



NEBRASKA COMMISSION ON PUBLIC ADVOCACY

2023-2024 ANNUAL REPORT

TODD W. LANCASTER, CHIEF COUNSEL

Commission History

In 1995, the Nebraska Legislature enacted the “County Revenue Assistance Act.” Neb. Rev. Stat. §§ 29-3919, *et seq.* (Reissue 2016). Among other things, the Legislature found: “Property tax relief in the form of state assistance to the counties of Nebraska in providing for indigent defense services will ... lessen the impact on county property taxpayers of the cost of a high profile first-degree murder case which can significantly affect the finances of the counties[.]” Neb. Rev. Stat. § 29-3920 (5) (Reissue 2016). To achieve the goal of county property tax relief, the Legislature created the Commission on Public Advocacy (Commission) “to provide legal services and resources to assist counties in fulfilling their obligation to provide for effective assistance of counsel for indigent persons.” Neb. Rev. Stat. § 29-3923 (Reissue 2016).

The Legislature established the following five divisions within the Commission: the first-degree murder litigation division; the appellate division; the violent crime and drug defense division; the DNA testing division (established in 2001); and the major case resource center. Neb. Rev. Stat. § 29-3930 (Reissue 2016). Over the years, the Legislature has required the Commission to provide other services which will be addressed in this report.

The Commission is governed by nine Commission members who are appointed by the Governor. A member is appointed from each of the six state Supreme Court judicial districts, and three members are appointed at large. The Governor designates one member to be the chair. Information concerning the Commission members who served during fiscal year 2023-2024 is appended to this report. Commission members

must have substantial experience in criminal defense work and in civil matters that commonly affect low-income people. Prosecutors, law enforcement officials, and judges are not eligible to serve as members. Commission members serve six year terms. Neb. Rev. Stat. § 29-3924 (Reissue 2016). Commission members are responsible for appointing a chief counsel. Neb. Rev. Stat. § 29-3928 (Reissue 2016). The chief counsel's responsibilities include providing direct legal services to indigent defendants and overall supervision of the Commission. Neb. Rev. Stat. § 29-3929 (Reissue 2016).

In February of 1996, the Commission members appointed James Mowbray to be the Commission's chief counsel. By August of 1996, the Commission was fully staffed and providing indigent defense services throughout the state. Information regarding Commission employees during fiscal year 2023-2024 is appended to this report. Initially, the Commission received general funds and some grant money. The Commission was also required to bill the counties which received its services for one third of the Commission's actual costs of the defense.

The DNA testing division was created in 2001, pursuant to the DNA Testing Act. Neb. Rev. Stat. §§ 29-4116 (Reissue 2016). The Commission is required to accept appointment of cases pursuant to the DNA Testing Act unless it has a conflict of interest or the appointment would exceed caseload standards. If the Commission does not accept the appointment, the court is required to appoint other qualified counsel. The court will order the Commission to pay the fees and expenses of the appointed counsel. Irrespective of whether the Commission accepts appointment in a DNA case, the Commission is required to pay the cost of any DNA testing ordered by the court.

In 2003, the Commission became cash-funded. The Commission on Public

Advocacy Operations Cash Fund was created and the Legislature expressed its intent that the Commission would be funded solely from its operations cash fund. Neb. Rev. Stat. § 29-3921 (Reissue 2016). Thus, the Commission was no longer required or allowed to bill the counties for its services. Instead, an “indigent defense fee” was created. The fee is taxed as court costs in all cases, except small claims cases and domestic violence protection order cases, filed in Nebraska’s courts. The State Treasurer transfers the fee to the Commission’s Operations Cash Fund. In 2003, the fee was \$2.75. In 2005, it was increased to \$3. Neb. Rev. Stat. § 33-156 (Reissue 2016).

Since fiscal year 2008-2009, case filings in Nebraska courts have declined. This has resulted in a corresponding decline in the Commission’s revenue to the point of risking the Commission’s operations. In 2020 and 2021, Sen. Adam Morfeld introduced legislation to increase the Indigent Defense Fee to address the Commission’s budget shortfall. Neither of Sen. Morfeld’s bills were enacted. In 2022, the Legislature recognized the Commission required additional funding and transferred \$520,000 to the Commission’s cash fund in fiscal year 2021-2022 and 2022-2023.

In January 2023, two bills were introduced in the Nebraska legislature to address the Commission’s funding dilemma. One by Sen. John Cavanaugh to provide \$2,100,000 for the next two fiscal years from the General fund to the Commission’s cash fund. The other was introduced by Sen. Barry DeKay to increase the Indigent Defense Fee to eight dollars. Despite widespread support in the legislature for the Commission, senators disagreed on how the commission should be funded and neither bill advanced out of committee. The senators and the Commission worked with the

Governor's Office and the Budget Division of the Legislative Fiscal Office to address the Commission's ongoing budget problems. As a result, the Budget Director advised the Chair of Appropriations that the Governor wanted to include \$1,000,000 in the budget for fiscal years 2023-2024 and 2024-2025 to support the Commission. Those funds were included in the budget, which was signed by the Governor.

