

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 stakeholders;
- Administers and allocates funds appropriated by the Legislature to Counties to ensure compliance with indigent defense standards;
- Provides training to defending attorneys;
- Establishes administrative rules regarding indigent defense as directed by statute; 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 2015	FY 2016	FY 2017	FY 2018
General Fund	\$300,000	\$304,300	\$5,796,900	\$5,827,700
Total	\$300,000	\$304,300	\$5,796,900	\$5,827,700
Expenditures	FY 2015	FY 2016	FY 2017	FY 2018
Personnel Costs	\$76,700	\$56,700	\$294,706	\$552,617
Operating Expenditures	\$111,500	\$130,000	\$293,563	\$249,371
Capital Outlay	\$9,200	\$19,300	\$11,236	\$0
Trustee/Benefit Payments	\$0	\$0	\$4,046,335	\$4,302,564
Total	\$197,400	\$206,000	\$4,645,840	\$5,104,552

Profile of Cases Managed and/or Key Services Provided

Cases Managed and/or Key Services Provided	FY 2015	FY 2016	FY 2017	FY2018
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.	The PDC sponsored one training seminar with 11.75 CLE credits each for 111 attendees from 29 counties, co-hosted 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.	The PDC provided several more training opportunities for Idaho's defending attorneys, co-hosting the IACDL Sun Valley Conference, sending defending attorneys to the Federal Defenders annual fall seminar, co-hosting the WJDC Leadership Summit and hosting a 1-hour webinar regarding the reading of medical records. These training seminars provided 30 CLE credits in total. Over 130 attorneys from all of Idaho's seven Judicial Districts attended the seminars.

Part II – Performance Measures

Performance Measure	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	
Goal 1						
<i>The PDC will create a 5-year plan to adopt and enforce indigent defense standards..</i>						
1. Incrementally, the Commission will create rules establishing the standards and guidelines pursuant to IPIDDS.	actual	-----	-----	In FY2017, the PDC engaged in negotiated rulemaking, created proposed rules and submitted pending rules to the legislature for approval.	In FY2018, the PDC engaged in negotiated rulemaking, created proposed rules and submitted pending rules to the legislature for approval.	-----
	target	-----	-----	<i>Engage in negotiated rulemaking.</i>	<i>Engage in negotiated rulemaking.</i>	<i>The PDC will conclude several Dockets and present final rules to the Legislature for approval.</i>
2. 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.	The PDC promulgated and submitted a pending rule to the 2018 Idaho Legislature for approval. Docket 61-0106-1701 was approved by the legislature and became effective May 1, 2018.	-----

Performance Measure		FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
	target	-----	-----	Engage in negotiated rulemaking for the creation of rules related to oversight and enforcement.	Complete the negotiated rulemaking process, submit a pending rule and seek approval from the legislature.	In FY2019, the PDC will utilize this rule to oversee and enforce Indigent Defense Standards to ensure constitutional representation of Idaho's indigent citizens.
3. The PDC will engage in negotiated rulemaking in FY2017 to propose a rule pursuant to Idaho Code 19-850(1)(a)(vii) regarding workloads of defending attorneys.	actual	-----	-----	In April 2017, the PDC filed a Notice of Intent to Promulgate rules related to the workloads of defending attorneys. Due to a delay in the progress of the Idaho Workload Study, negotiated rulemaking did not proceed as planned.	In April 2018, the PDC filed Notice of Intent to Negotiate rules related to the workloads of defending attorneys. During April and June, the PDC held 14 public meetings across the State to engage and negotiate the rule with stakeholders.	-----
	target	-----	-----	Engage in negotiated rulemaking for the creation of a workload standard.	Engage in negotiated rulemaking for the creation of a workload standard.	In FY2019, the PDC will continue and finalize rulemaking in this area and seek legislative approval of Docket 61-0108-1801.
Goal 2						
<i>The PDC will strive to maintain or improve the performance of individual defending attorneys.</i>						
4. The Commission will strive to ensure that defending attorneys are qualified to represent indigent clients charged with a capital crime where representation is provided by statute or under	actual	-----	-----	In April 2017, the PDC filed a notice of intent to promulgate rules related to standards for defending attorneys who represent indigent defendants charged with capital crimes.	In FY2018, a pending rule was submitted to the Legislature for final approval. The rule was approved.	-----

Performance Measure		FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
the state or federal constitution.	target	-----	-----	-----	-----	In FY2019, the PDC will monitor and enforce rules related to the qualifications required of defending attorneys who represent indigent defendants charged with capital crimes.
5. 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	The PDC co-hosted the Federal Defenders seminar in Sept. 2017, co-hosted the IACDL Sun Valley Seminar in April 2018, co-hosted the WJDC Leadership Summit in May 2018 and hosted a 1-hour webinar on reading medical records. The PDC continued to provide scholarships for defending attorneys to attend trainings not available in Idaho.	-----
	target	Provide training for defending attorneys.	Provide training for defending attorneys.	Provide training for defending attorneys.	Provide training for defending attorneys.	The PDC will host a PD Summit in FY2019, co-host the Federal Defenders seminar in September 2018 and provide at least one full day seminar on a specialized topic. The PDC will continue to provide scholarship

Performance Measure		FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
						<i>funding to Idaho Defending attorneys to attend out-of- state trainings that will benefit the delivery of indigent defense services.</i>
Goal 3						
<i>The Public Defense Commission will collect accurate data regarding the provision of indigent defense services in order to provide appropriate recommendations to the Idaho legislature.</i>						
6. The Commission will work with stakeholders to establish a uniform definition of a "case."	actual	-----	-----	In FY2017, the definition of case as promulgated as approved by the legislature and went into effect on May 1, 2017.	In FY2018, the PDC maintained the same definition of case as promulgated in FY2017. The PDC collected feedback that the definition was different than that of the Idaho Supreme Court.	-----
	target	-----	-----	Define "case."	Continue to work with stakeholders, including the ISC, on a uniform definition of a case.	<i>The PDC will continue to work with stakeholders to revise the definition of "case" as needed to ensure uniformity in the tracking and collecting of data.</i>
7. 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	In FY2018, the PDC enforced Idaho Code 19-864 and collected over 200 annual reports of defending attorneys, that included caseload and expenditure reports.	-----

Performance Measure	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
			November 2017.		
target	Engage in negotiated rulemaking.	Engage in negotiated rulemaking and create a uniform reporting form for defending attorneys to use to submit their Annual Reports..	Engage in negotiated rulemaking and enforce the submission of Annual Reports pursuant to Idaho Code 19-864.	Engage in negotiated rulemaking and modify the Annual Reporting form as new standards have been developed..	The PDC will finalize rulemaking related to Annual Reports of Defending Attorneys and seek approval of Docket 61-0102-1801 from the legislature.

For More Information, Contact

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