

Board of Public Defense Overview

House Judiciary Finance and Civil Law

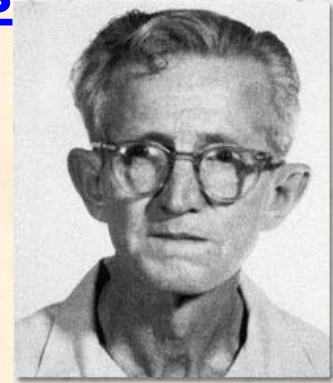
January 2021

We the People
insure domestic Tranquility, provide for the common
and our Posterity, do ordain and establish this
Constitution.
All legislative Powers herein granted shall be vested in a Congress of the United States, which
shall be composed of Members chosen every second Year by the People of the several States, and
Senators chosen for six Years, one third of the whole Number of Senators shall be chosen in each Year,
and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous
Branch of the State Legislature.
Representatives and Electors in each State shall have the Qualifications requisite for Electors of the most numerous
Branch of the State Legislature.
No Person shall be a Representative who shall not, when elected, have attained to the Age of twenty five Years,
seven Years, and of that State in which he shall be chosen.
No Person shall be a Senator who shall not, when elected, have attained to the Age of thirty Years, and
seven Years, and of that State in which he shall be chosen.
The Electors in each State shall have the Qualifications requisite for Electors of the most numerous
Branch of the State Legislature.
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Public Defenders Provide Mandated Services

- The Federal and State Constitutions provide that anyone charged with an offense punishable by loss of liberty is entitled to representation by a lawyer. (Gideon vs. Wainwright 372 U.S. 335) (1963).
- Minnesota Statutes also provide certain parties with a right to counsel.



That government hires lawyers to prosecute and defendants who have the money hire lawyers to defend are the strongest indications of the widespread belief that lawyers in criminal courts are necessities, not luxuries”.



Board

- A Judicial Branch agency whose purpose is to provide excellent criminal and juvenile legal defense services to indigent clients through an independent, responsible, and efficient public defender system.
- 7 members
- four (4) attorneys appointed by the Supreme Court and three
- (3) non-attorneys appointed by the governor.





Duties- M.S. 611.215



**Set standards and
policy for the
public defender
system**

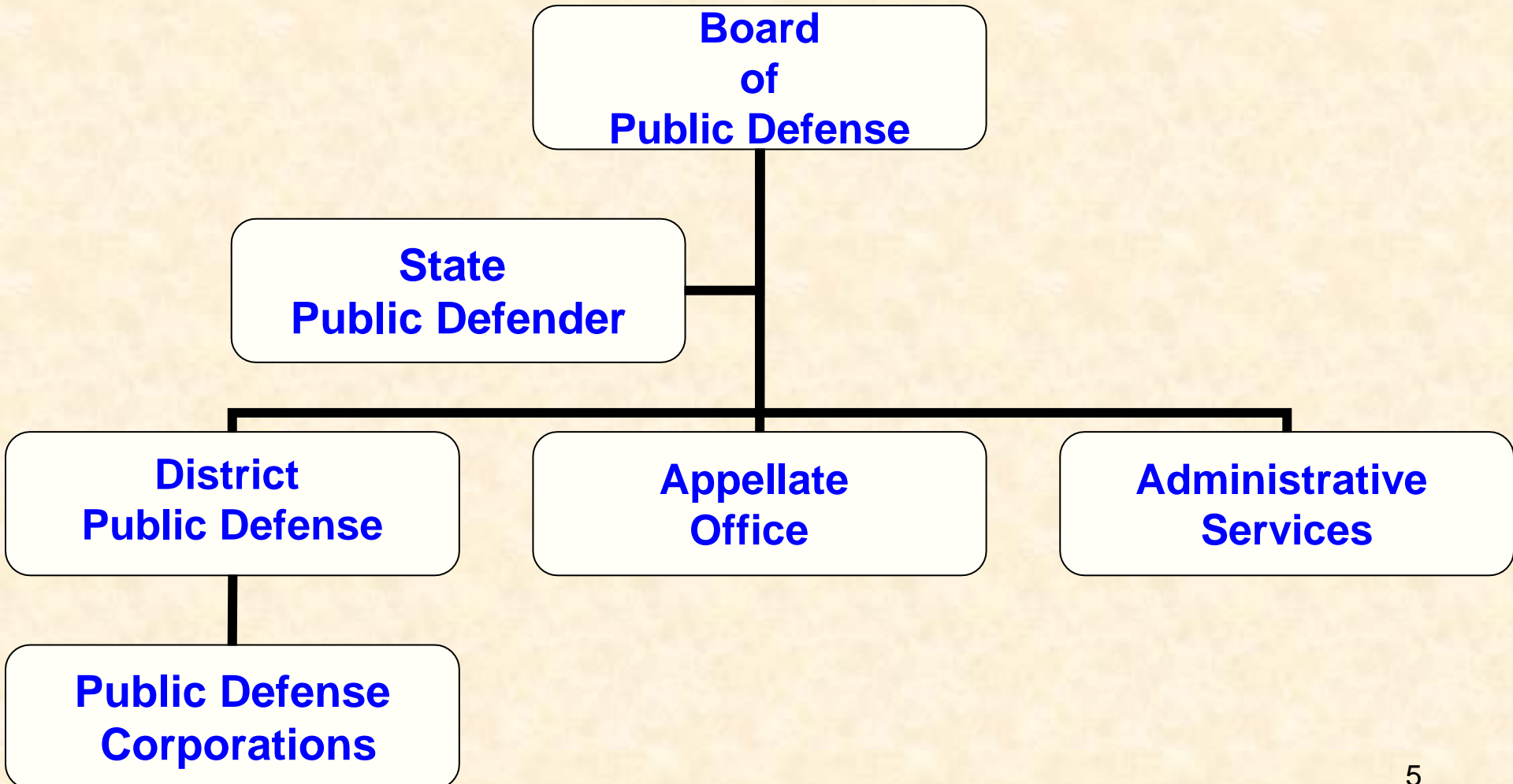
**Appoint District
Chief Public
Defenders and
Chief Appellate
Defender**

**Appoint the State
Public Defender**

**Allocate funding
from the
legislature**



Organization





5 Major Goals

**Continual
training for all
staff**

**Creative
advocacy**

**Client-centered
representation**

**Being a full
partner in the
justice system**

**Recruitment
and retention
of excellent
staff**



District Defense Services



Constitutionally Mandated Services:

- Felony
- Gross Mis./Other (I.e. Extradition, Probation Violations)
- Misdemeanor
- Juvenile Delinquency

Statutorily mandated:

- Children over 10 years of age in Child Protection Cases





Appellate Office



Constitutionally mandated service:

- Criminal appeals
- Post conviction proceedings
- Supervised Release proceedings (Parole)





Public Defense Corporations



- Statutorily mandated funding (M.S. 611.215)
- Grant funding administered to non-profit public defense corporations.
- Corporations handle approximately 3,300 cases that would otherwise be public defender cases.

