

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 2017	FY 2018	FY 2019	FY 2020
General Fund		\$5,796,900	\$5,931,300	\$5,814,800	\$10,689,200
	Total	\$5,796,900	\$5,931,300	\$5,814,800	\$10,689,200
Expenditures		FY 2017	FY 2018	FY 2019	FY 2020
Personnel Costs		\$294,706	\$552,600	\$516,800	\$532,200
Operating Expenditures		\$293,563	\$304,300	\$244,600	\$131,500
Capital Outlay		\$11,236	\$0	\$4,440	\$8,000
Trustee/Benefit Payments		\$4,046,335	\$4,351,200	\$4,682,200	\$9,162,800
	Total	\$4,645,840	\$5,208,100	\$5,448,000	\$9,834,500

Profile of Cases Managed and/or Key Services Provided

Cases Managed and/or Key Services Provided	FY 2017	FY 2018	FY 2019	FY2020
<p>MCLE Trainings for indigent defending attorneys.</p>	<p>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</p>	<p>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.</p>	<p>The PDC co-sponsored three continuing legal education programs for Idaho defending attorneys. The Commission partnered with IACDL for the Sun Valley Seminar, NACDL for the Idaho Public Defender Summit and the Federal Defenders Services of Idaho for the Western All-Star Conference. annual fall seminar. A total of 301 defending attorneys participated in the three trainings.</p>	<p>The PDC and NAPD held the Team Mitigation Institute, Idaho’s first criminal “bring your own case” CLE with 12.75 credits for 45 Idaho attendees. The PDC partnered with the FDSI to provide 12.5 credits (6 Capital, 1 ethics) credits for 50 Idaho defending attorneys at the All Star Conference. The IACDL Sun Valley Seminar, Public Defense College, and the Executive Leadership Institute were cancelled due to Covid-19.</p>

Red Tape Reduction Act

Each agency shall incorporate into its strategic plan a summary of how it will implement the Red Tape Reduction Act, including any associated goals, objectives, tasks, or performance targets. This information may be included as an addendum.

	As of July 1, 2019	As of July 1, 2020
Number of Chapters	7	7
Number of Words	21,517	21,012
Number of Restrictions	170	169

Part II – Performance Measures

Performance Measure	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	
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.	In FY 2019, The PDC began negotiated rulemaking regarding the principles of Resource Equity and Independence from Judicial and Political Influence. Meetings were held in all 7 judicial districts and the process will continue into FY 2020.	The PDC continued negotiated rulemaking for resource equity and independence from political and judicial influence.	-----
	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>	<i>Engage in negotiated rulemaking.</i>	<i>The PDC will present negotiated rules completing promulgation of the 10 principles enumerated in statute.</i>

Performance Measure		FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
2. The PDC will engage in negotiated rulemaking 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.	The PDC's pending rule regarding Workload Compliance was presented to the Legislature for approval. All rules are currently temporary or proposed. Funds were appropriated by the Legislature for Counties to comply the Workload Standards.	The PDC implemented the workload standard and disbursed funds earmarked for counties to hire the defending attorneys and staff necessary to meet the standard.	-----
	target	<i>Engage in negotiated rulemaking for the creation of a workload standard.</i>	<i>Engage in negotiated rulemaking for the creation of a workload standard</i>	<i>In FY2019, the PDC will continue and finalize rulemaking in this area and seek legislative approval of Docket 61-0108-1801.</i>		<i>The PDC will continue to monitor workloads and funds and assist stakeholders in meeting workload standard.</i>
3. 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 the state or federal constitution.	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.	The Capital Counsel Roster Committee reviewed applications for the Capital Counsel Roster to determine whether applicants met qualifications. On April 1, 2019, the PDC assumed responsibility for the Capital Counsel Roster and the Idaho Supreme Court transferred its current Capital	The PDC updated and clarified its policies for the Capital Counsel Roster and implemented more formal processes for inclusion on the roster to ensure fairness and compliance with the standards.	-----

Performance Measure	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	
			Counsel records and roster to the PDC.			
	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.	In FY2020, the PDC will continue to monitor and enforce rules and set standards related to the qualifications required of defending attorneys who represent indigent defendants charged with capital crimes.	The PDC will present simplified and clarified rules related to the Capital Counsel Roster in FY2021 and will continue to monitor and assist stakeholders in meeting the rules.
4. Present substantive and relevant trainings for defending attorneys.	actual		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.	The PDC partnered with other organizations to present the Public Defender Summit (August 2018), Sun Valley Seminar (April 2019) and the Western All-Star Conference (September 2018). The PDC continued to provide scholarships for defending attorneys to attend out-of-state and specialized trainings.	The PDC and NAPD held the Team Mitigation Institute, Idaho's first criminal "bring your own case" CLE with 12.75 credits for 45 Idaho attendees. The PDC partnered with the FDSI to provide 12.5 credits (6 Capital, 1 ethics) for 50 Idaho defending attorneys at the All Star Conference. The IACDL Sun Valley Seminar, Public Defense College, and the Executive Leadership	-----

Performance Measure	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	
				Institute were cancelled due to Covid-19. 21 scholarships were awarded to persons working in indigent defense in Idaho in FY2020 to attend trainings not available through the PDC.		
target	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 funding to Idaho Defending attorneys to attend out-of-state trainings that will benefit the delivery of indigent defense services.	The PDC will present performance based CLE's and develop a Public Defense School and continue to partner with organizations to present CLEs relevant to public defense. The PDC will continue to provide scholarship funding to Idaho Defending attorneys to attend out-of-state and specialized trainings.	The PDC and NAPD will present Idaho's first public defense college, PDC ² , and the Executive Leadership Institute in FY2021 (Plans include virtual versions, if necessary). The PDC will also begin regular live webinars which will be recorded for on demand training. The PDC will continue to partner with organizations to provide relevant trainings and will award scholarships for trainings not available thru the PDC.	
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>						
5. 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.	A uniform definition of "case" was developed.	The PDC refined case counting for purposes of annual caseload and workload reporting. The PDC Sr. Analyst worked with stakeholders and PDC staff to identify and	-----

Performance Measure	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
				collect accurate data.	
target	Define "case."	Continue to work with stakeholders, including the ISC, on a uniform definition of a case	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.	The PDC will continue to work with stakeholders to revise and refine the definition of "case" as needed to ensure uniformity in the tracking and collecting of data	The PDC will present simplified and clarified rules for case counting and develop compliance policies to assist stakeholders in reporting more accurate case data.

For More Information, Contact

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