

## Part I – Agency Profile

### Agency Overview

The State Public Defense Commission (PDC) was established in 2014 as a means to improve the delivery of indigent legal defense services throughout the state. The Commission strives to ensure that the safeguards of the Sixth Amendment to the United States Constitution and Article I, Sect. 13 of the State Constitution are met. The Commission will collect data, support compliance with standards, provide training, and administer grants to achieve fair and just representation of the accused. In the words of Thomas Jefferson, “The price of freedom is eternal vigilance.” In that effort, the Commission:

- Maintains standards to ensure that defending attorneys are providing representation within the safeguards of the Sixth Amendment to the U.S. Constitution;
- Serves as a clearinghouse of information for relevant stakeholders;
- Administers and allocates funds appropriated by the legislature to Counties to ensure compliance with indigent defense standards;
- Provides training to defending attorneys;
- Establishes rules for public defender training and data collection regarding indigent defense services; and
- Keeps the legislature informed of any Sixth Amendment issues related to enforcement and funding.

### Core Functions/Idaho Code

The Public Defense Commission was established with a clear mandate codified in Idaho Code §19-848 through §19-850. The Commission was established at the beginning of FY 2015.

The statutory mandate and authority of the PDC is clearly set forth in I.C. §19-850. The PDC has been charged with the following:

(a) Promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, establishing the following:

- (i) Training and continuing legal education requirements for defending attorneys, which shall promote competency and consistency in case types including, but not limited to, criminal, juvenile, capital, abuse and neglect, post-conviction, civil commitment and criminal contempt;
- (ii) Uniform data reporting requirements and model forms for the annual reports submitted pursuant to section 19-864, Idaho Code, which shall include, but not be limited to, caseload, workload and expenditures;
- (iii) Model contracts and core requirements for contracts between counties and private attorneys for the provision of indigent defense services, which shall include, but not be limited to, compliance with indigent defense standards;
- (iv) Procedures and forms by which counties may apply to the commission, pursuant to section 19-862A, Idaho Code, for funds to be used to bring their delivery of indigent defense services into compliance with applicable indigent defense standards;
- (v) Procedures for administrative review and fair hearings in accordance with the Idaho administrative procedure act, which shall include, but not be limited to, providing for a neutral hearing officer in such hearings;
- (vi) Procedures for the oversight, implementation, enforcement and modification of indigent defense standards so that the right to counsel of indigent persons, as provided in section 19-852, Idaho Code, is constitutionally delivered to all indigent persons in this state; and
- (vii) Standards for defending attorneys that utilize, to the extent reasonably practicable taking into consideration factors such as case complexity, support services and travel, the following principles:
  1. The delivery of indigent defense services should be independent of political and judicial influence, though the judiciary is encouraged to contribute information and advice concerning the delivery of indigent defense services.
  2. Defending attorneys should have sufficient time and private physical space so that attorney-client confidentiality is safeguarded during meetings with clients.
  3. Defending attorneys' workloads should permit effective representation.

4. Economic disincentives or incentives that impair defending attorneys' ability to provide effective representation should be avoided.
  5. Defending attorneys' abilities, training and experience should match the nature and complexity of the cases in which they provide services including, but not limited to, cases involving complex felonies, juveniles and child protection.
  6. The defending attorney assigned to a particular case should, to the extent reasonably practicable, continuously oversee the representation of that case and personally appear at every substantive court hearing.
  7. There should be reasonable equity between defending attorneys and prosecuting attorneys with respect to resources, staff and facilities.
  8. Defending attorneys should obtain continuing legal education relevant to their indigent defense cases.
  9. Defending attorneys should be regularly reviewed and supervised for compliance with indigent defense standards and, if applicable, compliance with indigent defense standards as set forth in contractual provisions.
  10. Defending attorneys should identify and resolve conflicts of interest in conformance with the Idaho rules of professional conduct and other applicable constitutional standards.
- Violation of or noncompliance with the principles listed in this subparagraph does not constitute ineffective assistance of counsel under the constitutions of the United States or the state of Idaho and does not otherwise constitute grounds for post-conviction relief.

(b) On or before January 20, 2015, and by January 20 of each year thereafter as deemed necessary by the commission, make recommendations to the Idaho legislature for legislation on public defense system issues including, but not limited to:

- (i) Enforcement mechanisms; and
- (ii) Funding issues including, but not limited to, formulas for the calculation of local shares and state indigent defense grants.

