

Part I – Agency Profile

Agency Overview:

The Office of the State Appellate Public Defender (SAPD) provides appellate representation to indigent persons who have been convicted of a felony in Idaho's district courts. The SAPD also provides appellate representation to petitioners in state felony post-conviction and habeas corpus cases. In capital cases, where a defendant has been sentenced to death, the SAPD provides district court representation for post-conviction cases, as well as representation on appeal in both the direct appeal from the judgment of conviction and appeals in post-conviction cases.

The State Appellate Public Defender is Sara B. Thomas, who was initially appointed by Governor C.L. "Butch" Otter in January, 2012, and reappointed in August of 2014. As of July 1, 2015, the office has 23 full-time employees, including the agency head. The Capital Litigation Unit includes three attorneys, a mitigation specialist, an investigator, and one assistant. The Appellate Unit has twelve staff attorneys, two legal assistants, and one paralegal. There is also an Office Administrator. The office is temporarily located at 304 N. 8th St., Ste. 403, Boise, Idaho.

The SAPD must provide effective assistance of counsel to its clients and timely process appeals, as mandated by both the United States and Idaho Constitutions, as well as by Idaho statutes and court rules. Ethically, in its casework the SAPD must serve, first and foremost, the best interests of its clients. The SAPD is also mindful of relevant constituent groups and the legislative goal of reducing the financial burden on Idaho counties previously caused by the extraordinary cost of legal representation of indigent defendants on appeal. The SAPD is additionally committed to strengthening Idaho's criminal justice system to ensure it is both efficient and effective for SAPD clients.

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

Core Functions/Idaho Code:

The right of a defendant to representation by an attorney in a felony criminal case is a core value in Idaho, dating back to the days of the Idaho Territory. The Revised Statutes of Idaho, dated 1884, stated that if a defendant "desires and is unable to employ counsel, the court must assign counsel to defend him." Years later, the United States Supreme Court recognized, in *Alabama v. Powell*, 287 U.S. 45, 68-69 (1932), that the basic fairness required by the United States Constitution meant that indigent defendants facing capital charges had the right to assistance of counsel. More than thirty years later, 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 trial counsel to non-capital indigent defendants facing a loss of liberty. Finally, in *Douglas v. California*, 372 U.S. 353 (1963), the Court found that an indigent defendant is entitled to the assistance of counsel in a first appeal granted as a matter of right from a criminal conviction.

Even absent the constitutional requirements for counsel, Idaho continues to adhere to the core value of ensuring that criminal defendants facing a loss of liberty are represented by counsel "to the same extent as a person having his own counsel is so entitled." I.C. § 19-852. Similarly, in accordance with Idaho Criminal Rule 44.2, immediately after the imposition of the death penalty, the court must appoint at least one lawyer to represent the defendant for purposes of seeking post-conviction relief pursuant to Idaho Code §19-2719.

The legislature recognized that the cost of providing appellate representation was an extraordinary burden on the counties of Idaho. "In order to reduce this burden, provide competent counsel but avoid paying high hourly rates to independent counsel to represent indigent defendants in appellate proceedings," the legislature created the SAPD. See I.C. § 19-868. The duties of the office are enumerated in I.C. §19-868 through §19-872.

Revenue and Expenditures

Revenue	FY 2012	FY 2013	FY 2014	FY 2015
General Fund	\$1,995,100	\$2,057,800	\$2,103,600	\$2,238,600.00
Total	\$1,995,100	\$2,057,800	\$2,103,600	\$2,238,600.00
Expenditure	FY 2012	FY 2013	FY 2014	FY 2015
Personnel Costs	\$1,514,300	\$1,573,000	\$1,623,400	\$1,804,700.00
Operating Expenditures	\$479,400	\$474,000	\$458,900	\$405,400.00
Capital Outlay	\$0	10,800	\$0	\$28,400.00
Trustee/Benefit Payments	\$0	\$0	\$0	\$0
Total	\$1,993,700	\$2,057,800	\$2,082,300	\$2,238,500.00

Profile of Cases Managed and/or Key Services Provided

Cases Managed and/or Key Services Provided	FY 2012	FY 2013	FY 2014	FY 2015
Capital Cases Managed	6	6	6	6
Non-Capital Cases Opened	664	675	641	702

Performance Highlights

The Office of the SAPD filed 704 briefs and presented 46 oral arguments to Idaho's appellate courts during FY15. The SAPD continues to provide consistent, high-quality work, though not in as timely a fashion as it should. As a result of the high quality of service, not only are the individual clients' rights protected, but the rights of all of Idaho's citizens. For example, in *State v. Thomas*, 157 Idaho 916 (2015) the Idaho Supreme Court recognized that in determining whether it was harmless for the district court to withhold relevant information from a jury, it was appropriate to consider a related question actually asked by the jury. In *State v. Halseth*, 157 Idaho 643 (2014), the Idaho Supreme Court recognized that when a person has impliedly consented to a search of their blood, breath, or urine, simply by driving on Idaho's roads, that consent can be withdrawn, just as any other consent to search can be withdrawn.

In addition to client representation, the SAPD collaborates with other criminal justice stakeholders to investigate mechanisms to enhance effectiveness and efficiency in the system. Sara Thomas, the State Appellate Public Defender, was Chair of the Idaho Criminal Justice Commission during FY2015. Additionally, Deputy SAPDs participated in subcommittees representing the defense perspective on issues such as necessary changes in Idaho's sex crimes statutes and pretrial justice practices. The SAPD also partnered with the Idaho Association of Criminal Defense Lawyers and the State Public Defense Commission to offer educational opportunities to improve the practice of public defense. During FY15 members of the SAPD's office presented programs during the Idaho Association of Criminal Defense Lawyer's regional seminars, doing presentations in Boise and Coeur d'Alene. In addition, the SAPD and her deputies provided training at the Public Defense Commission's Public Defender Summit. Finally, during FY15, members of the SAPD also participated in the Idaho Supreme Court Technology Committee, Idaho Supreme Court Criminal Rules Committee, and Idaho Supreme Court Appellate Rules Committee.

Part II – Performance Measures

Performance Measure	FY 2012	FY 2013	FY 2014	FY 2015	Benchmark
No reprimands from the Office of Bar counsel or the Idaho Supreme Court.	N/A*	N/A*	0	0	No Reprimands
No affirmed findings of ineffective assistance of counsel against an SAPD attorney.	N/A*	N/A*	0	0	No Affirmed Findings
Continuing legal education credits for renewal of licenses to practice law.	N/A*	N/A*	100%	100%	100% License Renewal
New contract cases assigned by fiscal year.	21	48	0	0	0 Cases
All cases assigned within 21 days of receipt of the transcript and record such that objections to the record can be filed in the district court.	N/A*	N/A*	100%	92.5%	100%
Reduce the number of initial appellant's brief filed on any more than two extensions in current fiscal year from previous fiscal year (total briefs/briefs filed on >2 ext.).	N/A*	520/166	520/205	530/118	50% Reduction of Briefs filed on >2 Ext. from previous FY.
Reduce the average Appellant Unit attorneys' caseloads to an appropriate level of no more than 33 units per year.	50 units	64.77 units	56.29 units	49.70 units	33.00 Unit Average

*New Performance measure in FY 2014.

For More Information Contact

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