

## Part I – Agency Profile

### Agency Overview

The Office of the State Appellate Public Defender (SAPD) provides appellate representation in the Idaho Supreme Court and Idaho Court of Appeals to indigent adults and juveniles who have been convicted of a felony or misdemeanor. The SAPD also provides appellate representation to petitioners in state 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 the appeal from the denial of the post-conviction petition.

On November 22, 2016, Governor Otter appointed Eric D. Fredericksen to the position of State Appellate Public Defender. Mr. Fredericksen was reappointed to the position of State Appellate Public Defender on August 1, 2018. As of July 1, 2023, the office has 26 full-time employees, including the agency head. The Capital Litigation Unit includes three attorneys, a mitigation specialist, an investigator, and one administrative assistant. The Appellate Unit has thirteen staff attorneys and three legal assistants. There is also an office administrator and receptionist. The office is located at 322 East Front Street, Suite 570, 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 SAPD's Mission: Defending zealously, advancing fairness, and advocating with integrity.

The SAPD's Vision: A better Idaho where the legal system treats each person with fairness and dignity.

### 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 SAPD are enumerated in I.C. §19-868 through §19-872.

**Revenue and Expenditures**

Revenue	FY 2020	FY 2021	FY 2022	FY 2023
General Fund	\$3,099,100	\$3,091,200	\$3,312,00	\$3,402,900
Dedicated	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$3,099,100</b>	<b>\$3,091,200</b>	<b>\$3,312,000</b>	<b>\$3,402,900</b>
Expenditures	FY 2020	FY 2021	FY 2022	FY 2023
Personnel Costs	\$2,368,800	\$2,409,400	\$2,580,600	\$2,826,900
Operating Expenditures	\$407,500	\$488,400	\$432,400	\$471,100
Capital Outlay	\$19,400	\$71,300	\$3,700	\$104,900
Trustee/Benefit Payments	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$2,795,700</b>	<b>\$2,969,100</b>	<b>\$3,016,700</b>	<b>\$3,402,900</b>

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

Cases Managed and/or Key Services Provided	FY 2020	FY 2021	FY 2022	FY 2023
Capital Cases Managed	3	3	3	7
Non-Capital Cases Opened	618	435	568	712

**FY 2023 Performance Highlights**

In FY2023, the SAPD obtained relief for its clients in 25 cases. The SAPD had a number of significant wins during the year. In *State v. Dorff*, 171 Idaho 818 (2022), the Idaho Supreme Court held that a Fourth Amendment search occurs when a police drug-sniffing dog trespasses on the exterior of a vehicle and the police drug dog trespassed in *Dorff* by jumping up and sniffing seams while paws were planted on the vehicle’s exterior. The State has filed a Petition for Writ of Certiorari in this case, which is currently pending in the United States Supreme Court. In *State v. Blancas*, 170 Idaho 631 (2022), the Idaho Supreme Court held that an office placing one unanswered phone call to the on-duty magistrate does not create an exigency sufficient to justify a warrantless blood draw in a DUI case.

**Part II – Performance Measures**

Performance Measure		FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>Goal 1</b>						
<i>Provide Competent, Constitutionally Sufficient Representation to All SAPD Clients</i>						
1. No affirmed reprimands from the Office of Bar Counsel or the Idaho Supreme Court.	actual	0	0	0	0	
	target	No Affirmed Reprimands	No Affirmed Reprimands	No Affirmed Reprimands	No Affirmed Reprimands	No Affirmed Reprimands
2. No affirmed findings of ineffective assistance of counsel against an SAPD attorney.	actual	0	0	0	0	
	target	No Affirmed Findings	No Affirmed Findings	No Affirmed Findings	No Affirmed Findings	No Affirmed Findings
3. Continuing legal education credits for renewal of licenses to practice law.	actual	100%	100%	100%	100%	
	target	100% License Renewal	100% License Renewal	100% License Renewal	100% License Renewal	100% License Renewal
<b>Goal 2</b>						
<i>Provide Services In An Efficient Manner</i>						
4. New contract cases assigned by fiscal year.	actual	0	0	0	0	
	target	0 Cases	0 Cases	0 Cases	0 Cases	0 Cases