During the fiscal year 2023-2024, the Commission's cash fund, with the supplementation by the legislature, was sufficient to continue the Commission's purpose of providing indigent criminal defense services in the most serious criminal cases to Nebraska counties at no cost to the counties. Nebraska counties are Constitutionally required to provide legal representation to indigent defendants. The Commission's representation of indigent defendants free of charge has provided significant property tax relief to Nebraska counties.

The first chief counsel of the Commission, James Mowbray, retired on August 31, 2015. The Commission members appointed Jeff Pickens to replace Mowbray as chief counsel. Pickens retired on August 2, 2023, and the Commission members appointed agency counsel Todd Lancaster to the chief counsel position. In December of 2023, one of the Commission's original staff attorneys, Kelly Breen, retired. The retirement of Pickens and Breen, along with the staff attorney position which had been unfilled for almost two years, left the Commission with three vacant attorney positions. Fortunately, the Commission was able to hire Tim Noerrlinger as agency counsel and fill the other two vacancies to fully staff the Commission.

After fiscal year 2023-2024, but before the writing of this report, the Commission was deeply saddened by the news of the passing of Rita Jo Wesely on February 13,

2025. Rita was the Commission's administrative assistant/fiscal officer for the Commission from its creation in 1996 until she retired in 2021. She was an integral part of the Commission from its inception and remained a strong supporter and excellent resource even after her retirement. She was always available for a call to help and more than once the question of "has this happened before" would arise and it was Rita we would call and get the answer. It had been said, and it was true, "Rita knew everybody, and everyone knew her. A warrior heart, wicked smart, she was a force of nature." She is truly missed.

Section 29-3929 requires the chief counsel to present an annual report to the Commission. This is the report for fiscal year 2023-2024.

Fiscal Year 2023-2024 Review

The Commission began its twenty-seventh year of operation in 2023. The revenue for FY 2023-2024 increased by \$66,177.33 from FY 2022-2023 for a total of \$819,806.58. The Commission effectively represented indigent defendants charged with first degree murder and other serious felony crimes at trial, on direct appeal, and in postconviction, while providing property tax relief to the counties that used our services. The Commission performed all other statutory functions as well.

Case Guidelines.

Subject to the caseload standards established by the Chief Counsel, the Commission can accept appointments in the types of cases identified in the following

paragraphs.¹ Generally, the case guidelines have not changed, but there have been minor changes in qualifying cases regarding post conviction and accepting appointments in capital cases when there is a death warrant and automatic appeals when the Commission has been appointed as standby counsel.

Trial Level

At the trial level, the Commission can accept appointments in the following cases:

1. In any case in which a violent felony offense constituting a Class IIA felony or greater is charged;
2. In any case in which a charge of use of a weapon to commit a felony accompanies a charge of a violent felony, irrespective of the class of felony;
3. In any case in which a drug offense alleging distribution or possession with intent to distribute is charged and the offense constitutes a Class IIA felony or greater;
4. In any case in which the State requests and the Supreme Court grants a death warrant for an inmate on death row.

Direct Appeal

On direct appeal, the Commission can accept appointments in the following cases:

1. In any case in which the Commission represented the defendant at trial;

¹ Acceptance of cases is determined by the chief counsel who can turn down the appointment to a qualifying case based on caseload standards. Based on staffing levels, the prior chief counsel determined the Commission would only take homicide and sexual assault cases except in extreme cases. Since the Commission is fully staffed, appointments in other qualifying cases are being accepted but are still subject to caseload standards as determined by the chief counsel.

2. In any case in which the defendant was convicted, after a trial, of a charge that the Commission could have accepted at the trial level. The Commission will not accept appointment of a case on direct appeal if the only issue is excessive sentencing;
3. In any case in which the defendant was sentenced to death or life imprisonment; and
4. In any Capital case in which the Commission was appointed to be standby counsel and, based on the charge and conviction, there is an automatic appeal to the Nebraska Supreme Court.

Postconviction and State Habeas Corpus

The Commission can accept appointments of cases on postconviction or in state habeas corpus if the defendant was convicted of first degree murder or second degree murder, or if the defendant received a sentence of life imprisonment. The Chief Counsel has discretion to accept appointments in other cases after considering the crime of conviction, the sentence imposed, the issue(s), and the availability of counsel. The Commission will not accept appointments on postconviction or in state habeas corpus if the defendant was represented by one of the Commissioners, past or present, at the trial or direct appeal stages of the case, and the defendant is claiming the Commissioner in question provided ineffective assistance of counsel.

Not Responsible by Reason of Insanity Annual Reviews

In cases in which the Commission represents a defendant who has been found not responsible by reason of insanity, the Commission will continue to represent the

defendant for the annual review hearings. If the Commission was co-counsel with a public defender's office and the public defender's office desires to continue representing the defendant at the annual reviews, the Commission shall withdraw from the case.

DNA Cases

Pursuant to Neb. Rev. Stat. § 29-4122 (Reissue 2016), "Upon a showing by the person that DNA testing may be relevant to the person's claim of wrongful conviction, the court shall appoint counsel for an indigent person" This section requires the court to first contact the Chief Counsel for the Commission to inquire if the Commission is able to accept appointment. The Commission will accept the appointment unless it has a conflict of interest or the appointment would exceed the Commission's caseload standards.

