HELPING COUNTIES IMPROVE INDIGENT DEFENSE DELIVERY SYSTEMS

IDAHO ASSOCIATION OF COUNTIES
NEWLY ELECTED OFFICIALS TRAINING

TODAY’S ROAD MAP

• INTRODUCTION
• PUBLIC DEFENSE COMMISSION: A BRIEF HISTORY
• INDIGENT DEFENSE GRANTS
• SUGGESTED MODEL CONTRACT TERMS
• ANNUAL REPORTING PROCESS
• STANDARDS FOR DEFENDING ATTORNEYS
• QUESTIONS
PDC – BRIEF HISTORY

• ESTABLISHED IN 2014 BY THE PASSAGE OF HOUSE BILL 542 – IDAHO PUBLIC DEFENSE ACT
  • ADDED/AMENDED IDAHO CODE §§ 19-847 – 19-866
  • RESULT OF THE PUBLIC DEFENSE INTERIM COMMITTEE FOLLOWING A THREE-YEAR STUDY PROMPTED BY THE IDAHO CRIMINAL JUSTICE COMMISSION
  • ACLU LAWSUIT

• ADDITIONAL POWERS AND DUTIES CREATED IN 2016 BY THE PASSAGE OF HOUSE BILL 504

• SEVEN MEMBER COMMISSION
  • APPOINTED BY DIFFERENT AUTHORITIES
  • NO APPOINTEES MAY BE A PROSECUTING ATTORNEY OR A CURRENT EMPLOYEE OF LAW ENFORCEMENT AGENCY

• STAFF: EXECUTIVE DIRECTOR AND OTHER PERSONNEL
  • DEPUTY DIRECTOR, ADMINISTRATIVE ASSISTANT AND RESEARCH ANALYST
  • DISTRICT LIAISONS (VACANT)

POWERS AND DUTIES - IDAHO CODE §19-850

• CREATE RULES RELATED TO TRAINING AND CLE REQUIREMENTS
• CREATE RULES RELATED TO UNIFORM DATA REPORTING REQUIREMENTS AND MODEL FORMS
• CREATE RULES RELATED TO MODEL CONTRACTS AND CORE REQUIREMENTS FOR CONTRACTS
• CREATE RULES ALLOWING COUNTIES TO APPLY FOR A PDC GRANT TO COME INTO COMPLIANCE WITH STANDARDS
• CREATE RULES RELATED TO ADMINISTRATIVE PROCEDURE ACT
• CREATE RULES RELATED TO THE PROCEDURES FOR OVERSIGHT, IMPLEMENTATION, ENFORCEMENT AND MODIFICATION OF INDIGENT DEFENSE STANDARDS
• CREATE RULES RELATED TO STANDARDS FOR DEFENDING ATTORNEYS
  • IDAHO’S PRINCIPLES OF PUBLIC DEFENSE DELIVERY SYSTEM
IDAHO CODE §19-850 CONT’D ...

• MAKE RECOMMENDATIONS TO THE LEGISLATURE
  • ENFORCEMENT MECHANISMS
  • FUNDING ISSUES INCLUDING CALCULATION OF LOCAL SHARES AND STATE INDIGENT DEFENSE GRANTS
• REVIEW INDIGENT DEFENSE PROVIDERS AND DEFENDING ATTORNEYS TO EVALUATE COMPLIANCE
• ESTABLISH TEMPORARY PROCEDURES AND MODEL FORMS FOR INDIGENT DEFENSE GRANTS
• HIRE AN EXECUTIVE DIRECTOR AND OTHER PERSONNEL
• PROVIDE TRAINING AND CLE FOR INDIGENT DEFENSE PROVIDERS AND DEFENDING ATTORNEYS
• ESTABLISH PROCEDURES FOR PROVIDING EXTRAORDINARY LITIGATION COSTS TO COUNTIES
• HIRE PRIVATE COUNSEL TO REPRESENT THE PDC IN HEARINGS PER ADMINISTRATIVE PROCEDURE ACT AND RULES PROMULGATED IN THIS SECTION