Minneapolis
Legal Rights
Center

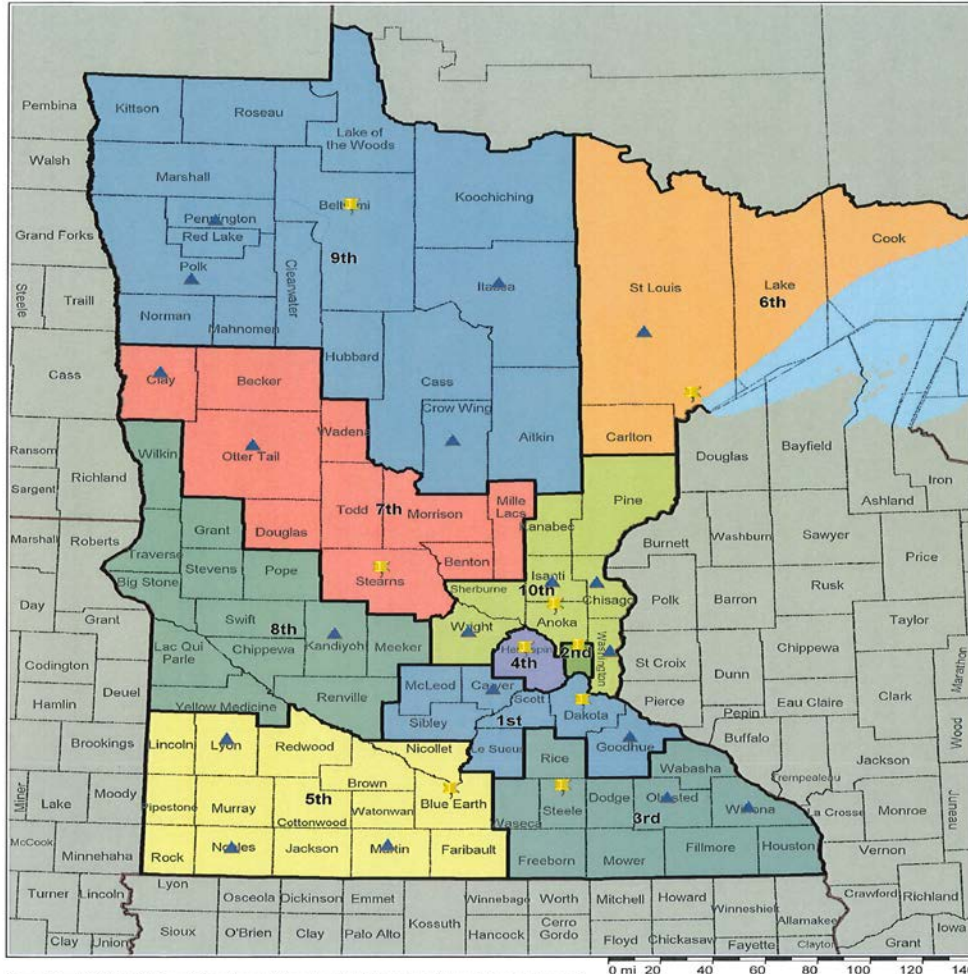
St. Paul
Neighborhood
Justice Center

Duluth Indian
Legal Services

Regional Native
Public Defense
Corporation

Service

Judicial Districts-Offices



District Office

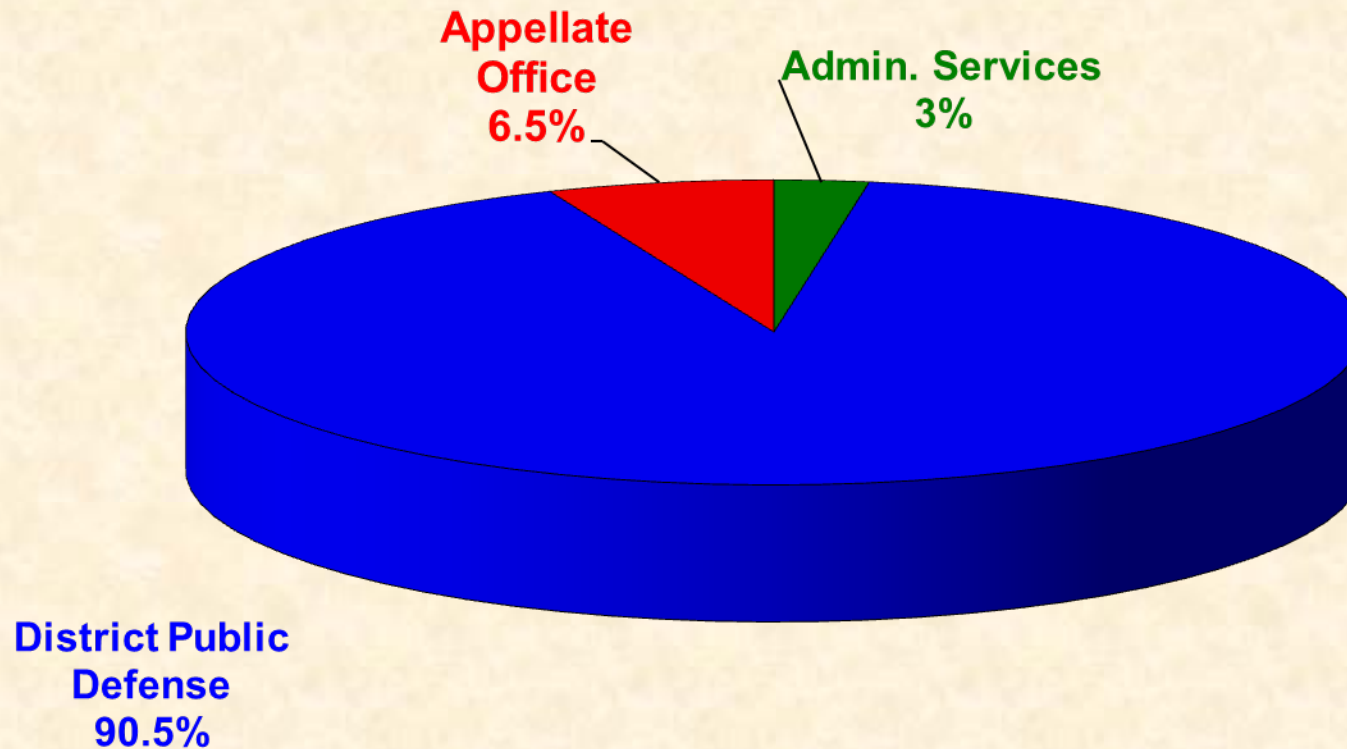


Satellite Office

- **180 Part Time Defenders**



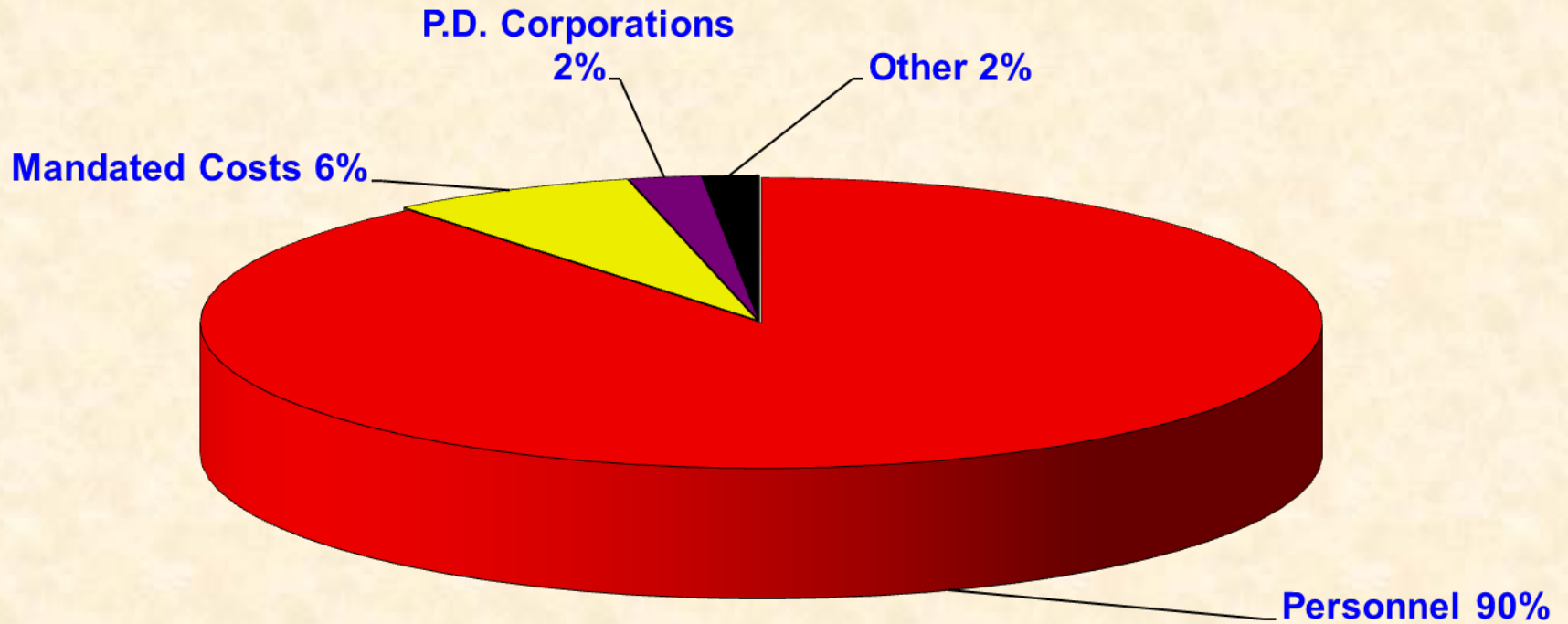
F.Y. 2021 Budget by Program



Approximately \$101 million



F.Y. 2021 Budget by Item





Staffing

(When fully staffed)

859*
Total Staff

553 Assistant
Public
Defenders**

**34% of Assistant Public
Defenders are Part-Time**

- Includes county employees in Hennepin and Ramsey Counties

** District and Appellate Level.



Staffing

Staff	Number	Attorneys Per Staff
Attorneys-District Level *	563	N/A
Paralegals	35	16
Investigators	47	12
Legal Secretary/Assistant	84	7
Dispositional Advisors	37	15



Part-Time Defenders

**State
Employees**

**75%, 50%, 25%-
of a Full Time
Equivalent**

**Take Whatever
Cases Are
Assigned**

**Cover Own
Office
Overhead ***

**Paid Bi-Weekly
Lump Sum
Basis**

* Part time defenders do receive a modest overhead stipend- \$5,100-75% time and \$3,800- 50% time



Best User of Court System

- 147,000 cases on trial level
- 4,700 appellate files opened
- 4,700 supervised release (parole revocation) files opened
- Provide **Mandated** Services in Every County/Courtroom
- Caseloads and Workload Commitments controlled by outside factors





Public Defenders Cannot Refuse Cases



- ***Dzubiak v Mott***

a public defender “may not reject a client, but is obligated to represent whoever is assigned to her or him...”

- ***State v Deegan***

after the state public defender’s office declined to represent Deegan because he plead guilty and received less than the presumptive sentence, the district court denied Deegan's motion for appointment of counsel. The Minnesota State Supreme Court reversed that decision.





Held to the Same Standards as Private Attorneys



Missouri v. Frye & Lafler v. Cooper

- Criminal defendants have a Sixth Amendment right to effective assistance of counsel during plea negotiations.

