

MARION COUNTY PUBLIC DEFENDER AGENCY



ANNUAL REPORT 2004

*"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

The Marion County Public Defender Agency, since its creation in 1993, has worked to provide high quality legal representation to the indigent people of Marion County. Over the past 10 years this organization has grown in size and assumed its rightful place in the criminal justice system. Indigent Defense is now represented and a part of the policy making process in the Marion County.

Last year the Agency faced difficult decisions and took actions that impacted the criminal justice system as a whole. Those decisions and the following courses of actions taken were not done without great thought and consultation within the criminal justice family. I am happy to report that the City-County Council understood the issues facing the Juvenile Division and legislated appropriate funding enabling us to increase legal and support staff necessary to provide constitutionally effective representation to children accused of crimes in Marion County. For the first time in the history of the Agency the Juvenile Division is in compliance with Indiana Public Defender Commission standards enabling the County to receive hundreds of thousands of dollars in state reimbursements. We look forward to working with Superior Court Judge Marilyn Moores to continue the trend of improved relations, higher quality representation and service to clients and the courts.

Funding issues remain as the entire criminal justice system experiences inadequate resources and facilities to provide effective service. This Agency will work as a partner with the Superior Courts, the City-County Council and the Mayor's Office to address these challenges. Adequate and safe facilities, more courts, and better pay for public service employees are critical elements to address issues such as jail overcrowding and attracting and retaining high quality public service professionals. The young men and women who serve this community through dedicated work in indigent legal services practice in the highest tradition of the American Bar Association. We, as a community, are fortunate they chose to do this work. We, as leaders in the legal community, need to prioritize effort to create a criminal justice system that attracts and retains young professionals in public service work. The Marion County Public Defender Agency pledges to be a leader in this effort.

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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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*CURRENTLY THERE IS ONE VACANCY

ADMINISTRATION

David Cook, Chief Public Defender
Dee Dennis, Chief Financial Officer
Marci Rautio, Human Resources Coordinator

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 Chief Financial Officer is responsible for the management of the office and budget for the Marion County Public Defender Agency. The Chief Financial Officer is responsible for ensuring efficiency and adherence to county policy, budget guidelines and city-county ordinances. As such, she is responsible for accounts payable, payroll, office equipment and furniture, office security and planning. The Chief Financial Officer is the chief liaison between the Chief Public Defender and the Marion County Auditor.

The Human Resource Coordinator is responsible for risk management, supervision of clerical staff, personnel grievances, processing insurance, administration of benefits, coordination of new hires, and adherence to county policy and employment law. The Human Resource Coordinator is the chief liaison between the Chief Public Defender and the Marion County Human Resources Department.

COURT SERVICES

MISDEMEANOR/DOMESTIC VIOLENCE COURT DIVISION

This Division of the Marion County Public Defender Agency (MCPDA) was lead by Darlene Dayton in 2004. This division is responsible for representing indigent clients in four (4) Misdemeanor Courts, three (3) Domestic Violence Courts, Mental Health Court, Community Court, Traffic Court and Title IV-D Court. This is done with a staff consisting of one Supervisor, one Assistant Supervisor, twenty-one attorneys and seven support staff. In 2004, this division was appointed to approximately 19,000 new cases consisting of Misdemeanor and Felony criminal charges and civil commitment hearings. In addition to those cases, this division's staff also represented numerous clients at hearings on child support contempt, protective order violations, probation violations, and general civil contempt hearings.

Misdemeanor Courts

The Misdemeanor Courts handle high volume, low-level criminal offenses. The MCPDA staffs the Misdemeanor Courts with nine attorneys and four support staff to handle these cases. These courts are generally the training ground for new personnel with our office and require attorneys and support staff to be in court a minimum of four days a week. New personnel are trained to handle large caseloads and are challenged to learn the criminal justice system quickly and efficiently. The attorneys gain competency in a variety of areas including client interviewing, proper motions practice, time management, and trial skills. In Marion County, there were approximately 13,943 Misdemeanor cases filed in 2004. The Marion Public Defender Agency Misdemeanor staff was appointed to approximately 9,455 of these cases. As a result, each Misdemeanor attorney handled approximately 1051 cases in 2004. These numbers indicate an actual increase in each attorney's caseload of 75 additional cases over last year and a 22% increase over the last two years.

Domestic Violence Courts

Domestic Violence Courts are staffed to handle both Misdemeanor and Felony cases that involve domestic related charges. These courts are staffed with nine attorneys and three support staff. Our staff is continually exposed to the increasing influence of domestic violence, not only the immediate effect to our client and their families, but the social impact on the community as well. In 2004, this staff was appointed to represent 4,141 cases of the 5904 cases filed in Marion County. This resulted in the MCPDA representing 70% of the cases filed in this county, with an average of 460 cases a year handled by each Domestic Violence Court Public Defender. The caseload increased by 60 actual cases per attorney in just one year.

Mental Health Court

In the Mental Health Component of this Division, we provide representation in two primary areas, diversion and civil proceedings. The first area involves representing clients in Mental Health Diversion Programs. The PAIR (Psychiatric Assertive Identification and Referral) program was established to assist clients who suffer from a mental illness and have been charged with a minor offense. This year we have been working with other agencies to establish a new program called the Forensic Diversion Program. This program has different eligibility criteria and will help us to assist clients not eligible for the PAIR program. Both of these programs have been established to identify clients that are diagnosed with a mental illness and meet the eligibility criteria. The goal is to divert these clients out of the criminal justice system and into appropriate treatment. Many of these clients are receiving the necessary medical treatment not available to them prior to their introduction to this program. This aids both client and the community by improving client's standard of living, increasing client's responsibility and reducing recidivism.

The second area is representation of clients in Mental Health Involuntary Civil Commitment proceedings. Currently, the MCPDA has one (1) attorney assigned to represent these clients. When an individual is suspected to be mentally ill, dangerous, and in immediate need of hospitalization a civil commitment is filed in order to determine if the individual should be detained in a mental health facility. The MCPDA provides effective representation to these clients in their civil commitment hearing. In 2004, the MCPDA vigorously advocated for 434 clients in their involuntary civil commitment proceedings in order to protect their rights.

A Forensic Diversion program is currently being developed, and MCPDA has been active in the creation of this new program and its structure. It will be another program available to divert persons with mental illness away from prosecution and into treatment.