Performance Measure		FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
5. 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.	actual	100%	100%	100%	100%	
	target	100%	100%	100%	100%	
6. Reduce the number of initial appellant's briefs filed on more than two extensions as identified each fiscal year.	actual	559/110	476/103	425/84	459/137	
	target	10% Reduction of Briefs Filed on >2 Ext. from previous FY	No more than 10% of Initial Appellant's Briefs Filed on > 2 Ext.	No more than 10% of Initial Appellant's Briefs Filed on > 2 Ext.	No more than 10% of Initial Appellant's Briefs Filed on > 2 Ext.	No more than 10% of Initial Appellant's Briefs Filed on > 2 Ext.
7. Reduce the average Appellant Unit attorneys' caseloads to an appropriate level of no more than 35 units per year.	actual	58.08 units	43.30 units	36.56 units	48.30 units	
	target	35.00 Unit Average	35.00 Unit Average	35.00 Unit Average	35.00 Unit Average	35.00 Unit Average
<b>Goal 3</b>						
<i>Collaborate With Other Entities To Improve Idaho's Criminal Justice System</i>						
8. Clarify or modify the jurisdiction of the SAPD to handle identified indigent defense representation needs each fiscal year.	actual	100%**	100%	100%	100%	
	target	Amend Idaho Code § 19-840 to expand jurisdiction of the SAPD to handle juvenile and misdemeanor appeals from the district court**	Amend Idaho Code § 19-840 to expand jurisdiction of the SAPD to handle juvenile and misdemeanor appeals from the district court	Amend Idaho Code § 19-840 to expand jurisdiction of the SAPD to handle juvenile and misdemeanor appeals from the district court	Assess SAPD jurisdiction under Idaho Code § 19-5905 to determine whether the SAPD should be appointed to additional appellate cases.	Assess SAPD jurisdiction under Idaho Code § 19-5905 to determine whether the SAPD should be appointed to additional appellate cases.
9. Collaborate with other entities to improve Idaho's criminal justice system.	actual	100%	100%	100%	100%	
	target	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD

\*\*New Performance measure for FY 2020.

**Performance Measure Explanatory Notes**

In FY2023, the SAPD was appointed to 712 criminal appeals from the district court, which is a significant case increase from FY2021 (435), and FY2022 (568). In fact, this is the highest caseload the SAPD has had in its 25 year existence. The SAPD's numbers are consistent with the number of felony criminal appeals filed in the Idaho Supreme Court. The average deputy's workload this past year was 48.30 units, which marks an increase in deputy attorney's workload. The increase in the number of cases and workload is largely attributed to the district court's resuming previously scheduled cases suspended during the COVID-19 pandemic. The SAPD anticipates the workload will continue to increase as district courts process through the backlog of cases created by the pandemic and the SAPD is appointed to those cases. While 48.30 units exceeds the SAPD's goal to average 35 workload

units per attorney, it is certainly a manageable workload especially considering SAPD attorneys are given a weekly opportunity to refuse new cases if they believe their current workload is too high. SAPD attorneys will routinely refuse to accept new cases until they believe they are able to meet their constitutional obligations to their individual clients. Additionally, attorneys are permitted to obtain additional extensions from the Idaho Supreme Court in filing the briefs on appeal.

**For More Information Contact**

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## ***Director Attestation for Performance Report***

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In accordance with *Idaho Code* 67-1904, I certify the data provided in the Performance Report has been internally assessed for accuracy, and, to the best of my knowledge, is deemed to be accurate.

Department: State Appellate Public Defender



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Director's Signature

8/31/2023

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Date

Please return to:

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