

Part 1 – Agency Profile

Agency Overview:

The Office of the Idaho State Appellate Public Defender was created in 1998. The SAPD provides appellate representation to indigent defendants who have been convicted of a non-capital or capital felony in district court. The SAPD also provides appellate representation in dismissals or denials of non-capital state habeas proceedings and state post conviction petitions. The SAPD provides district court representation for capital defendants during the post conviction phase, as well as the appeal following the denial of the post conviction petition and the direct appeal from the judgment of conviction.

The State Appellate Public Defender is Molly J. Huskey, who was re-appointed by Governor C.L. “Butch” Otter in January, 2007. The office has 21 full-time employees, including the agency head. There are four (4) attorneys in the Capital Litigation Unit, a mitigation specialist, an investigator and a support staff. The Appellate Unit has nine (9) attorneys, including the Chief of the Appellate Unit, two support staff and a paralegal. There is also an Office Administrator. The office is located at 3647 Lake Harbor Lane, Boise, Idaho.

The mission of the SAPD is to provide quality legal representation to its clients in an effective and efficient manner.

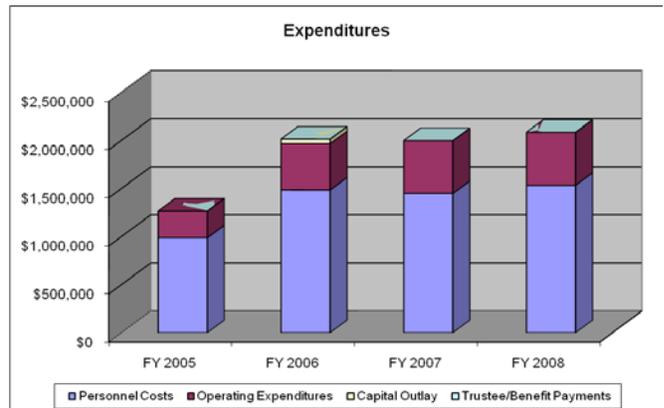
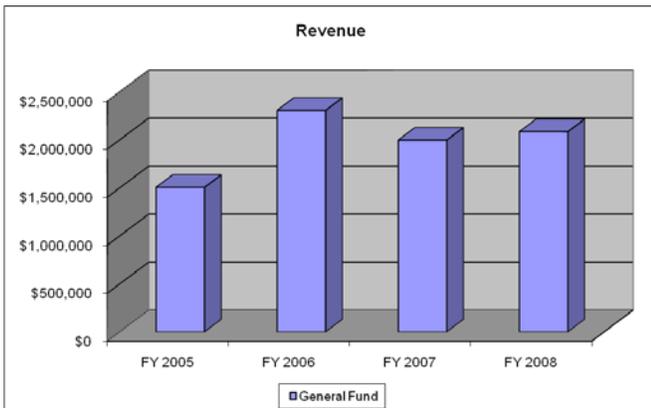
Core Functions/Idaho Code:

In *Alabama v. Powell*, 287 U.S. 45, 68-69 (1932), the United States Supreme Court held that basic fairness required that indigent defendants facing capital charges had the constitutional right to assistance of counsel. In *Gideon v. Wainwright*, 372 U.S. 335 (1963) the Supreme Court ruled that states have a constitutional obligation under the Sixth and Fourteenth Amendments to the U.S. Constitution to provide counsel to non-capital indigent defendants. The Idaho Appellate Courts have extended the right to counsel to direct appeals. *Banuelos v. State*, 127 Idaho 860, 908 P.2d 162 (Idaho App.,1995)

As a result of these cases, and recognizing the cost of specialized appellate counsel, the legislature created the SAPD by enacting Idaho Code §19-867. The additional duties of the office are enumerated in I.C. §19-868 through §19-872.