INVOLUNTARY CIVIL COMMITMENTS HANDLED IN 2004	434
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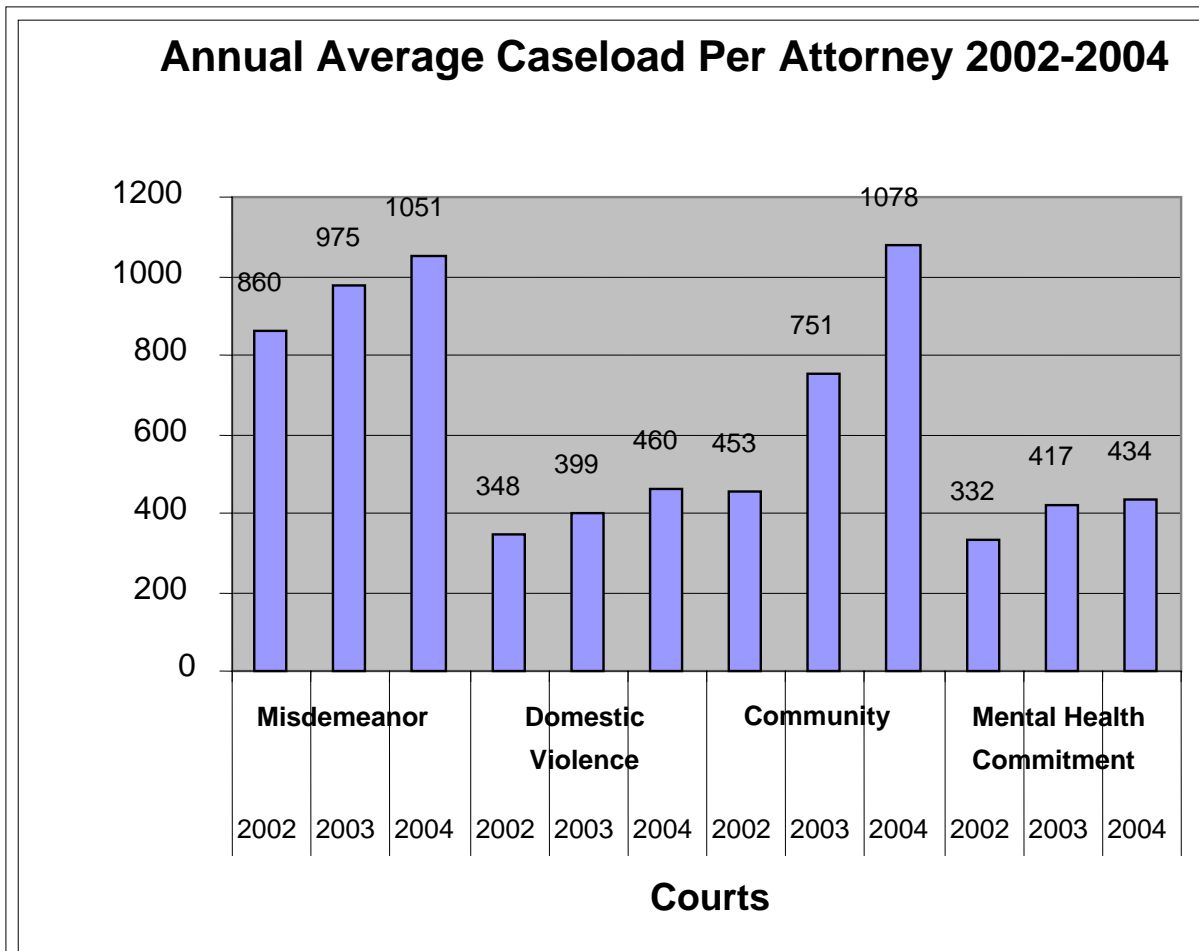
Community Court

Community Court is a program whose primary goals include restoring neighborhood confidence, increasing offender accountability, crisis intervention, impacting quality of life, encouraging community involvement, and making justice visible. The MCPDA staffs this court with one Public Defender who was appointed to represent 1,078 clients in 2004. This is a 44% increase from 2003. These are clients who are charged with minor misdemeanor offenses and wish to have their cases resolved without trial. This court allows the client to become involved with the community in order to understand the impact of their behavior. This program includes alternatives such as drug and alcohol treatment, job placement assistance, English speaking classes, housing, food and clothing assistance and creates a unique opportunity to provide services for defendants to assist them to not re-offend.

CASES APPOINTED IN COMMUNITY COURT/2004	1,078
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Traffic Court

Traffic Court is a high volume court designated to handle driving related crimes and infractions. The MCPDA has one (1) attorney who represents clients charged with Misdemeanor offenses. Of the 9,700 criminal cases filed in Traffic Court in 2004, the MCPDA was appointed to represent 4,201 cases or 43% of cases. The MCPDA staff work efficiently and gain comprehensive knowledge of driving records, license suspensions and driving related offenses and their consequences.



D FELONY DIVISION

The D Felony Division was lead by Dirk Cushing in 2004. The division increased staffing by (2) this past year and now runs at thirty (30) full time attorneys with a supporting paralegal staff of five (5). The constant increase in the number of cases assigned to the Public Defender Agency created the need for two (2) additional “floater” positions to cover the overflow cases in the five (5) D Felony courts.

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 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.

For 2004, the D Felony Division was again within the Indiana Public Defender Commission Standard which qualifies the Agency for reimbursement for a substantial portion of our expenses from the state. We have remained in compliance with Commission standards while increasing the number of cases we were assigned. In 2004 we experienced a 15% increase in cases assigned, going from 5,443 in 2003 to 6,267 in 2004. This number does not include the cases that have been assigned to the part-time attorneys on the Conflict Panel.

From our client’s first contact with our agency at the Arrestee Processing Center 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.

D FELONY CASE ASSIGNMENTS IN 2003	5,443
D FELONY CASE ASSIGNMENTS IN 2004	6,267

ARRESTEE PROCESSING CENTER “APC” DIVISION

Peggy Hart, Supervisor

The Arrestee Processing Center (APC), which opened in August 2003, was established to bring greater efficiency to the overall criminal justice system and to address specific problems that were present in the processing of offenders. The pre-existing system was found to be inefficient due to issues of space and of process. Over the years, the processing of offenders developed without a specific plan and resulted in overlapping responsibilities being handled by various agencies in the criminal justice system.

The APC is one of a select few facilities in the United States that provides all facets of the criminal justice system under one roof. It is divided into two (2) divisions, secure and unsecured side. The processing center (secure side of the APC) is staffed by the IPD. It operates 365 days a year, 24 hours a day. Marion County Superior Court 11 (unsecured side of the APC) is staffed by members of the Marion County Clerk, Court Services, Marion County Prosecutor, Marion County Public Defender Agency, Marion County Probation Department, Conditional Release and Community Corrections. Superior Court 11 conducts initial hearings 7 days a week, 20 hours a day.

The APC is responsible for processing all adults and some juveniles who are arrested in Indianapolis/Marion County. Officers making arrests are required to submit or call in probable cause statements immediately after an arrest so deputy prosecutors may screen the case to make a filing determination. Persons arrested and/or charged on major felony offenses (A, B and C felonies) are processed and then transferred to the Marion County Jail. They receive an initial hearing in the slated major felony courtroom. Persons charged with D felony offenses and all misdemeanor offenses are processed at the APC and then immediately taken to Superior Court 11 for their initial hearing.