Civil Rights Actions

The Commission can accept appointments in a civil rights or other action to represent inmates on death row who are challenging the protocol, procedure, or drug(s) to be used in their execution.

Juvenile Court

The Commission can accept appointments to represent a juvenile charged with crimes that are the type of crimes the Commission accepts at the trial level as set forth above, but only if the juvenile was originally charged in adult court. If the Commission accepts an appointment in juvenile court, it will represent the juvenile only through disposition and appeal.

Probation Revocation/Post Release Supervision

The Commission will not accept appointments on motions to revoke probation or motion to revoke post release supervision.

Companion Cases

If the Commission has accepted an appointment to represent a defendant and the defendant is charged in a separate/companion case with a crime that does not meet the Commission's guidelines for acceptance, the Chief Counsel has discretion to accept appointment in the other case(s).

Counties with Public Defender Offices

If a public defender requests assistance in defending a case that meets the Commission's guidelines, the Commission can accept appointment as co-counsel with the public defender. If the Commission is appointed as co-counsel, it will pay expenses, such as depositions, investigators, and expert witnesses, as though it had no co-counsel.

The Commission can accept appointments consistent with these guidelines if the public defender – for any sound legal reason – cannot accept such appointments.

Cases Open in Fiscal Year 2023-2024

In fiscal year 2023-2024, the Commission's six lawyers provided services in the five divisions established by the Legislature; to wit: the first-degree murder litigation division; the appellate division; the violent crime and drug defense division; the DNA testing division; and the major case resource center. In total, the Commission handled 81 cases from 35 Nebraska counties in fiscal year 2023-2024.

First Degree Murder Litigation Division

The First Degree Murder Litigation Division handles first degree murder cases at the district court level. This includes cases in which a defendant has been charged with murder in the first degree and the State is seeking a death sentence by filing notice of aggravating circumstances pursuant to Neb. Rev. Stat. § 29-1603 (Cum.Supp. 2022).

In fiscal year 2023-2024, this division handled 23 first degree murder cases. Of those 23, four are cases in which the State is seeking a death sentence.² These cases do not include cases where the Commission represents individuals who have been found not guilty by reason of insanity and continue to represent them in the annual review hearings.

Appellate Division

In fiscal year 2023-2024, the Appellate Division handled 18 cases at the appellate level.

Violent Crime and Drug Defense Division

In fiscal year 2023-2024, the violent crime and drug defense division handled 39 cases. The cases included, but are not limited to, charges of: second degree murder, manslaughter, attempted first degree murder, child abuse, child abuse resulting in death and serious bodily injury, sexual assault, sexual assault of children, sex trafficking of a minor, child pornography, violation of the sex offender registry act, false imprisonment, first and second degree assault, terroristic threats, abuse of a vulnerable

² The cases the State is seeking a death sentence are: *State v. Jones*, Cedar County; *State v. Collins*, Washington County; *State v. Johnson*, Lancaster County; and *State v. Reed*, Knox County. See Addendum C for all cases handled during fiscal year 2023-2024.

adult, tampering with evidence, improper disposal of human remains, weapons offenses, and drug offenses.

The counties that use the Commission's services always save money when the Commission is appointed because they are not charged for the Commission's services or any expenses incurred such as the cost of experts or conducting depositions. In some cases, the counties would experience a true financial hardship if the Commission had not been able to accept the appointment. Frequently there are no available, experienced criminal defense lawyers in the county to accept an appointment. The Commission also saves the counties the cost of a jury trial because its experienced lawyers are able to convince prosecutors to dismiss or reduce charges. Sometimes charges are dismissed or reduced after alleged victims or witnesses are deposed and problems with their testimony are exposed.

DNA Testing Division

In fiscal year 2023-2024, the DNA testing division handled one case. The DNA Testing Division is able to minimize expenses because of its experience. District Courts often authorize testing of all items of evidence which may contain DNA. However, the DNA Testing Division will only submit items for testing that are most likely to result in relief, thereby reducing expenses.

Major Case Resource Center

All of the Commission's lawyers regularly take calls for assistance from public defenders, court-appointed lawyers, and pro se defendants. Such assistance ranges from providing citations to pertinent law, providing advice regarding legal issues,

providing sample motions and briefs, and conducting research and preparing memoranda regarding such research. Additionally, Commission lawyers give presentations for the Nebraska Criminal Defense Attorney Association (NCDAA) seminars, present at the NCDAA Boot Camp, present at seminars for local bar associations, and other organizations such as the Nebraska Bar Association.

Commission Operations' Cash Fund

On July 1, 2023, the Commission's operations' cash fund had a balance of \$234,482.96.

During fiscal year 2023-2024, the Commission received \$819,806.58 from the Indigent Defense Fees and \$12,854.68 from investment income earned on the balance in the operations cash fund. Total revenue was \$832,661.26. Compared to fiscal year 2022-2023, total revenue for fiscal year 2023-2024 was up \$69,996.45. This is the first time total revenue has increased in three years. However, the total revenue for fiscal year 2023-2024 is still less than the total revenue from pre-pandemic fiscal year 2019-2020, which was \$854,728.15. Revenue from the Indigent Filing Fee has declined since fiscal year 2008-2009 when it was \$1,286,956.81, some \$467,000 more than fiscal year 2023-2024.