Padilla v Kentucky

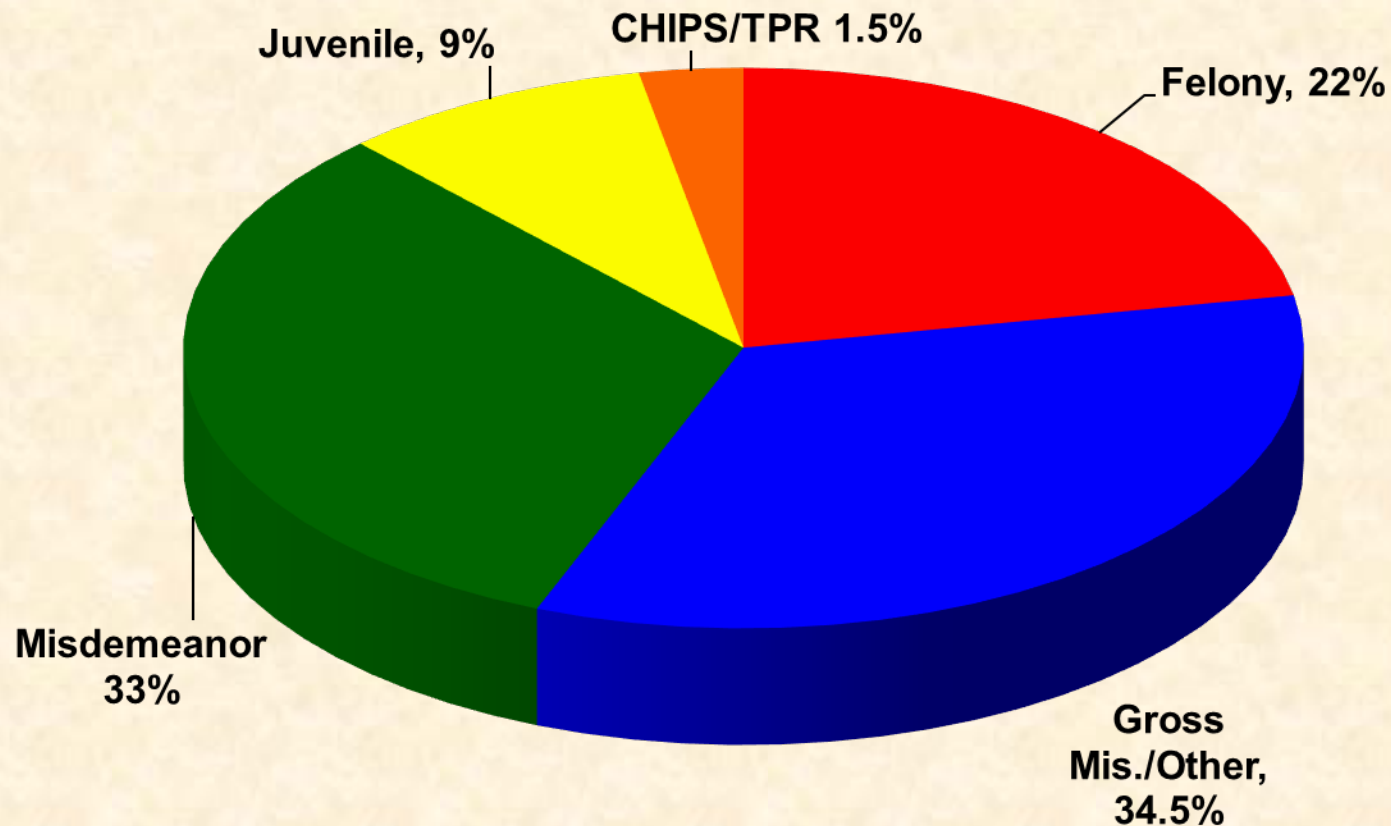
- Immigration consequences of a guilty plea are an integral part of a criminal conviction and thus are within the scope of the Sixth Amendment's right to counsel.





District Defense Cases Opened (March 2019-February 2020)

Cases by Type



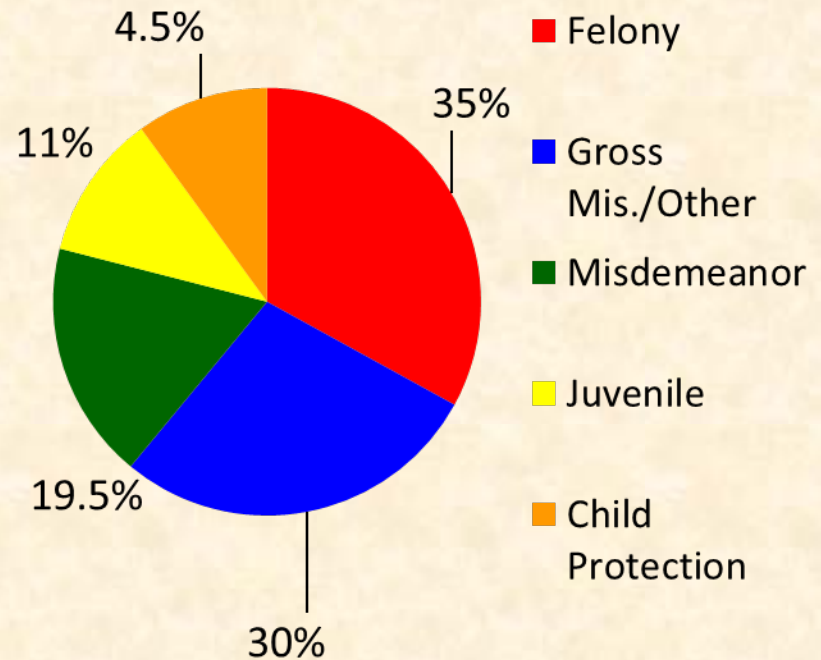


Workload

(March 2019-Feb. 2020)

- To compare workloads across case types a “case unit” measure was developed. A case unit is approximately equal to a misdemeanor.