The APC completed its first full year of operation in 2004. In 2004, the secure area of the APC processed 52,592 offenders. It typically processed offenders in 2.5-4 hours and the overall stay for offenders released from the APC was 6-8 hours. Before, the average length of stay was 16 hours and sometimes as high as 72 hours.

Of the 52,592 individuals processed, 12,183 were processed on major felony matters, civil, or out-of-county holds and 40,409 were processed on D felony and/or misdemeanor matters. Thus, Superior Court 11 heard 40,409 cases.

Of the 40,409 matters held in Superior Court 11, 26,054 were newly filed cases, 4,820 were granted a 72-hour continuance for prosecutor's review, and 9,535 were re-arrests.

Of the 26,052 newly filed cases, 19,031 (73%) were appointed to the Marion County Public Defender Agency.

At the APC, the Marion County Public Defender Agency is staffed with one (1) supervising attorney, ten (10) attorneys, and one (1) paralegal. At one's initial hearing an indigency determination is made. If appointed, the defendant will immediately consult with an agency attorney to discuss the current charge and potential penalties. The attorney gathers factual information, witness information, and any physical evidence to pass on to the trial attorney. The attorney also identifies any mental health and/or physical disorders. If a need for attention exists, the attorney advises the appropriate agencies so such can be quickly addressed. The attorney may also dispose of the case via a plea or diversion.

Over the course of its first full year in operation, the Public Defender Agency learned that a vast majority of our D felony and misdemeanor charged clients suffered from a drug and/or alcohol problem but did not possess the knowledge, skill or the monies to access treatment. In an effort to address this crisis, the Public Defender Agency launched the Drug Free Marion County Referral Project at the APC in cooperation with Drug Free Marion County and the Marion County Justice Agency. It is currently a pilot program funded by the Nina Mason Pulliam Charitable Trust.

The purpose of the project is to provide substance abuse evaluation, counseling and treatment. It is voluntary. It is neither court ordered nor a condition of an individual's release. The goal is to provide substance abuse counseling and treatment to willing participants since most successful recoveries occur if there is an individual willing to do so. In turn, we hope it will "break the cycle" of criminal behavior thereby reducing the recidivism rate.

Representatives of several substance abuse treatment providers (such as Community Addiction Services of Indiana (CASI), Community Outreach Network Services (CONS), Beacon House, Greater Indianapolis Council on Alcoholism and Drug Abuse (GICAD), and the Bethlehem House) are present in Marion Superior Court 11. Immediately following the hearing, those criminally charged may meet with the providers for an assessment. If it is determined that further treatment and counseling would be beneficial, an in-depth evaluation is conducted (usually within 24 hours of arrest and release) and a treatment plan is devised.

APPELLATE DIVISION

Ann Sutton, Appeals Administrator

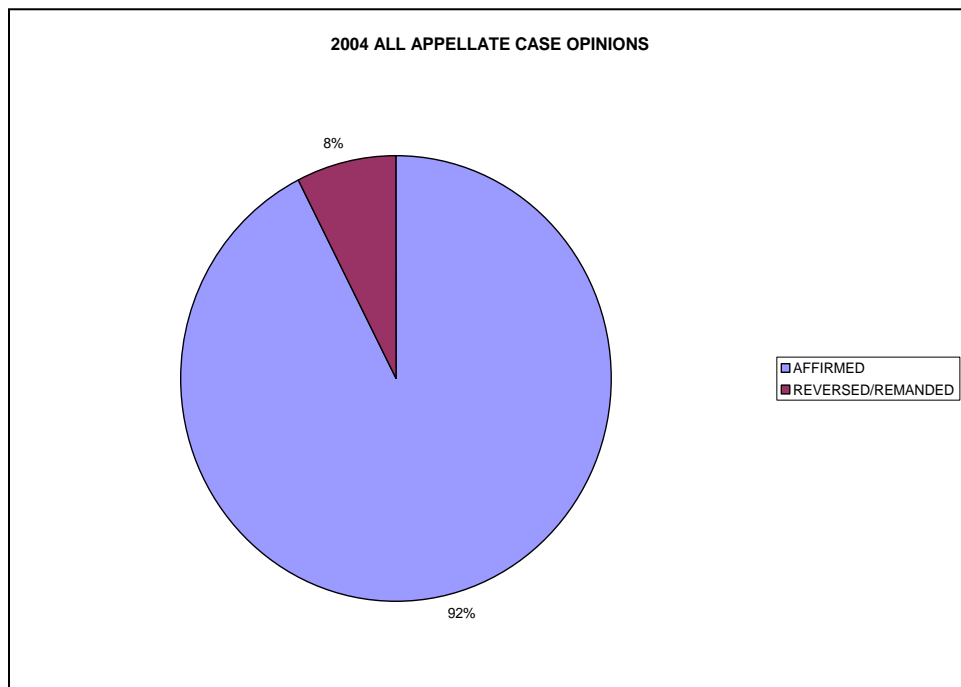
In 2004, the life of the criminal appellate practitioner changed dramatically, with significant decisions handed down from the United States Supreme Court challenging state and federal sentencing schemes and returning to the basics on the concept of the right to confront and cross-examine witnesses. The Appellate Division met these decisions head on, being proactive in developing strategies to not only aid our clients, but meet the needs of the trial attorneys in preserving great issues. The Appellate Division participated in preparing and presenting pleadings, training and brainstorming on issues arising from **Blakely v. Washington** and **Crawford v. Washington**. The Agency was granted Amicus status in a brief filed before our own Indiana Supreme Court on the issues and application of revised sentencing considerations in light of **Blakely v. Washington**. We were pleased to have the aid of Professor Joel Schumm and Michael Limrick in presenting the argument.

In 2004, we participated in six oral arguments, three with the Court of Appeals, and three with the Indiana Supreme Court. Two of the oral arguments before the Court of Appeals were held at schools: Creekside Middle School in Hamilton County and Arsenal Technical High School in Indianapolis. We would like to think that the quality of our briefs and arguments place us in a position to be involved in these public presentations. The Agency also expanded its participation in the organization of seminars for the Indiana Public Defender Council. In 2004, the appellate division organized the Annual Appellate Seminar, the Termination of Parental Rights Seminar, and the Appellate Tract at the Annual Death Penalty Seminar.