The Commission's expenditures in fiscal year 2023-2024 totaled \$1,354,810.18. Expenditures were up \$242,380.25 from the previous year due to the Commission being fully staffed. The money-saving efforts we introduced in March of 2016, which included taking depositions and using expert witnesses only when necessary, using rental cars instead of driving our own vehicles and claiming mileage reimbursement are still in effect. Employee wages and benefits and the Commission's contributions to

FICA amounted to \$1,093,524.14 in fiscal year 2023-2024.

In fiscal year 2023-2024, expenditures were \$522,148.92 greater than revenue, which required the Commission to draw from our operations' cash fund. We have needed to draw from our cash fund every fiscal year since 2014/2015. On December 22, 2023 the operations' cash fund received a general funds transfer of \$1,000,000.00 and on June 30, 2024, the operations' cash fund had a balance of \$712,774.69.³

Charts showing our operations cash fund's revenue, expenses, and balances are appended to this report.

Legal Aid and Services Fund

In 1997, the Legislature created the Legal Aid and Services Fund (LASF). Neb. Rev. Stat. § 25-3002 (Reissue 2016). For fiscal year 2023-2024, a legal service fee of \$6.25 was taxed as costs in all cases filed in Nebraska state courts, except for cases filed in small claims court and domestic violence protection order cases. The fees were remitted to the State Treasurer, who credited them to the LASF. Neb. Rev. Stat. § 33-107.01 (Reissue 2016). The Commission administers the LASF.

On December 2, 2023, nominal awards totaling \$1,918,760 were made to 12 qualifying entities at a meeting of the Commission's members. As fees were credited to the LASF, monthly *pro rata* disbursements were made to the entities during the 2024 calendar year. During the 2023-2024 fiscal year, filing fees were credited to the LASF in

³ This is the amount one would obtain if one made a balance inquiry on the State Accounting's system (Enterprise One) for June 30, 2024. However, if one did the math using the beginning balance for FY2023-2024 (\$234,482.96), plus total revenue (\$832,661.26 + \$1,000,000), minus expenditures (\$1,354,810.18), one would obtain an ending balance of \$712,334.04. The \$440.65 difference is due to: other agency revenue to be journalized; revenue received but not vouchered on June 30, 2024; and accounts payable due to vendor on June 30, 2024.

the amount of \$1,795,960.34. The LASF earned \$1,509.98 in investment income during the fiscal year.

In fiscal year 2023-2024, \$1,797,635 was disbursed to entities as follows:

Catholic Charities	\$31,133.00
Center for Legal Assistance	\$55,114.00
Education Rights Counsel (January 1 - June 30, 2024)	\$12,667.00
Heartland Family Services	\$39,283.00
Immigration Legal Center (Justice For Our Neighbors)	\$79,099.00
Legal Aid of Nebraska	\$1,189,509.00
Lutheran Family Services	\$50,316.00
Mediation West (Scottsbluff)	\$5,966.00
Nebraska Appleseed Center	\$110,341.00
Nebraska Mediation Center (Fremont)	\$5,966.00
NSBA Volunteer Lawyers Project	\$179,354.00
Women's Center for Advancement	\$38,887.00

Civil Legal Services Fund

In 2006, the Legislature created the Civil Legal Services Fund (CLSF). In 2009, the Legislature transferred operation of the fund to the Commission. Neb. Rev. Stat. §§ 25-3007, *et seq.* (Reissue 2016) (Laws 2009, LB35). The sole purpose of the CLSF is to “expand the capacity to provide civil legal services to eligible low-income persons equally throughout the state.” Neb. Rev. Stat. § 25-3005 (Reissue 2016). To be eligible for a grant under the CLSF, a civil legal services provider must be a recipient of

financial assistance pursuant to the federal Legal Services Corporation Act, 42 U.S.C. 2996, *et seq.* Neb. Rev. Stat. § 25-3008 (Reissue 2016). A fee of \$1 is taxed as costs in each criminal proceeding, including traffic infractions and misdemeanors, filed in Nebraska's state courts. The fee is remitted to the State Treasurer and then credited to the CLSF. Neb. Rev. Stat. § 25-3010 (Reissue 2016).

On December 2, 2023, the Commission members awarded all disbursements from the CLSF in calendar year 2024 to Legal Aid of Nebraska because it is the only eligible civil legal services provider. In fiscal year 2023-2024, \$154,423.90 was credited to the CLSF. The fund earned \$129.16 in investment income. The Commission disbursed \$154,617.00 to Legal Aid in fiscal year 2023-2024.

Legal Education for Public Service and Rural Practice Loan Repayment

Assistance Fund

The Legal Education for Public Service Loan Repayment Assistance Fund was created in 2008, but it was not immediately funded. In 2014, the Legislature amended the fund and created the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund. Neb. Rev. Stat. §§ 7-201, *et seq.* (Cum. Supp. 2016).

The Commission, Commission members, and the chief counsel have various statutory duties with respect to this fund.

For fiscal year 2023-2024, the legislature appropriated \$150,000 for the program and reappropriated \$1,016 which was not disbursed in fiscal year 2022-2023. Awards were granted to 37 recipients. One recipient turned down the award in fiscal year 2023-2024. For the recipients in the program, reporting requirements showing continuous

qualifying employment and loan status documentation were received from recipients. The fund's balance on June 30, 2023, was \$24,770.60.