(c) Review indigent defense providers and defending attorneys to evaluate compliance with indigent defense standards and the terms of state indigent defense grants.

(d) Notwithstanding the provisions of paragraph (a)(iv) of this subsection, establish temporary procedures and model forms by which counties may apply to the commission for state indigent defense grants pursuant to section 19-862A, Idaho Code, to be utilized until rules promulgated pursuant to paragraph (a)(iv) of this subsection are in full force and effect. Such temporary procedures shall not be subject to administrative or judicial review.

(e) Hold at least one (1) meeting in each calendar quarter.

## Revenue and Expenditures

Revenue	FY 2013	FY 2014	FY 2015	FY 2016
General Fund	\$0	\$0	\$300,000	\$304,300
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$300,000</b>	<b>\$304,300</b>
Expenditures	FY 2013	FY 2014	FY 2015	FY 2016
Personnel Costs	\$0	\$0	\$76,700	\$56,700
Operating Expenditures	\$0	\$0	\$111,500	\$130,000
Capital Outlay	\$0	\$0	\$9,200	\$19,300
Trustee/Benefit Payments	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$197,400</b>	<b>\$206,000</b>

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

Cases Managed and/or Key Services Provided	FY 2013	FY 2014	FY 2015	FY 2016
MCLE Trainings for indigent defending attorneys.	--	--	The PDC was able to host and provide the following: (1) Idaho Juvenile Public Defender Training, 166.75 CLE credit hours for 23 defending attorneys, from 10 counties in 6 judicial districts; (2) Idaho Public Defender Summit, 1,895.25 CLE credit hours for 133 defending attorneys, from 37 counties in all 7 judicial districts; (3) Idaho Capital Defense Seminar, 240 CLE credit hours under ICR 44.3, for 32 defending attorneys from 13 counties in 6 judicial districts.	The PDC hosted 4 training seminars in FY2016: (1) Child Protection and Termination of Parental Rights Conference, 5.75 CLE credits for each of 30 attendees from 15 counties representing all 7 Judicial Districts; (2) Joint IACDL Sun Valley Conference, 10.75 CLE credits for each of 130 attendees from 28 counties representing all 7 Judicial Districts; (3) Mental Health and Involuntary Civil Commitment Conference, 6 CLE credits for each of 33 attendees from 17 counties, representing all 7 Judicial Districts; and (4) Immigration Consequences of Criminal Convictions, 6 CLE credits for each of 31 attendees from 11 counties representing 6 Judicial Districts.

**Part II – Performance Measures**

Performance Measure	FY 2013	FY 2014	FY 2015	FY 2016	Current Year	
<b>Goal 1</b>						
<i>The PDC will strive to maintain or improve the performance of individual defending attorneys.</i>						
1. Engage in the negotiated rule-making process regarding training requirements for defending attorneys.	actual	--	--	The PDC is on schedule to engage the rule-making process in June of 2016.	The PDC submitted a Temporary/Proposed Training Rule in August 2016. These rules were not created through the negotiated rule-making process as that was deemed not feasible.	--
	benchmark	--	--	--	--	<i>Finalize the Temporary/Proposed Rule with legislative approval in January 2017.</i>

Performance Measure		FY 2013	FY 2014	FY 2015	FY 2016	Current Year
2. Propose legislation regarding minimum qualifications for defending attorneys.	actual	--	--	Having already developed the minimum qualification standards as part of the suggested model contract terms, the PDC is on schedule to submit proposed legislation in 2016.	Due to HB504 that passed the legislature in Spring 2016, the goals of the PDC have changed. This prior goal has been abandoned in favor of other priorities that fall in line with the newly amended and enacted statute.	--
	benchmark	--	--	--	--	<b>NEW GOAL:</b> The PDC will create, adopt and enforce indigent defense standards to improve the delivery of trial-level indigent defense services. The PDC will strive to maintain or improve the performance of individual defending attorneys through the creation of rules.
3. Present substantive and relevant trainings for defending attorneys.	actual	--	--	The PDC hosted and presented three trainings for defending attorneys, including juvenile and capital specific trainings. The PDC provided 2,302 MCLE credit hours at no cost to the 188 defending attorneys that benefited from the programs.	The PDC hosted four (4) trainings for defending attorneys, including mental health, child protection and immigration specific trainings. The PDC provided 28.5 CLE credit hours to over 200 defending attorneys at no cost to those attorneys.	--
	benchmark	--	--	--	--	The PDC will co-host a seminar with the Federal Defenders in September 2016 to include capital specific training. The PDC will also host 3 more trainings in FY2017 at no cost to defending attorneys as well as provide scholarship funding to defending attorneys and their