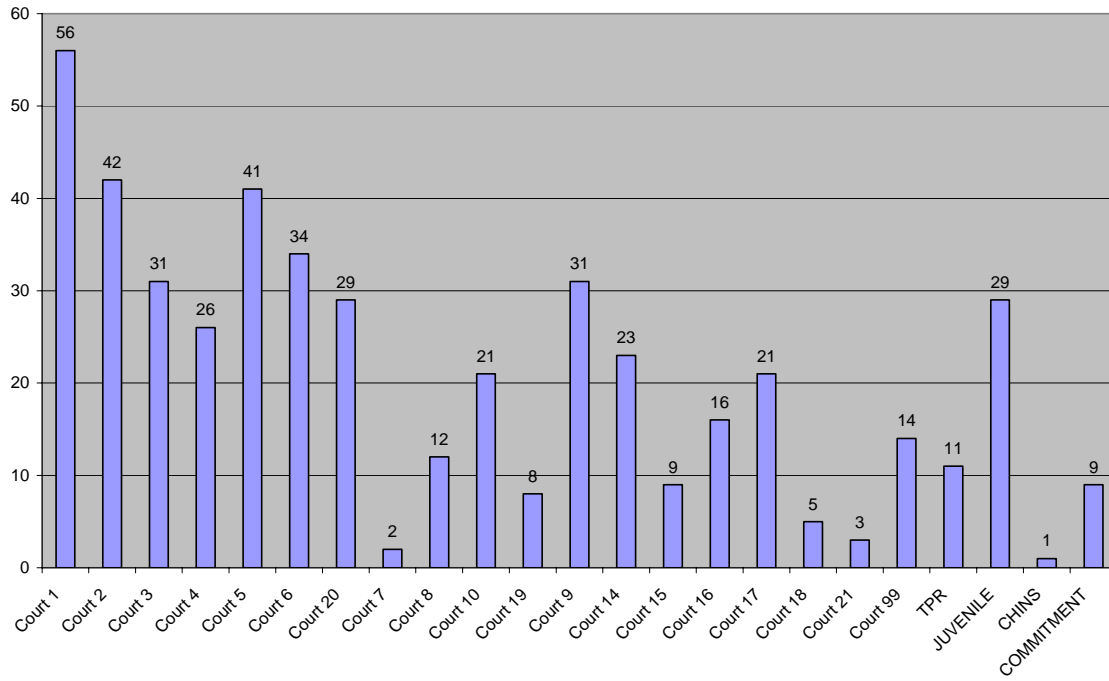
The Appellate Division was pleased when full time appellate attorney Jan Stevens Sommer accepted the Gault award for her pro-active work in juvenile rights, including challenges to the practice of denying kids the right to an attorney and other practices at the Marion County Juvenile Court. The Gault award is presented annually by the Indiana Public Defender Council. As happy as we were to see Jan achieve this, we were saddened at her departure from our Agency a few months later, choosing to seek new adventures outside of law in a sunnier state. Landing on our feet, we were lucky to add veteran public defender Ruth Johnson to our roster, softening the blow of losing Jan. We also, as reported last year, added two more full time attorneys at the beginning of 2004, Marshelle Broadwell and Ellen O'Connor. Ms. Broadwell and Ms. O'Connor bring wonderful skills to our full time division, which now consists of five full time attorneys, one secretary/receptionist, one records clerk, one paralegal, the Assistant Administrator and the Administrator. The contracts panel remained stable, losing three attorneys and gaining six attorneys. The appellate contract continues to be a highly sought after position, drawing a pool of candidates including judicial law clerks and major law firm associates.

Regarding commission standards, the appellate division remains in full compliance. The number of cases filed remained consistent with past years, but the costs paid for transcripts rose by \$25,512.00. With the Indiana Supreme Court opinion **Collins v. State**, 817 N.E.2d 230, handed down November 9, 2004, the appellate division braces itself for the return of clients who pleaded guilty and now want to challenge their sentences. The addition of the full time attorneys and contract panel members helps in assigning these cases, but does not aid with the costs attributed to this increase in litigants, including attorney fees and transcript costs.

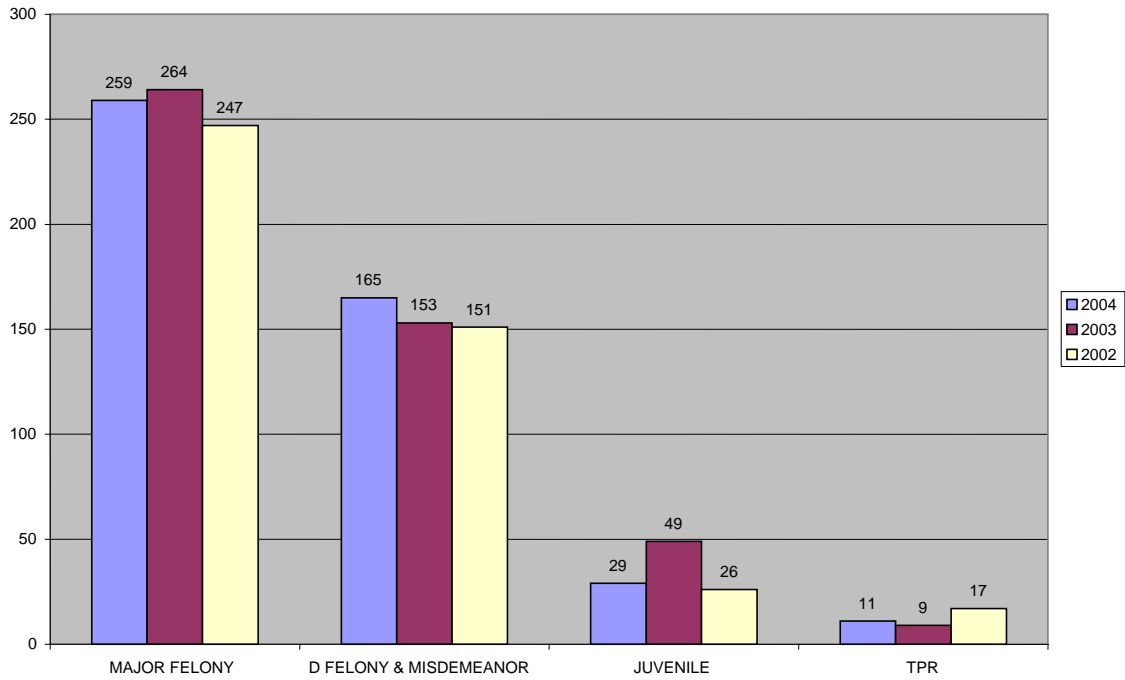
The Appellate division continues to provide litigation support for trial attorneys, appellate practitioners throughout the state, and of course, competent representation for appellate clients in Marion County.