District Public Defender
Cases Units

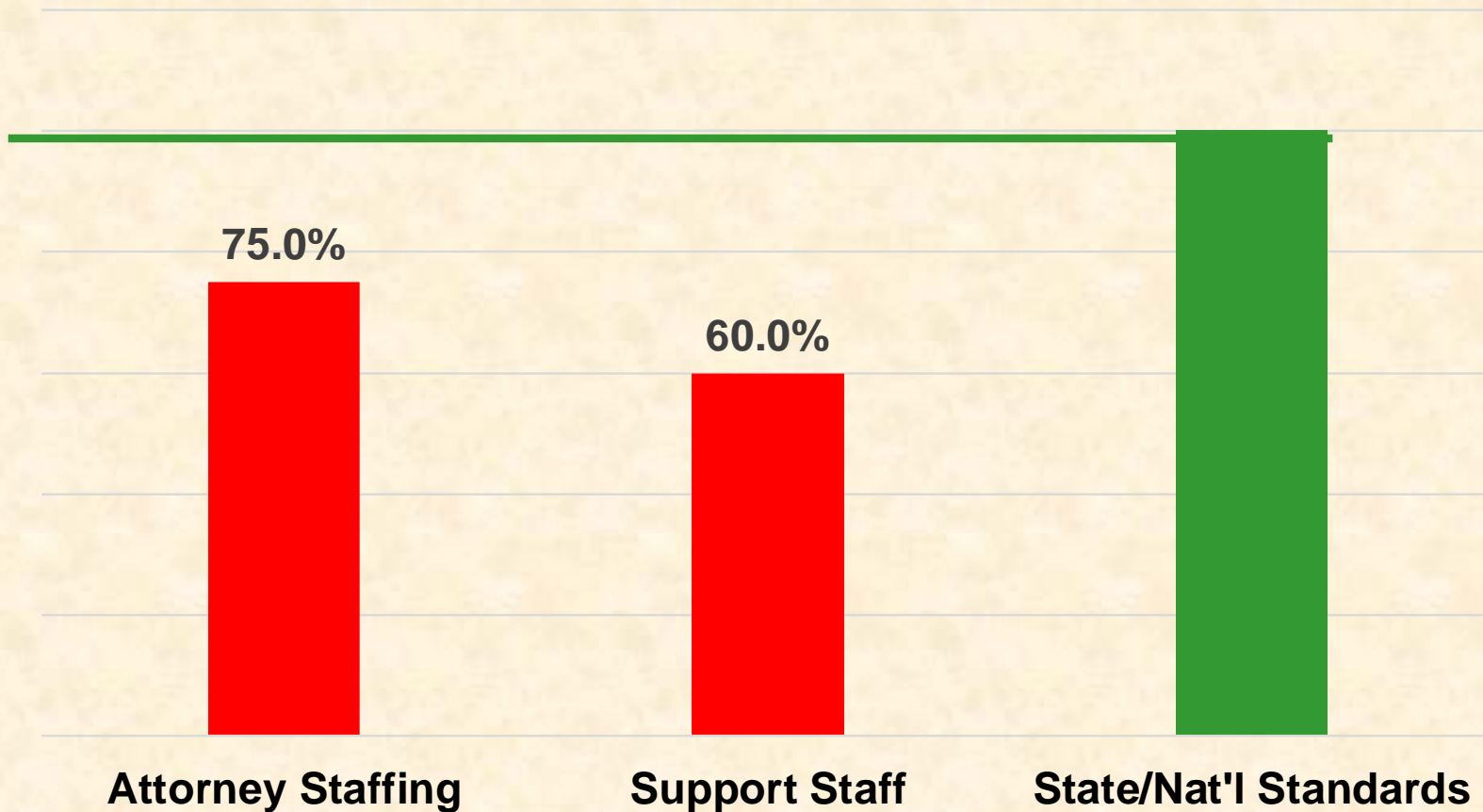




Public Defender Staffing



Staffing v State and National Standards





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Public Defender Workloads/ Caseloads Challenges-

Controlled by Outside Factors

O.L.A. on Public Defender Caseloads



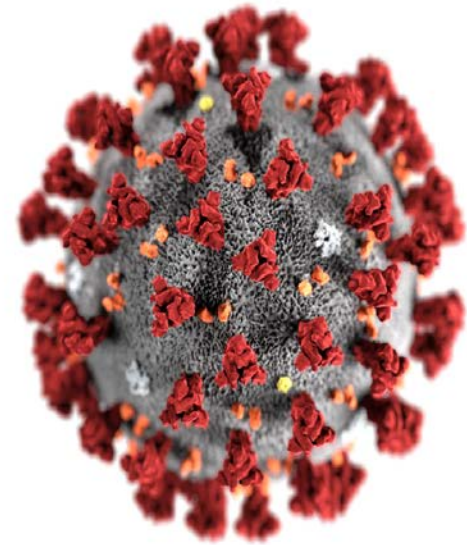
- “High public defender workloads have created significant challenges for Minnesota’s criminal justice system.”
- “Public defender cases are too high, resulting in public defenders spending limited time with clients, difficulties preparing cases, and scheduling problems that hinder the efficient operation of the criminal courts.”
- the most immediate cause of high public defender workloads, was the staffing cuts sustained in 2008/2009”





COVID-19

- Keeping Everyone Safe
- Remote Work
- In court hearings taking 3x longer than normal
- Getting discovery/documents to clients in jails





Increased Use of Audio/Video Ward, Body, Public and Private Cameras



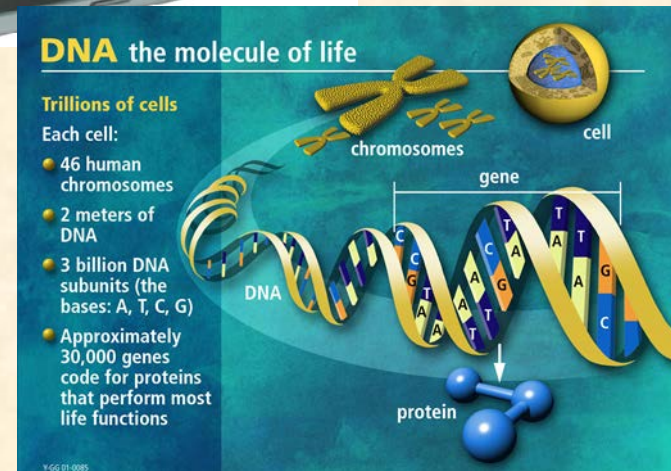
- 1.5 to 2 terabytes/monthly-
Ramsey County.
- = 250 full length movies
- \$851,000
cost of storage (3 years)
- Attorney time to review-
????



