

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 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$300,000	\$304,300	\$5,796,900
Total	\$0	\$300,000	\$304,300	\$5,796,900
Expenditures	FY 2014	FY 2015	FY 2016	
Personnel Costs	\$0	\$76,700	\$56,700	\$294,706
Operating Expenditures	\$0	\$111,500	\$130,000	\$293,563
Capital Outlay	\$0	\$9,200	\$19,300	\$11,236
Trustee/Benefit Payments	\$0	\$0	\$0	\$4,046,335
Total	\$0	\$197,400	\$206,000	\$4,645,840

Profile of Cases Managed and/or Key Services Provided

Cases Managed and/or Key Services Provided	FY 2014	FY 2015	FY 2016	FY 2017
MCLE Trainings for indigent defending attorneys.	--	The PDC was able to host and provide the following: (1) Idaho Juvenile Public Defender Training,	The PDC hosted 4 training seminars in FY2016: (1) Child Protection and Termination of Parental	The PDC sponsored one training seminar with 11.75 CLE credits each for 111 attendees from 29 counties, co-hosted

		<p>166.75 CLE credit hours for 23 defending attorneys, from 10 counties in 6 judicial districts;</p> <p>(2) Idaho Public Defender Summit, 1,895.25 CLE credit hours for 133 defending attorneys, from 37 counties in all 7 judicial districts;</p> <p>(3) Idaho Capital Defense Seminar, 240 CLE credit hours under ICR 44.3, for 32 defending attorneys from 13 counties in 6 judicial districts.</p>	<p>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.</p>	<p>the IACDL Sun Valley Conference with 9.5 CLE credits for 134 attendees from 32 counties, hosted one DUI training with 6 CLE credits each for 65 attendees from 26 counties and hosted a Child Protection training with 6.5 CLE credits each for 41 attendees from 18 counties. Every Judicial District had attendees at each of the four trainings.</p>
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Part II – Performance Measures

Performance Measure	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Goal 1					
<i>The PDC will administer and allocate funds appropriated by the Legislature to counties to improve the delivery of trial-level indigent defense services.</i>					
<p>1. Identify relevant indigent defense standards for IDG applications and create a process for review and approval of IDG applications to make recommendations to the PDC.</p>	actual	-----	-----	-----	<p>Reviewed IDG application form; made changes to collect additional information to demonstrate county compliance with indigent defense standards, assessed IDG applications and provided recommendations to PDC.</p>

Performance Measure		FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
	target	-----	-----	-----	Establish process for review and approval of IDG applications to make recommendations to the PDC.	Revise IDG application to collect more specific information from Counties re: specific expenditure information from prior year and projected use for requested funding.
Goal 2						
<i>The PDC will create, adopt and enforce indigent defense standards to improve the delivery of trial-level indigent defense services</i>						
2. The PDC will engage in the negotiated rule-making process in FY2017 to create rules establishing standards and guidelines pursuant to Idaho's Principles of and Indigent Defense Delivery System (IPIDDS).	actual	-----	-----	-----	The PDC engaged in negotiated rulemaking in FY2017 which resulted in the creation of IDAPA 61.01.07, Rules Governing Standards for Defending Attorneys That Utilize Idaho's Principles of an Indigent Defense Delivery System, which went into effect on May 1, 2017.	-----
	target	-----	-----	-----	Engage in the negotiated rule-making.	In FY2018, conclude Docket 61-0107-1701 and present final rules to the Legislature for approval.
3. The PDC will engage in negotiated rulemaking in FY2017 to propose a rule pursuant to Idaho Code 19-850(1)(a)(vi) regarding oversight and enforcement of indigent defense standards.	actual	-----	-----	-----	In April, 2017, the PDC filed a Notice of Intent to Promulgate Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards, Docket 61-0106-1701, and initiated public meetings to explore this topic with stakeholders.	-----

Performance Measure	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
target	-----	-----	-----	Engage in the negotiated rule-making.	In FY2018, the PDC will continue and finalize rulemaking in this area and seek legislative approval of Docket 61-0106-1701.
Goal 3					
<i>The PDC will strive to maintain or improve the performance of individual defending attorneys.</i>					
4. 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.	The PDC proposed and gained approval of IDAPA 61.01.01, Rules Governing Training Requirements for Defending Attorneys and the Administration of Training Funds, which went into effect on May 1, 2017.
	target	-----	-----	-----	Engage in the negotiated rule-making.
5. 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.	The PDC proposed and gained approval of IDAPA 61.01.07, Rules Governing Standards for Defending Attorneys That Utilize Idaho's Principles of an Indigent Defense Delivery System, including "Standards for Defending Attorneys," edition 2016, which went into effect on May 1, 2017.

Performance Measure		FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
	target	-----	-----	-----	Promulgate rules establishing minimum qualifications for defending attorneys.	The PDC will continue to create and adopt indigent defense standards that set the minimum qualifications for defending attorneys. Specifically in FY2018, the PDC will create and adopt standards for capital defense counsel and standards for investigation and the use of experts. The PDC will enforce indigent defense standards that are in effect.
6. 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.	The PDC co-hosted one training with Federal Defenders, co-hosted one training with IACDL, and self-hosted two trainings on child protection and DUI, respectively, 350 defending attorneys slots were filled at these trainings and a total of 32 CLE credit hours were available at no cost to defending attorneys. Scholarships were provided to 8 attorneys to attend non-PDC trainings	-----
	target	-----	-----	-----	Provide training for defending attorneys.	The PDC will co-host a seminar with the Federal Defenders in September 2017 to include capital specific training. The PDC will also co-host a 2-day seminar with the IACDL in April 2018. The PDC will host 2 1-day

Performance Measure		FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
						<i>trainings, and provide scholarship funding to Idaho defending attorneys to attend out-of-state trainings that will benefit the delivery of indigent defense services.</i>
7. 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.	The PDC proposed and gained approval of IDAPA 61.01.01, Rules Governing Training Requirements for Defending Attorneys and the Administration of Training Funds that set parameters for scholarships and approval, which went into effect on May 1, 2017.	N/A
	target	-----	-----	-----	<i>Promulgate rule.</i>	N/A
8. 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.	The PDC conducted a membership drive in January, 2017. Two additional members were added for a current total of 199 members in the NAPD.	-----
	target	-----	-----	-----	<i>Conduct membership drives for NAPD.</i>	<i>PDC will continue to conduct membership drives for NAPD, striving to include all defending attorneys in Idaho as members of NAPD</i>

Performance Measure	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	
9. 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.	PDC staff met with Commissioners, Clerks and defending attorneys from all 44 counties during the fiscal year. PDC staff also participated in several regional meetings with IAC districts and made formal presentations at the IAC, IACC and IACRC Annual Meetings.	-----
	target	-----	-----	-----	Meet with Commissioners, Clerks and defending attorneys from all 44 counties.	<i>The Regional Coordinators will meet with counties and defending attorneys throughout the year and perform periodic reviews to ensure compliance with indigent defense standards and to maintain healthy working relationships with stakeholders.</i>
10. 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.	The PDC determined that rulemaking in this area was not a priority during FY2017. Annual reporting forms for in-house and contract defending attorneys were created and made available via the PDC website for annual reporting by members of the PD Roster in November 2017.	-----

Performance Measure		FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
	target	-----	-----	-----	Engage in the negotiated rule-making.	The PDC will enforce the statutory requirement that defending attorneys submit an annual report in November 2017. The PDC will engage in negotiated rulemaking in the summer of 2018 in this topic area.

For More Information, Contact

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