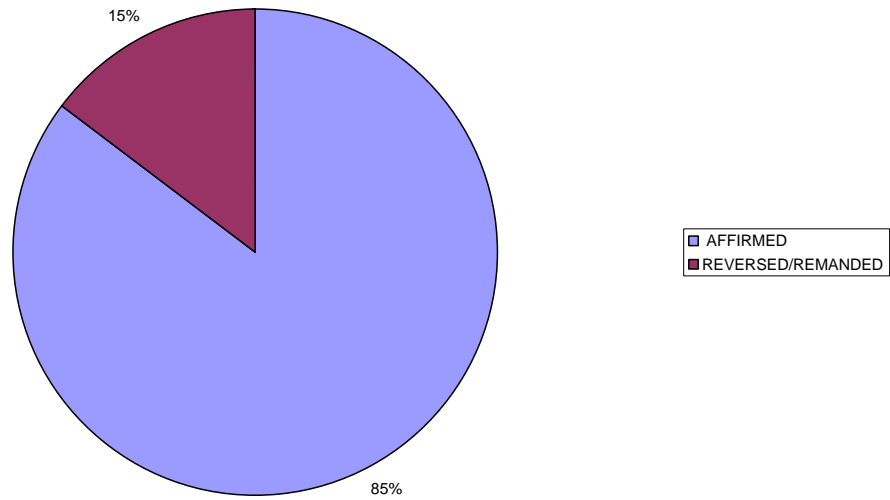
2004 CASES FILED



APPEALS FILED 2002 -2004



2004 JUVENILE DELINQUENT OPINIONS



JUVENILE DIVISION

Susan Boatright, Supervising Attorney

The Juvenile Division of the Marion County Public Defender Agency has seen a profound change during the 2004 calendar year. At the outset of 2004, the Juvenile Division employed five full time delinquency trial attorneys, seven contract CHINS-TPR attorneys and a supervising attorney who also handled a part-time, sex offense caseload. The office had two full-time support staff persons (a secretary and a delinquency paralegal) and a full time sentencing consultant, paid through a grant.

In December 2003, the American Bar Association's Criminal Justice Section issued a letter after completing a state-wide juvenile indigent defense assessment, revealing the critical state of affairs in juvenile defense in Marion County. Areas identified as needing immediate triage were: excessive attorney caseloads, lack of human resources and lack of adequate staff facilities.

The Chief Public Defender, David Cook, sought and secured funding to address these issues but not before "work stoppage" was forced to occur in delinquency and CHINS to bring to the public's attention just how serious the problems were in the juvenile division. New attorneys were hired in April 2004 to represent the Child In Need Of Services clients, the sentencing consultant was afforded an employee contract, and in September, new attorneys, paralegal staff, investigators and a receptionist were added to service our Juvenile Delinquency and agency clients. October brought a change of address and the entire juvenile division moved to professional offices north of the Juvenile Court. The Juvenile Division has been transitioning into its new role with the Juvenile Court and other agencies since September, including drafting an intra-agency agreement with the Marion County Office of Family and Children (the first ever), and working conjointly with the Marion County Prosecutor's Office at Juvenile Court to establish a clear discovery and trial practice policy. The Juvenile Division also began working on its first community outreach program by sending over 200 letters to the Indianapolis and Marion County school systems, with the hope of generating interest in juvenile rights. Along these same lines, several of the attorneys have reinvigorated an Explorer Post for junior and senior high students.

Juvenile Delinquency

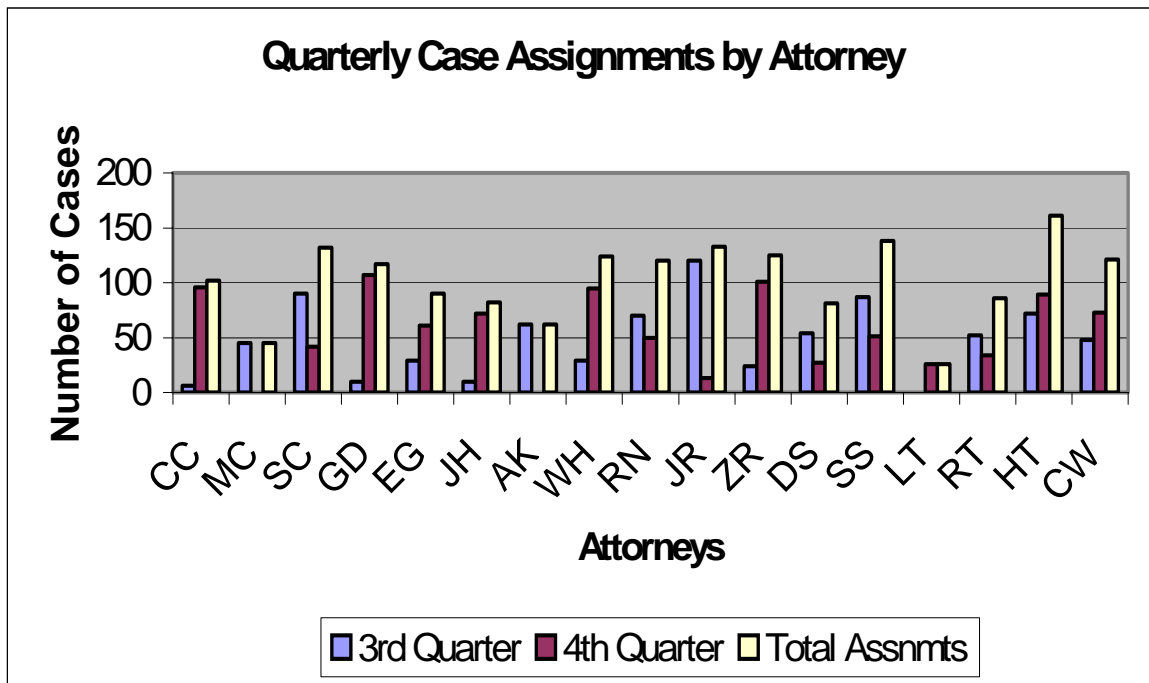
In July, the Indiana Public Defender Commission met with the Public Defender's Chief Public Defender, Dave Cook, the Chief Counsel, Mark Jones and the supervisor, Susan Boatright, and approved a system of counting cases for commission standard reporting and county reimbursement. The case counting standard provided that a full time attorney would receive a maximum of 200 juvenile delinquency assignments in the reporting 12 month period (a part time attorney will receive one half of that assignment). Case weighting is based upon the classification of charge: an A, B or C felony receives a full case weighting, or 1.00 point as a case count; a D felony receives .87 case weighting

point; A and B misdemeanors receive a .66 case weighting point and violations and status offenses receive a .50 case weighting point. In the first and second reporting periods, ending in September and December, the Juvenile Division found itself in substantial compliance with the Indiana Public Defender Counsel’s reporting standards.

Thirteen (13) full time delinquency attorneys serve four courts five days per week. The attorneys are divided into teams, providing three attorneys and one “floater” per court. Each team is headed by a senior team member (so designated because of juvenile court tenure and experience), and is supported by two junior attorneys. Each team member has assigned days in court. For those cases in which a conflict occurred, six (6) conflict attorneys were assigned. All attorneys combined were assigned to a total of 4784 cases in 2004. The six conflict attorneys handled 553 cases (in all classifications) of the total case number.

New facilities and additional staff have provided the opportunity for attorneys to prepare their cases, meet with clients and parents, do discovery, including depositions, make client visits to institutions, agency placements and homes, complete legal research and writing, and more adequately represent and advocate for their clients. (See the chart for specific breakdown of classification assignments.)