Revenue and Expenditures:

Revenue	FY 2005	FY 2006	FY 2007	FY 2008
General Fund	\$1,504,600	\$2,306,900	\$1,996,600.00	\$2,084,200.00
Total	\$1,504,600	\$2,306,900	\$1,996,600.00	\$2,084,200.00
Expenditure	FY 2005	FY 2006	FY 2007	FY 2008
Personnel Costs	\$986,900	\$1,484,200	\$1,448,300.00	\$1,533,700.00
Operating Expenditures	\$279,000	\$482,200	\$548,300.00	\$550,500.00
Capital Outlay	\$0	\$46,000	\$0.	\$0.
Trustee/Benefit Payments	\$0	\$0	\$0.	\$0.
Total	\$1,265,900	\$2,012,400	\$1,996,600.00	\$2,084,200.00



Profile of Cases Managed and/or Key Services Provided:

Cases Managed and/or Key Services Provided	FY 2005	FY 2006	FY 2007	FY 2008
Capital	7	6	5	6
Non-Capital	608	591	584	601

Performance Highlights:

Fiscal Year 2007 provided the completion of the SAPD Audit and the final report being circulated for review. Although not received until July 23, 2007, the report was completed in FY2007, a copy of which is attached to this Report.

Part II – Performance Measures:

Performance Measure	2005	2006	2007	2008	Benchmark
1. Comply with National Standards (22 work units per attorney)	AU attorney average: 50 points	AU attorney average: 33.28 points	AU attorney average: 48.53 points	AU attorney Average: 58.1 points The achievement of this goal is beyond the ability of the SAPD because the SAPD cannot presently control how many cases it receives from the district courts. Because there is no mechanism by which the SAPD can decline cases, it has no ability to control the caseload of each attorney. As such, sub- performance measures will be created to achieve this.	100% Compliance by FY08
1a. Create legislation that would allow the SAPD to withdraw from cases				New Measure Have bill drafted and considered for 2009 Legislative session.	100% complete by March, 2009.

<p>1b. Work with the Supreme Court to create mechanism by which cases can either be suspended for designated periods of time</p>				<p>New Measure Meet with Chief Justice, file motions by November, 2008 to allow cases to be suspended for 60 – 120 days.</p>	<p>100% by FY11</p>
<p>1c. Work with the Supreme Court and the Idaho State Bar to create a mechanism by which, once statutory authority is granted, the SAPD can withdraw from cases.</p>				<p>New Measure</p>	<p>Negotiations 100% complete by FY11 Mechanism in place for designated number of cases for FY12</p>
<p>2. 100% resolution of any identified deficiencies of the Office of the SAPD's performance when compared to national standards.</p>			<p>Upon review of the SAPD audit, aside from the performance measure above, this goal has been achieved.</p>	<p>Goal deleted because it has been met.</p>	
<p>3. Provide adequate funding for capital cases. This benchmark is measured by whether there was sufficient funding to adequately provide investigation and mitigation in the capital cases. There is adequate funding if all necessary investigation has been done.</p>	<p>488,550.28 \$233,000.00</p>	<p>\$57,781.25 \$228,150.47</p>	<p>\$45,780.25 \$99,725.15</p>	<p>This goal has been achieved since FY06 and thus is being deleted.</p>	
<p>4. Website 100% complete to increase communication with the public defenders, the bar, the courts, the general public and counties in order to substantially increase the constituencies' awareness of the value of the Office of the SAPD.</p>			<p>The website was completed June 2007, and is simply waiting for information to be uploaded.</p>	<p>The website was uploaded and has been online since October 15, 2007. This goal is being deleted as it has been achieved.</p>	

<p>5. CLE taught in 100% of the judicial districts for public defenders.</p>				<p>This measure is being deleted. The lack of funding is preventing the SAPD from carrying this goal. Instead, the SAPD has teamed with the Supreme Court, the Juvenile Justice Commission, the Federal Defenders and the University of Idaho College of Law to provide training in conjunction with those entities.</p>	<p>100% completion each Fiscal Year/New Measure.</p>
<p>6. Study the indigent defense delivery system, including felonies and misdemeanors, adult and juvenile cases.</p>			<p>This goal was met with the study beginning in April, 2007.</p>	<p>The study has covered six of the seven judicial districts with a preliminary report due in December, 2008.</p>	<p>100% complete by FY2010</p>

Performance Measure Explanatory Note:

The distinction in the average workload of AU attorneys from FY2006 and FY2007 results from the difference in the complexity of cases and the number of cases in which reply briefs are required.

In order to achieve 100% compliance with national standards on staff attorney workload, the SAPD will be required to request additional FTP's for the Appellate Unit.

Performance Measure Three indicates that only \$45,780.25 was spent for Capital cases. However, the remaining \$53,544.90 is encumbered on contracts for those cases, in essence using the entire \$99,725.15 on Capital cases.

Performance Measure Five has been accommodated in the FY08 budgetary cycle and the training will occur; the training will be limited to public defenders.

For More Information Contact

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