



## Report: Public defender's office stretched thin

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Should free legal counsel be provided for those who violate dog-at-large laws?

Should a public defender be appointed to a transient charged with trespassing for sleeping in a garage?

Those kind of city ordinance violations tie up public defenders who are already stretched too thin, says Lancaster County Public Defender Dennis Keefe. In fact, Keefe calls the city misdemeanor docket "out of control."

A case like these takes an average 1.1 hours of a public defender's time, according to a new report from the University of Nebraska Public Policy Center.

But that adds up, Keefe said.

The report also found the public defender's office was understaffed by 3.78 attorneys in 2007.

The greatest deficit was in the felony division, the report noted.

Keefe presented the report to the County Board of Commissioners earlier this month, joined by researcher Elizabeth Neeley.

He urged the board to talk to the city about rethinking its ordinances. "You need to say it to the city," he told them.

The county board agreed, but asked Keefe to detail which city ordinances should be changed, and how. Keefe requested 45 days to draw up specifics.

The main issue is that public defenders can be appointed whenever there is a possibility of jail time. The maximum penalty for many city ordinances is six months in jail, Keefe said.

Those ordinances can range from dog-at large or disturbing the peace, on up to more dangerous violations, which would still merit free legal counsel.

Neeley said the city attorney's office prosecuted 1,739 city ordinances last year.

As caseloads get too heavy, she said, attorneys tend to spend less time on each case. Yet "effective legal counsel is constitutionally guaranteed," she said.

"It also has a negative impact on public perception if you're appointed a public defender and you meet him for the first time for one minute before your hearing."

She said there are various ways to reduce caseloads:

- \* Hire more public defenders.
- \* Set caseload limits for each attorney, and farm excess work out to privately appointed lawyers.
- \* Revise what's considered a jailable offense.
- \* Expand juvenile diversion services to include more youth.
- \* Have judges meet together to decide which circumstances would merit a public defender.

Revising the ordinances may be a good place to start, she said.

"We don't have a lot of control over the city council," commissioner Bob Workman told Keefe.

But the city does reimburse the county for handling violations.

"So there's a financial advantage to them, as well," said Commissioner Deb Schorr, "That's the point we need to make."

Raising the bar for jailable offenses also could help with jail overcrowding, Neeley said in a later interview.

The county public defender's office has 19 attorneys. That's only one more than it had five years ago, although any comparison is hard to make, given changes in what kinds of cases it handles.

Still, the report found "the number of felony, misdemeanor, and juvenile cases assigned to the Lancaster County Public Defender has increased substantially over the past five years."

Misdemeanors alone have gone up 56 percent in five years, according to the report.

Keefe said certain crimes such as domestic violence and drunk driving can now be prosecuted as felonies, making his office busier.

“I’m not looking at building an empire here,” Keefe said of hiring more attorneys.

“My druthers would be to limit the cases coming into my office.”

The \$9,000 report was paid for by the public defender’s office. Neeley said the data could be used to make decisions for the office “for years to come.”

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