Actual Number of Cases Assigned Per Qtr.		
Attorney	3rd	4th
CC	6	96
MC	45	0
SC	90	42
GD	10	107
EG	29	61
JH	10	72
AK	62	0
WH	29	95
RN	70	50
JR	120	13
ZR	24	101
DS	54	27
SS	87	51
LT	0	26
RT	52	34
HT	72	89
CW	48	73

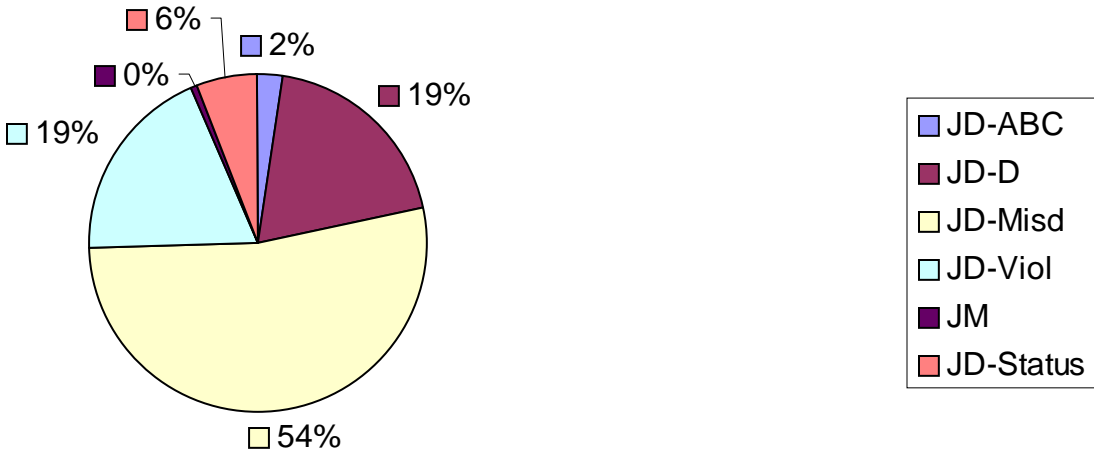


JUVENILE DIVISION NEW CASE ASSIGNMENT CHARTS FOR 2004

By Classification of Juvenile Offense and Case Weighting

Juvenile "Criminal" Offenses	
* Class A felonies	8
* Class B felonies	172
* Class C Felonies	136
* Class D Felonies	920
* Misdemeanors	2493
Total Juvenile "Criminal" Offenses	3729
Juvenile Status Offenses	210
Total Juvenile Delinquency Cases	3939
Adult Misdemeanor - Failure to Ensure Cases	22
"Other" Category Cases – (VOPs, Contempt's, & Misc.)	823
Total 2004 Case Assignments	4,784

Chart By Classification of Juvenile Case Assignments



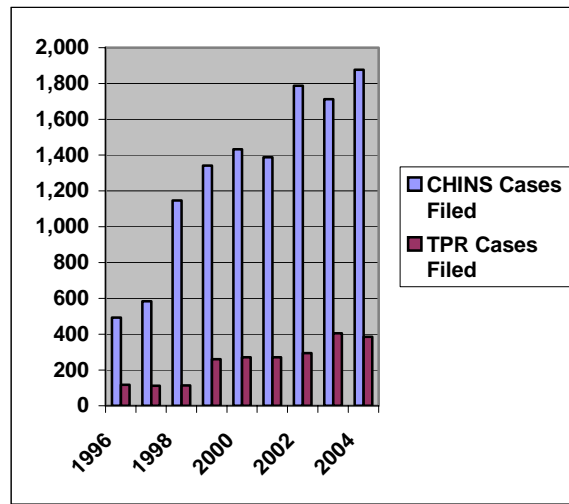
Child In Need of Services and Parental Termination

Attorneys representing parents in Child In Need Of Services (CHINS) cases and in Termination of Parental Rights (TPR) cases have the most difficult of civil cases, and the TPR case has been called the “death penalty” of civil cases. The clients face the gamut of life challenges: mental illness, drug addiction, homelessness, poverty, physical/mental/emotional/sexual dysfunction and abuse, and the like. These attorneys are contract attorneys and work part-time for the Agency. All currently under contract maintain a full time private practice. Early in 2004, the part-time case loads were so exorbitant that attorneys refused to take on additional cases, couching their refusals in “ineffective assistance of counsel” arguments; consequently, funding was secured from the City-County counsel and additional attorneys were hired to assume part of the existing case loads and take on new assignments. As of April 2004, seventeen (17) attorneys were assigned to handle CHINS and TPR cases, with four (4) of this total representing CHINS clients and the balance representing TPR clients. Only one support staff person works on the CHINS-TPR cases. Additional staff is needed to provide support to these extremely traumatized parents, obtain volumes of documents that accompany each CHINS and TPR case, and to adequately serve the attorneys working on these cases. Two paralegals and two full time social workers should be added to service the attorneys and parents, and help facilitate the orderly processing of cases, discovery and parental support needed.

From January to December 2004, the Agency’s thirteen attorneys were assigned 913 cases total: 516 Termination files and 395 Child In Need Of Services files. As of December 31, 2004, attorneys had 511 open CHINS cases and 582 open TPR cases. The number of TPR cases may represent an overlap in actual families being served since, in some instances, parents may not request an attorney on the CHINS case, but in every instance in the absence of private counsel, a Public Defender attorney is appointed to each parent or alleged parent in the TPR case. (No TPR case can commence unless there has first been a finding and disposition in the CHINS case.) It is clear from the open case numbers that both CHINS and TPR cases are on open status for more than 12 months in most cases.

(The Marion County Office of Family and Children actually filed 952 new CHINS in 2004. MCOFC’s acting chief legal counsel reported that there were 1041 actual cases, of which 952 were CHINS cases and the balance were Informal Adjustment Contracts. The Court’s records track the children, thus accounting for 1877 separate case filings. MCOFC tracks its CHINS filings but does not keep track of its TPR filings. The Marion Superior Court, Juvenile Division confirms that 386 TPR cases were filed in 2004 and they are tracked by groups of children rather than each individual child.)