Scientific Evidence



- Evidence must be analyzed for the ways in which it is collected, processed, analyzed, and reported.
- This includes computer forensics, drug analysis, fingerprint analysis, DNA, ballistics, arson reports, and other forensic evidence (i.e. St. Paul Crime Lab)





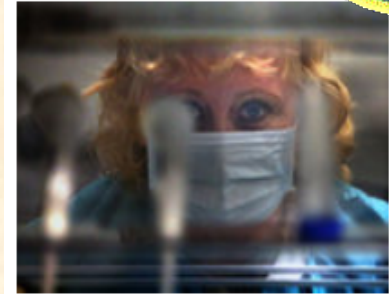
D.N.A. Evidence



Old crimes can't elude new DNA science

Article by: [SHANNON PRATHER](#), Star Tribune | Updated: March 9, 2014 - 7:04 AM

Minute traces of DNA evidence can now be tested, helping Hennepin County investigators solve two murders, uncover three serial rapists and obtain dozens of convictions.



Shannon Prather
Cecilia Westermarkegaard, a Hennepin County forensic biologist, prepared DNA reference samples used to compare to crime scene evidence at the Hennepin County Crime Lab. County investigators and prosecutors sifted through 9,300 old case files.

DNA forensics helping crack more property crimes

Article by: [SHANNON PRATHER](#), Star Tribune | Updated: December 20, 2014 - 10:27 PM

To catch a thief, just about any object (even a dog treat) can carry evidence.

One-third of the **3,500** cases processed for DNA at the **Bureau of Criminal Apprehension Forensic Science Laboratory**, which has offices in St. Paul and Bemidji, was for a property crime investigation, said its lab director.

About 62 percent of the **1,500 DNA** cases handled at the **Hennepin County Sheriff's Office crime lab** were for property offenses.

The Tri-County Regional Forensic Lab at the **Anoka County Sheriff's Office** reports that about 60 percent of the **560 DNA** cases it processed this year were for property crimes. In one case, the lab even swabbed and tested bicycle handlebars.

As of right now, we are pretty much testing everything,"

Samples swabbed from rocks thrown...
bottles of pop left in stolen cars
drug packaging.

"If you can think it, we've probably tested it,".

Hannah Covington Star Tribune 11/26/16



Electronic Forensics



Minnesota detectives crack the case with digital forensics

Article by: [SHANNON PRATHER](#), Star Tribune | Updated: October 6, 2014 - 12:59 PM



The number of smartphones, tablets and personal devices examined by the Anoka County Sheriff's Office has tripled in the past three years. In 2013, detectives searched 300 phones and devices in a wide array of cases. It's now often the first piece of evidence detectives seek out.



County considers working with company to access data

Morrison County could soon have a new way to get into password protected phones in criminal cases, **for free.**

The Hennepin County Sheriff's Office crime lab analyzes thousands of phones and personal electronic devices each year for its own investigations as well as for other police agencies. It also contracts with an outside digital forensic expert to keep up with the constantly changing technology.

Police departments join forces to bring tech analysis in-house
Article by: [JESSIE VAN BERKEL](#), Star Tribune | Updated: December 15, 2014 - 8:43 PM
Ten Dakota County agencies will pool resources to solve crimes with computer-based forensics.



Clients with Chemical Dependency Issues

- Alcohol/drug abuse and addiction is a factor in 80%-90% of Minnesota's criminal cases.¹
- ...co-occurring substance use and other mental disorders are common, with about 45% of inmates in local jails and State prisons having both. In addition, about 75% of inmates with a mental illness also meet criteria for substance abuse, and vice-versa.²



1. "Drug and Alcohol Abuse in Minnesota a Biennial Report to the Minnesota Legislature Minnesota Department of Human Services 2009
2. National Institute of Health



More Clients with Mental Health Issues

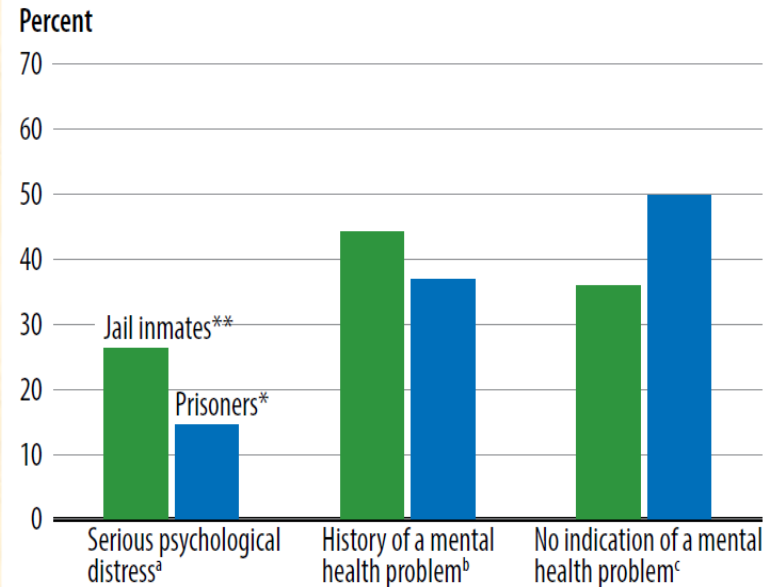


- 1 in 4 jail inmates suffer from serious psychosocial stress
- 44% of jail inmates had been told by a professional that they had a mental disorder
 - **Minnesota**
- 36% of jail inmates statewide were on psychiatric meds ¹
- 30%-50% of jail inmates suffer from mental illness.²

U.S. Department of Justice- Bureau of Justice Statistics- 2017 Special Report

FIGURE 1

Mental health status of prisoners and jail inmates, by type of mental health indicator, 2011-2012



1. 2016 Legislative Auditor Report- Mental Health Services in County Jails

2. "Minnesota Officials Highlight Mental Illness in Jails"- Associated Press December 10, 2013