Cost-effectiveness of the Commission

When the Legislature created the Commission in 1995, its goal was to provide property tax relief to counties that are required to provide effective representation to indigent criminal defendants. Initially, the counties that used the Commission's services were required to pay one-third of the Commission's actual expenses. In 2003, the Commission became cash funded and the Legislature provided that the Commission would be funded entirely by an indigent defense fee paid by those who use Nebraska's courts. Since 2003, the counties that used the Commission's services paid nothing for our services. The Commission is still funded by the Indigent Defense Fee and income from investment of the Indigent Defense Fee. The Legislature has not increased the Indigent Defense Fee since 2005. Because of decreased revenue due to declining court case filings and increased expenditures, the Commission was again required to draw on its cash fund in fiscal year 2023-2024. Because of the transfer of \$1,000,000 of supplemental funds into the Commission's operation's cash fund in fiscal year 2023-2024, the Commission was able to carry out its mission without having to reduce its staff.

As a result of the slight increase in revenue from the Indigent Defense Fee over the previous year, and the supplemental funds provided by the Legislature to the Commission's cash fund, the Commission has efficiently and effectively represented indigent criminal defendants throughout the state. The Commission continued to

provide property tax relief to the counties that used its services. Therefore, the Commission met the goal set by the Legislature. The Commission carried a maximum caseload in fiscal year 2023-2024 and as a result of sufficient funding and being fully staffed, has been able to accept appointments in qualifying non-homicide cases which the Commission was unable to do until recently.

Recommendation for Improvements

While the Legislature and the Governor's budgets have supported the Commission with supplemental funding to make up for the shortfall in revenue from the Indigent Defense Fee, the Commission needs to continue to seek a long-term, sustainable source of revenue through increases to the Indigent Defense Fee or General Funds or a combination of the two. With the \$1,000,000 in supplemental funds, the Commission has been able to hire attorneys to fully staff all six attorney positions. This has allowed the Commission to take appointments in qualifying cases outside of homicide and sexual assault cases which we were not sufficiently staffed to handle in the recent past.

Looking to the future, it is foreseeable there will be a continued increase in the number of murder in the first degree, child abuse resulting in death, sexual assault, and other qualifying crimes of violence appointment requests made to the Commission. This is likely due to the increase in the number of these types of cases and the lack of qualified attorneys in Nebraska to handle these types of cases. The declining number of attorneys in rural Nebraska have resulted in legal deserts in much of the state. This dearth of attorneys has resulted in the Commission being asked to take on more cases and to take on cases in counties that have not requested the Commission's services in

the past. The Commission has also been receiving appointments in counties with larger populations and larger attorney bases such as Douglas, Lancaster, and Sarpy counties. The lack of attorneys in those counties to take on court appointments when the public defenders have conflicts or cannot represent co-defendants is an ongoing problem even for the larger counties.

Commission staffing and resources may need to be increased as the number of appointment requests increase in criminal cases involving murder in the first degree and other qualifying cases. There has been an increase in death penalty and child abuse resulting in death cases which are expert heavy, thus, more costly. It will be for the Legislature to decide if the Commission's purpose of providing property tax relief to counties should be expanded by increasing resources to the Commission. Chief Counsel's conversations with judges, public defenders, court appointed attorneys, and county commissioners all around Nebraska points to a crisis for counties in providing Constitutionally mandated legal representation for indigent individuals charged with serious criminal offenses due to an ever shrinking pool of attorneys to appoint to these cases.