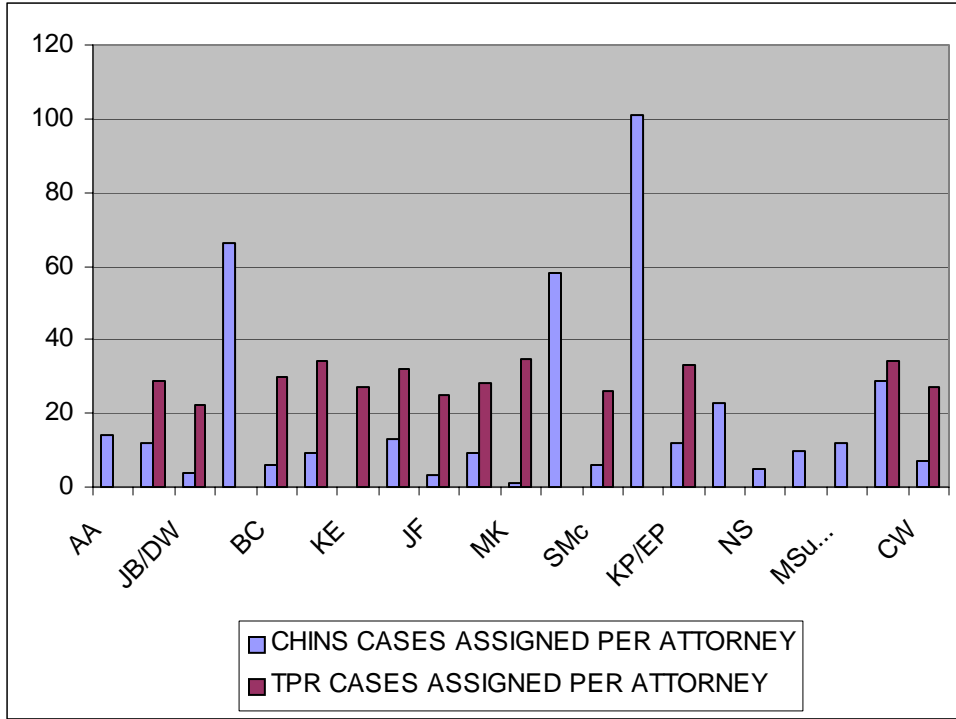
The graph below shows the overall increase in filings by the Marion County Office of Family and Children in CHINS and TPR cases from 1996 through 2004.



Statistics from the Marion County Clerk and Marion Superior Court, Juvenile Division

	1996	1997	1998	1999	2000	2001	2002	2003	2004
CHINS Cases Filed	492	584	1,147	1,341	1,432	1,388	1,787	1,713	1,877
TPR Cases Filed	117	113	115	260	272	272	294	405	386

CHINS and TPR Cases Assigned-2004



Attorney	CHINS	TPR
AA	14	0
AB/MS	12	29
JB/DW	4	22
NC*	66	0
BC	6	30
SD	9	34
KE	0	27
MF	13	32
JF	3	25
LH	9	28
MK	1	35
RK*	58	0
SMc	6	26
EO*	101	0
KP/EP	12	33
KR*	23	0
NS	5	0
MSe..*	10	0
MSu...	12	0
TS	29	34

Please note that there was no accurate case assignment tracking for CHINS in the Juvenile Division's Case Management System, as it changed an individual attorney's case count if a substitution of counsel was made, so the number of cases actually appointed is an estimate.

MAJOR FELONY DIVISION

David Shircliff, Major Felony Division Supervisor

The Major Felony Division of the Marion County Public Defender Agency experienced personnel changes as well as new U.S. Supreme Court case law. The Major Felony Division is comprised of a major felony supervisor, five (5) supervisor/attorneys, thirty-five (35) attorneys, 8 conflict attorneys and seven (7) support staff members. The focus of 2005 was on professional development, as well as incorporating the recent Supreme Court decisions that provide our clients more protections.

First, the U.S. Supreme Court's decision in Blakely v. Washington changed the way all courts handle sentencing. Following this ruling, through the team effort of a number of public defender attorneys, several motions were created, developed and filed as standard motions in every case to which the public defender was appointed. These motions challenged the constitutionality of the Indiana sentencing scheme and requested that the court require the State to file the required aggravators in a timely manner. Although some courts did not address Blakely initially, all have responded either by changing their sentencing procedures or not sentencing our clients to a greater term than the presumptive.

Secondly, two other Supreme Court rulings in 2004 gave our attorneys more ammunition to protect our clients' rights. The Court's ruling in Crawford v. Washington defined the right to cross examine as it relates to witnesses who are not present. As a result of this ruling, our attorneys were able to keep unsupported statements out of evidence and force the state to offer better pleas and in some situations, to dismiss the case. In Missouri v. Seibert the Court prohibited the police from using any statements of the defendant if the defendant was extensively questioned prior to being given Miranda warnings. This too resulted in several cases being won or pled down to a lesser charge due to suppressed statements.

Major felony attorneys also accepted additional case assignments as necessary in 2004 by taking appointments on D felony overflow cases. Due to the high number of D felonies filed in 2004, the D felony unit of the Agency was at capacity. In order to remain in compliance with the Indiana Public Defender Commission Standards for number of cases assigned, approximately 12-18 cases had to be assigned to each of the major felony attorneys.

For the year 2004, our attorneys were assigned approximately 3,000 cases and disposed of between 80- 90% of the 4,049 cases that were disposed of in major felony courts. 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.

SUPPORT SERVICES

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. Duties include administering an oath to deponents, taking and transcribing depositions accurately and in a professional and timely manner, 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.

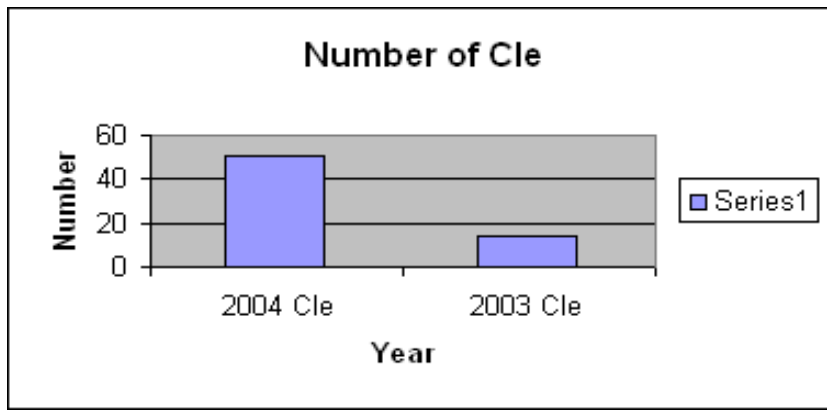
In 2004, the Deposition Unit took 784 depositions which resulted in 18,510 transcribed pages. This was an increase from 700 depositions taken in 2003. Three copies -- sometimes more -- are made of each deposition -- an original and a copy for the deputy public defender and a copy is provided to the deputy prosecutor assigned. That means that at least 55,530 pages of deposition copy were printed in 2004.

DEPOSITIONS IN 2004	784
PAGES TRANSCRIBED	18,510
PAGES PRINTED	55,530

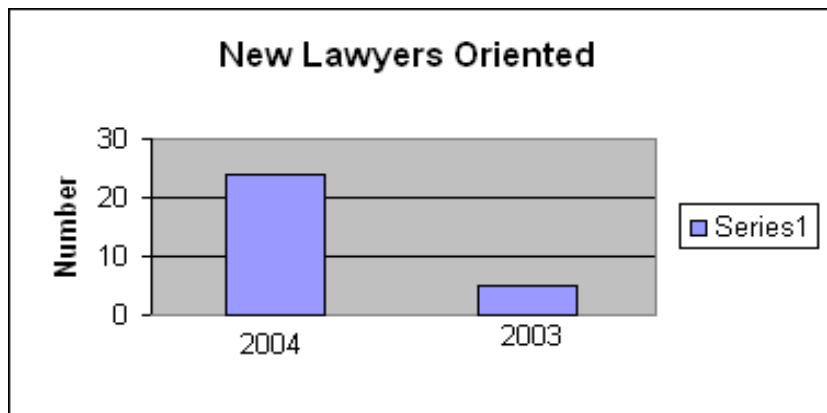
TRAINING DIVISION

Kathleen M. Sweeney, Director
Molly Larkins, Assistant Director

In 2004, if a lawyer had attended every in-house continuing legal education offered by the training division, the lawyer would have received 50.5 credit hours, including 9 hours of ethics credits.