Language and Cultural Barriers



(Adds to time needed to represent clients)





Federal, State, Local Decisions/Funding



3 Anoka County law enforcement agencies take aim at drunk driving

Three law enforcement agencies in the suburban county were recently awarded federal grant money that will allow them to devote a full-time officer to DWI enforcement

Dakota County domestic violence effort gets federal money

By [Nick Ferraro](#) | nferraro@pioneerpress.com | Pioneer Press
October 3, 2017 at 5:50 pm

White Bear Lake receives grant to increase DWI enforcement

By [Michael Achterling](#) | machterling@pioneerpress.com |
PUBLISHED: September 17, 2018 at 7:46 pm | UPDATED: September 18, 2018 at 11:00 am

Hennepin County kicks off warrant sweep for sex-crimes fugitives

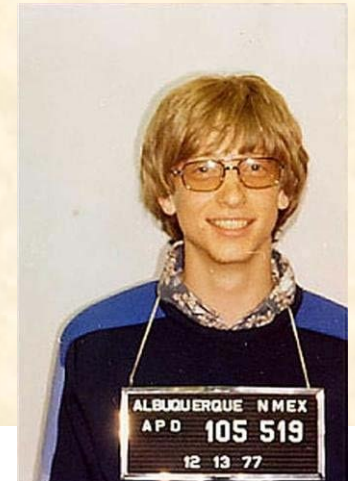
Article by: [ANNE MILLERBERND](#) , Star Tribune
January 29, 2015



Sanctions and Collateral consequences



- More than 2.7 million children in the United States—most under 10 years old—have a parent in jail or prison*
- 1 in 4 people in the United States has a criminal record.*
- *In Minnesota statutes there are currently 200 collateral sanctions (does not include federal sanctions).*
- *These statutory sanctions do not reflect the additional impact of criminal history checks.*