Todd W. Lancaster
Chief Counsel
April 21, 2025

Appendix A

Commission Members during Fiscal Year 2023-2024

Linsey A. Camplin, Lincoln, District 1

reappointed on November 23, 2023

Michael Ziskey, Nebraska City, District 2

Reappointed on November 4, 2019

Douglas J. Stratton, Norfolk, District 3

Reappointed on November 4, 2015

Thomas P. Strigenz, Papillion, District 4

Reappointed on November 4, 2015

Julie E. Bear, Plattsmouth, District 5

Reappointed on November 4, 2019

Chair from June 18, 2019 to present

Nancy S. Freburg, Kearney, District 6

Reappointed on November 23, 2023

Jonathan M. Braaten, Lincoln, At Large

Reappointed on November 4, 2019

Charles D. Brewster, Kearney, At Large

Appointed on November 23, 2023

Patrick P. Carney, Norfolk, At Large

Appointed December 29, 2022

Appendix B

Staff during Fiscal Year 2023-2024

Todd W. Lancaster

Chief Counsel August 2, 2023 to present

Agency Counsel September 2015 to August 2023

Staff Attorney from May 2007 to August 2015

Graduate of University of Nebraska College of Law, 1998

Jeffery A. Pickens

Chief Counsel from September 2015 to August 2023

Agency Legal Counsel from October 2012 to August 2015

Staff Attorney from May 1996 to October 2012

Graduate of University of Nebraska College of Law, 1991

Robert W. Kortus

Staff Attorney from July 1996 to present

Graduate of University of Nebraska College of Law, 1989

Kelly S. Breen

Staff Attorney from August 1996 to December 2023

Graduate of Creighton School of Law, 1984

Matthew J. McDonald

Staff Attorney from September 2015 to present

Graduate of Washington University School of Law, 1997

Tim Noerrlinger

Agency Counsel October 2, 2023 to present

Graduated University of Nebraska College of Law, 2005

Dana De Simone

Staff Attorney January 6, 2025 to present

Graduated Creighton University School of law

Dave Tarrell

Staff Attorney February 24, 2025 to present

University of Nebraska College of Law, 2000

Rita J. Wesely

Administrative Assistant/Fiscal Officer from July 1996 to April 2021

Graduate of Bellevue University, B.S., 2001

Shara M. Aden

Paralegal from December 2002 to present

Southeast Community College, Criminal Justice, A.D., 2013

Kendra K. Werth

Administrative Assistant/Fiscal Officer from April 2021 to present

Bellevue University

Appendix C

First Degree Murder Litigation Division: 23 Cases

State v. Bol, Lancaster County; *State v. Jones*, Cedar County; *State v. Adams*, Hamilton County; *State v. Beutler*, York County; *State v. Collins*, Washington County; *State v. Coplen Anderson*, Sheridan County; *State v. Arnett*, Hamilton County; *State v. Williams*, Washington County; *State v. Divine*, Lincoln County; *State v. Kilmer*, Cherry County; *State v. Keener*, Platte County; *State v. Harris*, Douglas County; *State v. Cateura-Nogueras*, Colfax County; *State v. Johnson*, Lancaster County; *State v. Ramos*, Johnson County; *State v. Logan*, Washington County; *State v. Ruskamp*, Wayne County; *State v. Reed*, Knox County; *State v. Mattison*, Clay County; *State v. Parsons*, Cass County; *State v. Cooper*, Douglas County; *State v. Barraza*, Lancaster County; *State v. Stanford*, Lancaster County

Appellate Division: 18 Cases

State v. Manka, Hall County (Kidnaping, two counts of Use of a Deadly Weapon to Commit a Felony, Burglary, Terroristic Threats, Escape While Under Arrest on Felony Charge, Resist Arrest, Obstruct Peace Officer); *State v. Rivera-Meister*, Hall County (Attempted Child Abuse Resulting in Death); *State v. Barnes*, Saunders County (1st Degree Murder, Use of a Deadly Weapon to Commit a Felony, Animal Cruelty, Child Abuse/No Injury); *State v. LeFever*, Dawson County (Possession of a Firearm by a Prohibited Person, Theft over \$5,000, Operate Motor Vehicle to Avoid Arrest, Unauthorized Use of a Propelled Vehicle); *State v. Mead*, Sherman County (1st Degree Sexual Assault of a Child, Possession of Child Pornography); *State v. Garcia*, Scotts Bluff County (two counts of Attempted 1st Degree Assault on a Police Officer, Use of a Firearm to Commit a Felony); *State v. Moore*, Scotts Bluff County (2nd Degree Murder, Use of a Deadly Weapon to Commit a Felony); *State v. Evans*, Gage County (two counts of 1st Degree Sexual Assault of a Protected Individual); *State v. Serrano*, Kimball County (Manslaughter, two counts of Attempted Terroristic Threats, Possession of a Firearm During a Felony); *State v. Kilmer*, Cherry County (1st Degree Murder, Use of a Deadly Weapon to Commit a Felony, Improper Disposal of Human Remains); *State v. Vasquez*, Lancaster County (1st Degree Murder, two counts of Use of a Firearm to Commit a Felony, 1st Degree Assault of a Peace Officer, Possession of a Firearm by a Prohibited Person, Possess Stolen Firearm, Escape Using Force/Deadly Weapon, 2nd Degree Assault); *State v. Gleaton*, Madison County (1st Degree Murder, Use of a Firearm to Commit a Felony, Possession of a Firearm by a Prohibited Person, Tampering with a Witness); *State v. German*, Chase County (2nd Degree Murder, Kidnaping, 1st Degree False Imprisonment); *State v. Lenhart*, Dawes County (Child Abuse Resulting in Death); *State v. Stewart*, Sarpy County (Manslaughter); *State v. Ramos*, Johnson County (1st Degree Murder, Use of a Deadly Weapon to Commit a Felony, Tamper with Evidence); *State v. Garcia*, Douglas County (four counts of 1st Degree Murder, four counts of Use of a Deadly Weapon to Commit a Felony, Burglary); *State v. Boswell*, Saline County (1st Degree Murder, Conspiracy to Commit 1st Degree Murder; Improper Disposal of Human Remains)