In 2004, the training division orientated 24 new entry-level lawyers to the Agency. Notably, each of those 24 entry-level lawyers has already been promoted to other positions.



TRAINING DIVISION FIRSTS:

In addition to providing assistance to lawyers on trials, hearings, briefs, and providing case law updates, the training division achieved a number of firsts:

- An entire month of forensics basics
- An entire day of training for new lawyers assigned to defend termination of parental rights cases;
- An entire week of training for new juvenile delinquency lawyers
- Filming of all CLES
- Video Replays of CLES
- Approved to offer and did offer the day-long Applied Professionalism Course which is mandatory for all new lawyers
- Participated in the Agency-wide education on new constitutional law
- Participated in Amicus briefing on behalf of the Agency
- Inclusion of our managers and other staff in city human resources training
- A series of classes dedicated solely to issues in termination of parental rights cases led by Appellate Attorney Katy Cornelius
- Successfully litigated the unconstitutionality of the diversion program.

INVESTIGATION DIVISION

Kevin A. Sutton, Senior Investigator

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.

We are proposing a model that pairs an investigator with an attorney and paralegal at the beginning of a case. This allows the main participants to meet, brainstorm and assign tasks, this will bring team defense to a focal point and provide a basic standard for all cases where an investigator has been assigned. The selection of cases for the "team defense" model will be made at the request of the attorney.

The downtown Office of Investigation remained at two investigators in 2004. In October, the Agency hired two new investigators for its Juvenile division. The new investigators participated in a week of organizational training, followed by time in the field with the two veteran investigators. There are plans to add additional staff for the Major Felony and D Felony/misdemeanor cases in 2005.

All four of the investigators attended the annual Indiana Public Defender Council Investigator Training seminar.

MAJOR FELONY INVESTIGATIONS	139
D FELONY/MISDEMEANOR INVESTIGATIONS	96
SUBPOENAS SERVED IN 2004	492

PROGRAMS & PROJECTS

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 2004. 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 overcrowded 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 and Assistant Juvenile Coordinator. A Mental Health Coordinator is 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 2004, referrals were made on 2,146 adult cases. The Project Director, Judy Spray, received the "Open Your Heart Award 2004" from the National Alliance for the Mentally Ill, Indianapolis Chapter, for her work with mentally ill defendants in the criminal justice system.

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 2004, 338 cases were screened for PAIR. The

Community Corrections Mental Health Component received 115 referrals. The Marion County Public Defender Agency, in conjunction with the courts, the Prosecutor's Office, and the Mental Health Association in Marion County, began the development of expanded "forensic diversion", and the creation of a program allowing diversion of mentally ill and substance-abusing defendants who were previously ineligible under existing programs.

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 2004, referrals were made on 147 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 2004, the Sentencing Project provided assistance to public defenders and their clients in nearly 3,000 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.

- **338 PAIR referrals**
- **115 referrals to Mental Health Component of Community Corrections**
- **147 Juvenile court referrals**
- **Provided sentencing consultations on nearly 3,000 cases in 2004**
- **Referred to treatment and Community Corrections programming 2,146 adult cases**

DRUG TREATMENT COURT

In 1998, The Marion County Drug Treatment Diversion Program was created to assist those who are charged with felony crimes and who suffer from a chemical dependency that contributed to their crime. The Program design is patterned after a national non-adversarial model that provides for a minimum of one year of regular urinalysis testing, intensive treatment services, case management, and close court supervision. The Honorable Judge David Shaheed currently presides over the Program. There are currently close to 200 clients participating in the Program at this time.

There were many changes to the Marion County Drug Treatment Diversion Program in 2004. The Drug Court offices moved from the City-County Building to 251 East Ohio Street, Suite 850. The Program implemented a new urinalysis procedure changing from a regular schedule to a randomized one. A participant can be called to produce a urine specimen anywhere from one to five times every week. The screening process for potential new clients was shortened, and most referrals will be decided upon within four weeks. An alumni group was in the planning stages in 2004, and it has become operational in 2005. The Program also distributed \$10,000 to help assist in the cost of treatment for needy clients as well as the cost of rent at the various supportive living programs used such as Beacon House. \$10,000 was also allotted to provide free urine screen vouchers as incentives as well as for those who cannot afford them. Countless bus tickets were given out to assist clients with transportation problems. Many other incentives were given out to reward those clients who were doing well in the program including movie tickets, IRT & Phoenix Theatre tickets, Hollywood Video tickets, Hardees gift certificates and other miscellaneous items.

There were thirty-six graduates from the Program in 2004. These graduates had charges including Possession of Cocaine as a Class C felony as well as a Class D felony. There were also felony Prostitution, Theft, Forgery, Marijuana, Controlled Substance, Paraphernalia and Prescription Fraud charges dismissed. Seven of the graduates were nonsuspendable, a few were habitual eligible and many were facing prison sentences. The latest available statistics show an overall recidivist rate of 18% for graduates since the start of the Program in 1998.

2004 GRADUATES FROM DRUG TREATMENT COURT	36
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CRIMINAL DEFENSE CLINIC & PUBLIC DEFENDER
EXTERNSHIP PROGRAM

Fran Hardy, Director
Novella Nedeff, Associate

In 2004, Indiana University School of Law--Indianapolis enjoyed another year or a successful relationship with the Marion County Public Defender Agency, running programs through the agency that provide excellent learning opportunities to students while also benefiting the agency and agency clients.

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. The Criminal Defense Clinic opened approximately 70 cases over which some twenty students assumed responsibility under the supervision of Professors Fran Hardy and Novella Nedeff from the law school. These cases were primarily from the D felony division.

NUMBER OF CASES ASSIGNED IN 2004	70
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Public Defender Externship Program

The Public Defender Externship, a separate program, provided the agency with nine (9) externs in 2004, contributing approximately 1000 hours of work to the agency. Each extern was assigned to work with and assist a deputy public defender. Externs were assigned to all trial divisions of the agency. They assisted PD's in preparing cases, researching the law, and conducting fact investigations. The externs made jail visits and assisted the attorneys in keeping clients informed about progress on their cases. It is not unusual for these externs to so enjoy their experience at the agency that they continue providing services to the Public Defender Agency on a volunteer basis after completion of the externship. There is currently one extern who is still doing this from 2004.

NUMBER OF STUDENTS PARTICIPATING/2004	9
HOURS CONTRIBUTED	1000