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ELECTRONIC CONTENT MANAGEMENT (ECM) SYSTEM

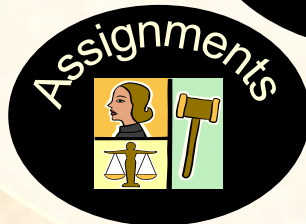
Minnesota
Board of Public Defense



ECM

Case Management and Enterprise Content Management

Case Management



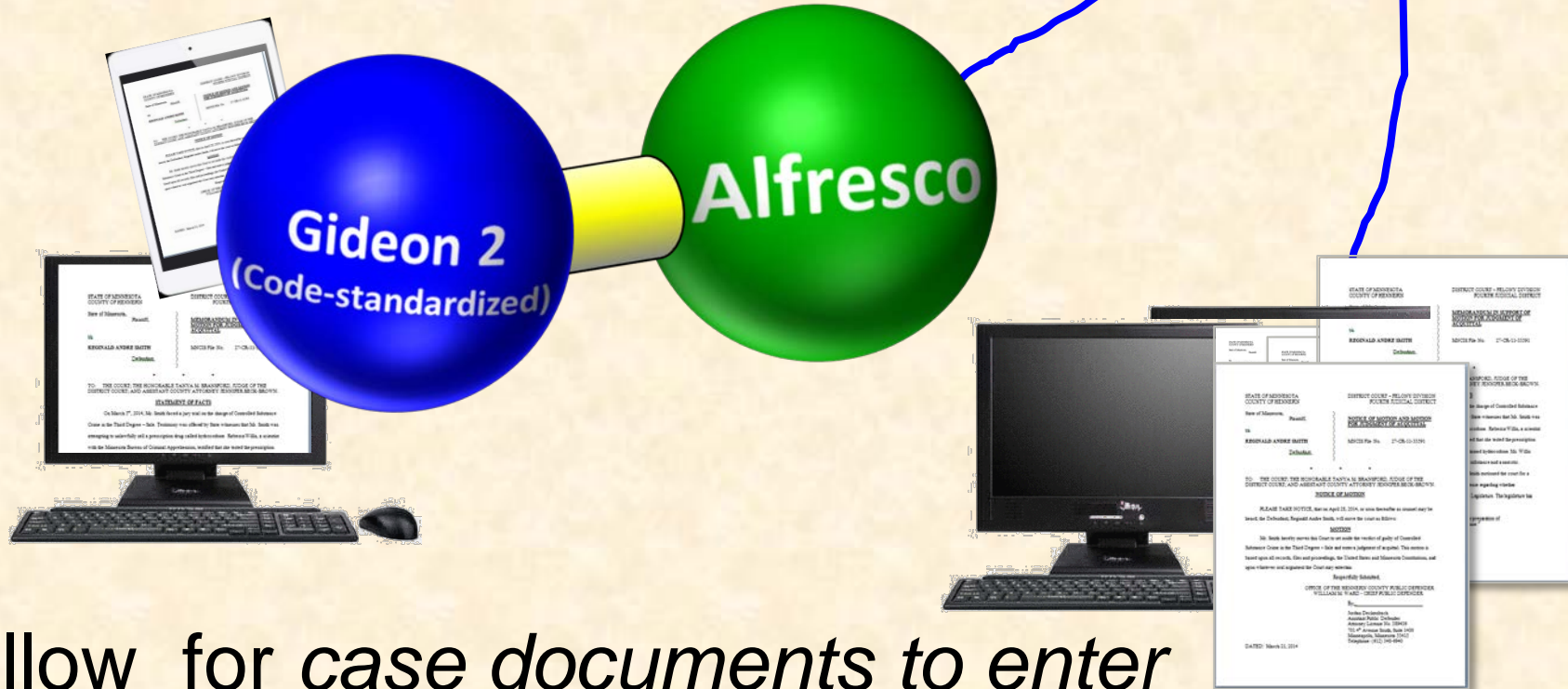
Content Management





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Documents

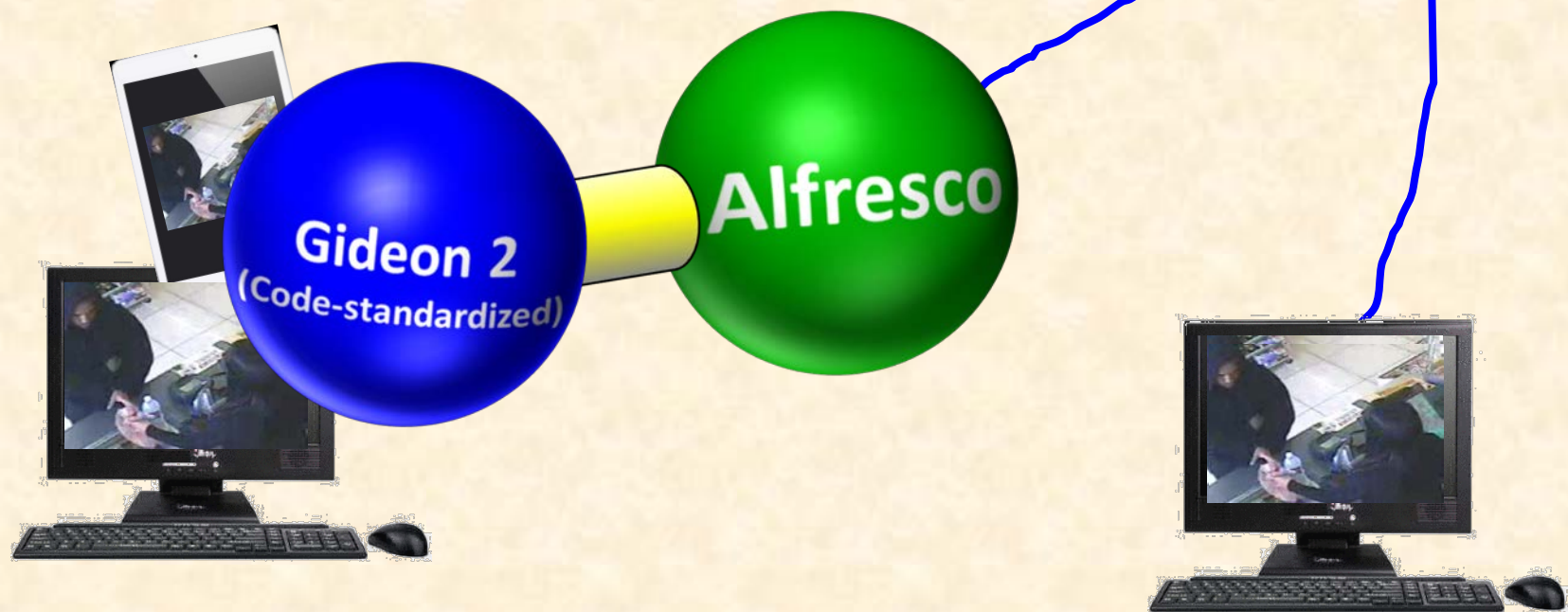


Allow for *case documents* to enter the system and be viewed by lawyers and staff using desktops and mobile devices.



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Audio and Video



Ability for video and audio files to enter the system, be converted automatically when possible, and be viewed by lawyers and staff using desktops and mobile devices.



Good Steward of Public Funds



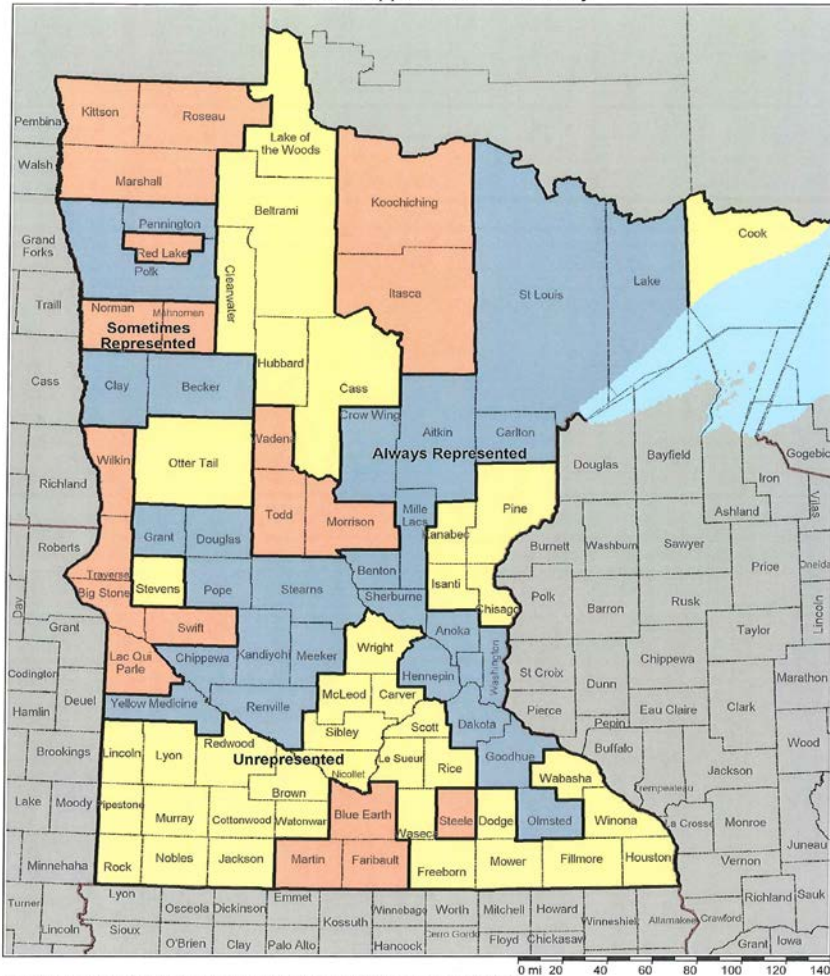
- 95% of the budget is direct service to clients.
- 90+% of the Board's staff provide direct service to clients.
- 2018 launching an Electronic Content Management System (ECM) to receive, view, use and store disclosure from prosecutors.
- Quality representation guidelines at both the district and appellate levels.
- Moved data entry functions to support staff and away from part-time attorneys.
- Consolidated administration of the 7th and 8th Judicial Districts
- New class of roving full time rural defender to provide more flexibility and better service
- Internal resource allocation policy to better target attorney resources and account for geography and seriousness of the case.



Counties w Public Defender At First Appearance In-Custody Cases



2014 First Appearance In Custody



First Appearance In Custody Actual-Oct 2016