Violent Crime and Drug Defense Division: 39 Cases

State v. Rivera-Meister, Hall County (Child Abuse Resulting in Death); *State v. Aranda-Acebedo*, Arthur County (Three counts of 1st Degree Sexual Assault of a Child; 3rd Degree Sexual Assault of a Child, Incest); *State v. Aranda-Acebedo*, Furnas County (2 counts of 1st Degree Sexual Assault of a Child; two counts of Incest); *State v. Gutierrez*, Platte County (1st Degree Sexual Assault of a Child (with prior conviction)); *State v. Mead*, Sherman County (Assault by Strangulation; Terroristic Threats; three counts of 1st Degree Sexual Assault of a Child; Incest; Intentional Child Abuse/No Injury; Record Person without Consent; Possess Child Pornography; Visual Depiction of a Minor); *State v. Jansa*, York County (two counts of Sex Trafficking of a Minor; two counts of 3rd Degree Sexual Assault of a Child w/prior conviction; two counts of Intentional Child Abuse/No Injury; 1st Degree Sexual Assault of a Child w/prior conviction; Assault by Strangulation); *State v. Jansa*, York County (Sex Offender Registration Violation); *State v. De Los Santos*, Dawson County (1st Degree Sexual Assault of a Child; Incest); *State v. Jansa*, York County (18 counts of Possession of Child Pornography); *State v. De Los Santos*, Dawson County (Visual Depiction of a Minor, seven counts of Possession of Child Pornography); *State v. Velasquez-Lopez*, York County (two counts of 3rd Degree Sexual Assault of a Child); *State v. Gitchel*, Chase County (six counts of 1st Degree Sexual Assault of a Child, two counts of Child Abuse); *State v. Russell*, Cheyenne County (2nd Degree Murder; Child Abuse Resulting in Death; Assault by Strangulation); *State v. Paul*, Valley County (1st Degree Sexual Assault; Aid/Abet Class II Felony; Incest; Abuse of Vulnerable Adult); *State v. Garcia*, Scotts Bluff County (Operate Motor Vehicle to Avoid Arrest; three counts of False Imprisonment; Possession of a Firearm by a Prohibited Person; seven counts of Attempted 1st Degree Murder; two counts of Use of a Firearm to Commit a Felony; Terroristic Threats); *State v. Kant*, Kimball County (Attempted 1st Degree Murder; Use of a Firearm to Commit a Felony); *State v. Moore*, Scotts Bluff County (2nd Degree Murder; Use of a Deadly Weapon to Commit a Felony); *State v. Evans*, Gage County (1st Degree Sexual Assault of an /Incompetent Individual; Tamper with Evidence; Abuse of a Vulnerable Adult); *State v. Brown*, Scotts Bluff County (Possession of Methamphetamine 28-139 grams; Delivery of Methamphetamine; No Drug Tax Stamp; Possession of Drug Paraphernalia); *State v. Brown*, Scotts Bluff County (two counts of Possession of Controlled Substance; Driving Under the Influence of Drugs); *State v. Brown*, Scotts Bluff County (Delivery of a Controlled Substance in a School Zone); *State v. Reyes-Santos*, Scotts Bluff County (1st Degree Sexual Assault); *State v. Wheeler*, Garden County (Possession with Intent to Distribute Methamphetamine; Possession of a Deadly Weapon by a Prohibited Person; Possession of a Controlled Substance/Methamphetamine; No Drug Tax Stamp; Possession of Marijuana; Possession of Drug Paraphernalia); *State v. Wilson*, Kimball County (1st Degree Sexual Assault of a Child); *State v. Chambers*, Douglas County (Robbery); *State v. Alexander*, Lancaster County (2nd Degree Murder); *State v. Garnette*, Sheridan County (1st Degree Assault; 2nd Degree Assault; Use of a Deadly Weapon to Commit a Felony; Criminal Mischief \$1,500 - \$5,000); *State v. Garnette*, Sheridan County (3rd Deg. Domestic Assault); *State v. Brings Plenty*, Sheridan County (Attempted 1st Degree Murder; 1st Degree Assault; Use of a

Deadly Weapon to Commit a Felony); *State v. Stewart*, Sarpy County (2nd Degree Murder); *State v. Stewart*, Sarpy County (Assault by Strangulation; Domestic Assault w/prior ; Negligent Child Abuse/No Injury; Obstruct Peace Officer); *State v. Tackett*, Lancaster County (Child Abuse Resulting in Death; 1st Degree Assault; two counts of Possession of a Firearm by a Prohibited Person; Possession with the Intent/Deliver in a School Zone); *State v. Nation*, Cheyenne County (Intentional Child Abuse); *State v. Green*, Scotts Bluff County (Child Abuse Resulting in Death); *State v. Chambers*, Buffalo County (2nd Degree Murder; two counts of Use of a Firearm to Commit a Felony; Possession of a Firearm by a Prohibited Person; 1st Degree Assault; 2nd Degree Assault); *State v. Stenzel*, Keith County (2nd Deg. Murder; two counts of Use of a Firearm to Commit a Felony, two counts of Terroristic Threats); *State v. Chambers*, Buffalo Co Assault by Confined Person); *State v. Chambers*, Buffalo County (Assault by Confined Person); *State v. Phillips*, Cedar Co. (2nd Degree Murder; Use of a Firearm to Commit a Felony; Possession of a Stolen Firearm); *State v. Lenhart*, Dawes County (Child Abuse Resulting in Death

