

## 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.

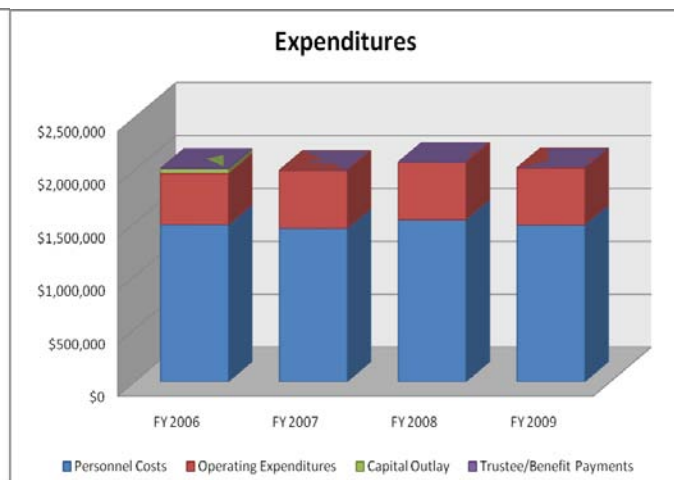
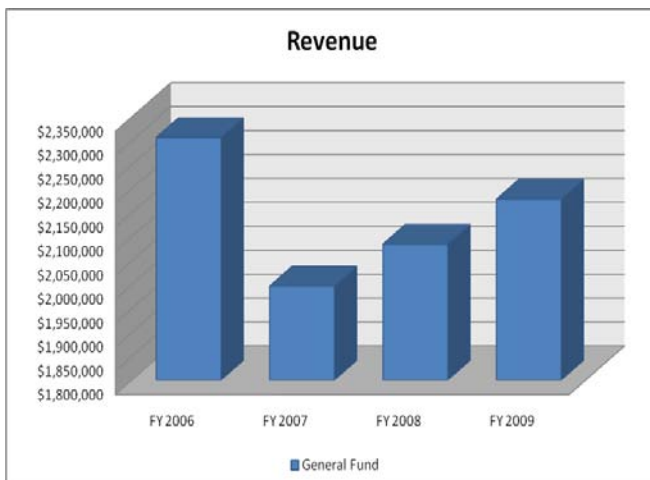
### Core Functions/Idaho Code:

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 2006	FY 2007	FY 2008	FY 2009
General Fund	\$2,306,900	\$1,996,600.00	\$2,084,200.00	\$2,178,000.00
<b>Total</b>	<b>\$2,306,900</b>	<b>\$1,996,600.00</b>	<b>\$2,084,200.00</b>	<b>\$2,178,000.00</b>
Expenditure	FY 2006	FY 2007	FY 2008	FY 2009
Personnel Costs	\$1,484,200	\$1,448,300.00	\$1,529,073.00	\$1,479,132.00
Operating Expenditures	\$482,200	\$548,300.00	\$543,577.00	\$540,577.00
Capital Outlay	\$46,000	\$0.	\$0.	\$0.
Trustee/Benefit Payments	\$0	\$0.	\$0.	\$0.
<b>Total</b>	<b>\$2,012,400</b>	<b>\$1,996,600.00</b>	<b>\$2,072,650.00</b>	<b>\$2,019,709.00</b>



**Profile of Cases Managed and/or Key Services Provided:**

Cases Managed and/or Key Services Provided	FY 2006	FY 2007	FY 2008	FY 2009
Capital	6	5	6	4
Non-Capital	591	584	601	619

**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	2006	2007	2008	2009	Benchmark
1. Comply with National Standards (22 work units per attorney)	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.	AU Attorney Average: 50.93 points	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.	Instead of legislation, I talked with the constituent groups about other options to achieve this goal. Will renew the legislative idea with the relevant constituent groups in 2010.	Have all discussions with relevant constituent groups by December, 2009, including IPAA, Senate Judiciary and Rules, House Judiciary and Rules, Supreme Court and the Governor's Office.

1b. Work with the Supreme Court to create mechanism by which cases can either be suspended for designated periods of time			<p>New Measure</p> <p>Meet with Chief Justice, file motions by November, 2008 to allow cases to be suspended for 60 – 120 days.</p>	<p>The Motion was drafted and ready for filing in November 2008. However, following a meeting with the Chief Justice, it was determined that the Court would continue to allow extensions, mooted the need for the motion.</p> <p>100% achieved.</p>	100% by FY11
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>New Measure</p>	<p>In 2009, the Criminal Justice Commission created a subcommittee to address deficiencies in the public defense system. This group will be able to advance goals such as this. With this subcommittee, we are still on target for completing our goal.</p>	<p>Negotiations 100% complete by FY11</p> <p>Mechanism in place for designated number of cases for FY12</p>
1d. Implement different method for assigning “staple” briefs to determine if that allows for a more efficient managing of the caseload.				<p>New Measure:</p> <p>Create new system for assigning cases that would assign “staple” cases earlier in the process, allowing attorneys to better manage the briefing dates.</p>	<p>100% complete by FY2011.</p> <p>Develop the new system in FY10. Assign the cases and measure whether the cases are getting submitted sooner, with fewer extensions.</p>
5. CLE taught in 100% of the judicial districts for public defenders.			<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% achieved. The SAPD taught at the Juvenile Justice Bootcamp, which reached attorneys from all judicial districts.</p>	100% completion each Fiscal Year/New Measure.

6. Study the indigent defense delivery system, including felonies and misdemeanors, adult and juvenile cases.		This goal was met with the study beginning in April, 2007.	The study has covered six of the seven judicial districts with a preliminary report due in December, 2008.	100% achieved. The study has been completed and submitted to the CJC, to be finalized by December 2009.	100% complete by FY2010
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**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.

**For More Information Contact**

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