases involving adult offenders submitted by public defenders for sentencing assistance, assigns cases to Sentencing Consultants, and makes referrals to treatment programs and community correctional agencies. In 2003, referrals were made on 1,775 adult cases.

The Director submits referrals to the Psychiatric Assertive Intervention and Referral (PAIR) Mental Health Diversion Program, and the Community Corrections Mental Health Component (CCMHC). PAIR is the first post-booking diversion program for mentally ill offenders in the United States; PAIR has received national recognition and many requests for replication guidance. CCMHC is the only community-based sentencing program designed specifically for mentally ill offenders whose charges are too

serious for diversion. The Sentencing Project was instrumental in the creation and implementation of both programs. In 2003, 343 cases were screened for PAIR; 138 were accepted. The Community Corrections Mental Health Component received 177 referrals; 48 persons were accepted.

The Juvenile Coordinator, on site at Juvenile Court, screens cases involving juveniles, assigns cases to Sentencing Consultants, and makes client/family referrals to social service agencies and treatment programs. In 2003, referrals were made on 128 juvenile cases. **The Mental Health Coordinator** identifies mentally ill inmates in jail and lock-up, refers inmates to the Jail Medical Office for medication evaluation, screens inmates for alternative sentencing referral, notifies public defenders and the courts regarding inmates needing evaluation for competency to stand trial, and facilitates pre-trial release and discharge planning.

In 2003, the Sentencing Project provided assistance to public defenders and their clients in over 2,500 cases. With the rising number of mentally ill and substance-addicted persons entering the criminal justice system, the work of the Sentencing Project becomes increasingly important in providing comprehensive and effective service to our clients.

- **343 PAIR referrals**
- **177 referrals to Mental Health Component of Community Corrections**
- **128 Juvenile court referrals**
- **Provided sentencing consultations on 2,500 cases in 2003**
- **Referred to treatment and Community Corrections programming 1,775 adult cases**

DRUG TREATMENT COURT

Kathy Downs, Drug Treatment Court Defender

In 2003, over 200 new clients entered the Marion County Drug Treatment Diversion Program. The assigned full time public defender met with all those who were accepted into the program, and provided a case evaluation and review of program requirements. Any potential impediments to the client's success in the program were identified and discussed in depth during that interview. In addition, a thorough review of the client's constitutional rights waiver was provided. Once in the program, the Public Defender Agency continues to represent the clients in weekly status hearings by providing them with legal advice, protecting their due process rights, assisting with appropriate placement and ensuring the overall fairness of the program. When clients are terminated, the Public Defender represents them at sentencing hearings.

The program has a capacity of 200 participants, and it stayed close to capacity for most of 2003. The Public Defender Agency assisted in the revision of the sanction schedule, obtaining preliminary certification through the Indiana Judicial Center, and continually works to improve the effectiveness of the program. There were more drug-free babies born and there were 47 graduates from the program whose charges were dismissed with prejudice. An early study on recidivism rate for graduates of the program looks promising, but it is still early in the program to make conclusive findings. The preliminary data suggests that the recidivism rate for graduates is at 13.6%, which could indicate better in comparison to even other drug court graduates nationwide taking into consideration the difficult population this program serves.

- **Program stayed at capacity of 200 for most of 2003**
- **47 graduates in 2003**
- **Successful completion of the program by participants resulted in several drug-free births in 2003**
- **Preliminary results show a very low recidivism rate of 13.6%**

**CRIMINAL DEFENSE CLINIC & PUBLIC DEFENDER INTERNSHIP
PROGRAM**

**Fran Hardy, Director
Novella Nedeff
IU Indianapolis School of Law**

The Marion County Public Defender and the Indiana University School of Law enjoy a mutually beneficial relationship. The MCPDA is the source of two practical, for-credit programs offered by the law school.

The Criminal Defense Clinic is offered to students who have completed half of the credits for graduation and who have completed other prerequisite courses to be certified interns pursuant to Rule 21 of Indiana Rules for Admission to the Bar. Two members of the bar, Fran Hardy the director and long time defense attorney, Novella Nedeff, constantly supervise students. Under the strict supervision of the clinic staff attorneys, students are assigned D felony criminal cases from the Marion County Superior courts. Students learn the criminal justice system, conduct client interviews, investigate the cases, file and litigate pretrial motions, do pre trial preparation including statements and depositions and in some cases actually conduct bench or jury trials. Students benefit by the practical experience of actually representing real clients on real cases. The Agency benefits by the assistance with the D felony case load and the opportunity to groom potential public assistance attorneys.

NUMBER OF CASES ASSIGNED	75
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The Public Defender Internship Program is offered to second and third year students. The students commit to 80 working hours during the semester and are assigned to a public defender attorney who acts as their supervisor/mentor. Students are assigned in Major felony, D Felony, Misdemeanor, Juvenile and the appellate division of the MCPDA. They provide the agency with free, high quality work by doing research, making jail visits, drafting pleadings and providing trial support. In return the Agency supplies the intern with job assignments and guidance.

NUMBER OF STUDENTS PARTICIPATING/2003	8
HOURS CONTRIBUTED	960