DNA Testing Division: One Case

State v. Timmens, Dawson County

			Appendix D							
CASH IN OUT SINCE FY 05-06		WITH INVESTMENT INCOME								
	FILING FEES	INVEST INC	TOTAL REVENUE	EXPENDITURES	REV-EXP	FUND BALANCE*				
FY 05-06	\$1,150,704.52	\$36,293.17	\$1,186,997.69	\$936,877.84	\$250,119.85	\$969,931.44				
FY 06-07	\$1,191,200.77	\$53,832.97	\$1,245,033.74	\$922,424.18	\$322,609.56	\$1,292,542.63				
FY 07-08	\$1,241,119.23	\$72,317.67	\$1,313,436.90	\$942,040.55	\$371,396.35	\$1,414,013.16				
FY 08-09	\$1,286,956.81	\$75,188.43	\$1,362,145.24	\$1,028,144.04	\$334,001.20	\$1,750,175.75				
FY 09-10	\$1,234,168.41	\$58,780.95	\$1,292,949.36	\$1,072,731.87	\$220,217.49	\$1,712,295.53				
FY 10-11	\$1,190,192.55	\$60,450.84	\$1,250,643.39	\$1,064,478.19	\$186,165.20	\$1,610,321.73				
FY 11-12	\$1,173,523.70	\$41,290.67	\$1,214,814.37	\$1,081,394.36	\$133,420.01	\$1,541,794.72				
FY 12-13	\$1,092,517.18	\$31,877.98	\$1,124,395.16	\$1,074,421.97	\$49,973.19	\$1,333,088.86				
FY 13-14	\$1,043,201.40	\$26,946.57	\$1,070,147.97	\$1,068,949.19	\$1,198.78	\$1,334,807.24				
FY 14-15	\$1,010,728.39	\$26,965.38	\$1,037,693.77	\$1,111,534.46	-\$73,840.69	\$1,261,458.55				
FY 15-16	\$1,009,425.81	\$28,567.11	\$1,037,992.92	\$1,152,109.13	-\$114,116.21	\$1,147,791.34				
FY 16-17	\$997,411.54	\$24,345.77	\$1,021,757.31	\$1,118,044.24	-\$96,286.93	\$1,051,626.13				
FY 17-18	\$991,969.54	\$23,164.49	\$1,015,134.03	\$1,128,968.71	-\$113,834.68	\$938,080.45				
FY 18-19	\$938,073.21	\$21,992.19	\$960,065.40	\$1,157,901.53	-\$197,836.13	\$744,156.44				
FY 19-20	\$839,313.22	\$15,414.93	\$854,728.15	\$1,182,595.87	-\$327,867.72	\$413,269.23				
FY 20-21	\$795,926.75	\$4,684.13	\$800,610.88	\$1,198,584.06	-\$397,973.18	\$15,296.05				
FY 21-22	\$747,800.75	\$4,669.36	\$752,470.11	\$1,223,518.08	-\$471,047.97	\$64,279.45				
FY 22-23	\$753,629.25	\$9,035.56	\$762,664.81	\$1,112,429.93	-\$349,765.12	\$234,482.96				
FY 23-24	\$819,806.58	\$12,854.68	\$832,661.26	\$1,354,810.18	-\$522,148.92	\$712,744.69				
FY 14-15	Experts	\$63,283								
FY 15-16	Experts	\$57,789		FY 23-24	Transfer In	\$1,000,000				
FY 16-17	Mowbray leave	\$41,335			Pickens leave	\$56,493				
FY 17-18	Experts	\$45,488			Breen Leave	\$28,709				
FY 17-18	Garcia case	\$55,595		FY 24-25	Transfer In	\$1,000,000				
FY 20-21	Experts	\$50,723								
	Wesely Leave	\$20,838								
FY 21-22	Transfer In	\$520,000								
FY 22-23	Transfer In	\$520,000								

APPENDIX E					
CASH FUND BALANCE FISCAL YEAR END					
	TRANSFERS	TRANSFERS			
	OUT	IN	BALANCE		
FY 05-06			\$969,931.44		
FY 06-07			\$1,292,542.63		
FY 07-08	\$250,000.00		\$1,414,013.16		
FY 08-09			\$1,750,175.75		
FY 09-10	\$258,374.00		\$1,712,295.53		
FY 10-11	\$288,247.00		\$1,610,321.73		
FY 11-12	\$200,000.00		\$1,541,794.72		
FY 12-13	\$260,000.00		\$1,333,088.86		
FY 13-14			\$1,334,807.24		
FY 14-15			\$1,261,458.55		
FY 15-16			\$1,147,791.34		
FY 16-17			\$1,051,626.13		
FY 17-18			\$938,080.45		
FY 18-19			\$744,156.44		
FY 19-20			\$413,269.23		
FY 20-21			\$15,296.05		
FY 21-22		\$520,000	\$64,279.45		
FY 22-23		\$520,000	\$234,482.96		
FY 23-24		\$1,000,000.00	\$712,744.69		
FY 7-8	Study juvenile legal defense with UN-L Public Policy Ctr				
FY 9-10	Transfer to General Fund				
FY 10-11	Transfer to General Fund				
FY 11-12	Supreme Court Education Fund diversion programming to reduce absenteeism and unnecessary involvement with juvenile justice system				
FY 12-13	Court Appointed Special Advocate Fund				
	Ne State Patrol Cash Fund - sex offender study				
FY 21-22	Transfer in of \$520,000				
FY 22-23	Transfer in of \$520,000				
FY 23-24	Transfer in of \$1,000,000				