Performance Measure		FY 2013	FY 2014	FY 2015	FY 2016	Current Year
						<i>staff who qualify to attend non-PDC sponsored trainings that will benefit delivery of indigent defense services.</i>
4. Propose qualifications for scholarships and trustee-benefit payments by temporary rule.	actual	--	--	The PDC has drafted the proposed temporary rules, which are ready for discussion and adoption.	The PDC submitted a Temporary/Proposed Training Rule in August 2016.	--
	benchmark	--	--	--	--	<i>The PDC will submit a final rule in November 2016 for legislative approval in January 2017.</i>
5. Conduct National Association for Public Defense (NAPD) membership drive in summer and winter.	actual	--	--	The PDC conducted two membership drives, joining 186 defending attorneys in December 2014 and 22 in July of 2015.	A membership drive was conducted in Nov/Dec of 2015 and 1 member was added. Due to oversight, a membership drive was not conducted in July 2016. PDC is currently conducting a membership drive. We have a total of 197 members.	--
	benchmark	--	--	--	--	<i>PDC will continue to conduct membership drives for NAPD, striving to include all defending attorneys in Idaho as members of NAPD.</i>
6. Create a webpage featuring remote-access CLE credit offered through NAPD.	actual	--	--	The PDC is on schedule to provide remote access training for defending attorneys who have joined NAPD.	Due to HB504 that passed the legislature in Spring 2016, the goals of the PDC have changed. This prior goal has been abandoned in favor of other priorities that fall in line with the newly amended and enacted statute. The PDC regularly updates the website with current activities.	--

Performance Measure		FY 2013	FY 2014	FY 2015	FY 2016	Current Year
	<i>benchmark</i>	--	--	--	--	<i>The PDC will re-create this goal in FY2018's Strategic plan. If attention can be given to this previous goal in FY2017, the PDC will do so.</i>
7. Strive to meet with defending attorneys and county commissioners in every county.	actual	--	--	PDC representatives met with 9 of 10 institutional defender offices, along with defending attorneys in 12 other counties. Visits were also held with the commissioners of 3 counties.	The Executive Director met with Commissioners and/or Clerks from 39 Counties and Defending Attorneys from 21 Counties. The PDC maintains consistent communication via email and its website to all defending attorneys and Counties.	--
	<i>benchmark</i>	--	--	--	--	<i>The Executive Director will increase visits with defending attorneys and County officials in FY2017.</i>
8. Provide counties with a suggested template report for use in annual reporting.	actual	--	--	The PDC is ready to distribute a uniform report template for use by the counties at the end of the current county fiscal year.	An annual reporting form was created by the PDC and distributed in the fall of 2015. The form received significant resistance, asking for data that was not tracked or available.	--
	<i>benchmark</i>	--	--	--	--	<i>The PDC will create another annual reporting form requesting relevant and obtainable data. The PDC will distribute such form before the end of FY2017.</i>
9. Engage in the negotiated rule-making process regarding the requirements for the statutory annual report for every defending attorney.	actual	--	--	The PDC is on schedule to engage the rule-making process in June of 2016.	The PDC created a form in the fall of 2015 for annual reporting. The form requested information not maintained by counties, thus not feasible for use, and was met with resistance.	--

Performance Measure		FY 2013	FY 2014	FY 2015	FY 2016	Current Year
	Benchmark	--	--	--	--	<i>The PDC will create another annual reporting form as aforementioned above, and begin the negotiated rulemaking process in FY2017 to establish rules requiring annual reporting of defending attorneys.</i>

**Performance Measure Explanatory Notes**

House Bill 504 passed the legislature in Spring of 2016. The newly amended statute was effective on July 1, 2016. The bill created and expanded the duties and powers of the PDC exponentially. Due to that fact, the PDC's goals from FY2016 to FY2017 changed drastically. This Performance Report addresses the appropriate Strategic Plan, but also notes that some of these goals have been or will be abandoned as the PDC moves forward. Further, the PDC was without an Executive Director for October 2015 through April 2016, thus some of the prior goals and benchmarks were not reached. The new Executive Director has been focused on the new statute and recreating the goals and direction of the PDC according to the statute. The PDC continues to provide training for defending attorneys, but is also actively engaged in creating rules and standards pursuant to Idaho Code section 19-850.

**For More Information, Contact**

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