INDIGENT DEFENSE GRANTS – IDAHO CODE § 19-862A

• ASSIST THE COUNTIES TO COMPLY WITH STANDARDS SET BY THE PDC
• CURRENT STANDARDS
  • INDIGENT DEFENSE STANDARDS IN PLACE BY MAY 1
  • COMPLIANCE BY MARCH 31 OF FOLLOWING YEAR
  • FORTHCOMING STANDARDS – LATER IN PRESENTATION …
• ELIGIBILITY FOR GRANT MONEY
  • COMPLIANT
  • NON-COMPLIANT WITH PLAN TO COME INTO COMPLIANCE
• PROPER USE OF GRANT MONEY
  • IMPROVE INDIGENT DEFENSE SERVICES
SUGGESTED MODEL CONTRACT TERMS

• CASE TYPES
• REPORTS AND INSPECTIONS
• ESTABLISHMENT AND MAINTENANCE OF RECORDS
• PERFORMANCE EXPECTATIONS
  • IDAHO’S PRINCIPLES OF AN INDIGENT DEFENSE DELIVERY SYSTEM
  • NLADA PERFORMANCE GUIDELINES & PERFORMANCE REQUIREMENTS
    AND/OR STANDARDS AND GUIDELINES ESTABLISHED BY THE PDC
• PERFORMANCE REQUIREMENTS
• TRAINING REQUIREMENTS
• EXPERIENCE REQUIREMENTS (BY CASE TYPE)
• DEFINITIONS

CORE CONTRACT TERMS - PURPOSE

• BEST PRACTICES
• ADHERENCE TO THE SIXTH AMENDMENT REQUIREMENTS
• COMPLIANCE WITH THE PRINCIPLES OF AN INDIGENT DELIVERY DEFENSE SYSTEM
• PROTECTION FOR COUNTIES, DEFENDING ATTORNEYS, AND DEFENDANTS
• REFLECT THE NATIONWIDE PERCEPTION CHANGE REGARDING THE ROLE OF DEFENSE COUNSEL.
ANNUAL REPORTING – IDAHO CODE §19-864

RECORDS OF DEFENDING ATTORNEYS – ANNUAL REPORT OF DEFENDING ATTORNEYS

1) INDIGENT DEFENSE PROVIDERS AND DEFENDING ATTORNEYS SHALL KEEP APPROPRIATE RECORDS RESPECTING EACH PERSON WHOM THEY REPRESENT UNDER THIS ACT.

2) ON OR BEFORE NOVEMBER 1 OF EACH YEAR, INDIGENT DEFENSE PROVIDERS AND ANY DEFENDING ATTORNEYS WHOSE INFORMATION IS NOT OTHERWISE INCLUDED IN A REPORT FROM AN INDIGENT DEFENSE PROVIDER SHALL SUBMIT AN ANNUAL REPORT TO THE BOARD OF COUNTY COMMISSIONERS, THE APPROPRIATE ADMINISTRATIVE DISTRICT JUDGE AND THE COMMISSION IN CONFORMANCE WITH THE RULES PROMULGATED PURSUANT TO SECTION 19-850(1)(A)(II), IDAHO CODE.

ANNUAL REPORTING: THE FORM

- LIST OF ATTORNEYS HANDLING CASES AND TYPES OF CASES HANDLED
  - FELONY, MISDEMEANOR, JUVENILE, CHILD PROTECTION, OTHER
- LIST OF SUPPORT STAFF
- CASELOAD REPORT
  - FELONY – NON-CAPITAL, PV, CONTEMPT, POST-CONVICTION, APPEAL, CAPITAL, EXTRADITION, POST-JUDGMENT MOTIONS, PROBLEM SOLVING COURT
  - MISDEMEANOR – PV, CONTEMPT, POST-CONVICTION, APPEAL, POST-JUDGMENT MOTIONS, PROBLEM SOLVING COURT
  - JUVENILE – FELONY, MISDEMEANOR, PV, CONTEMPT, STATUS OFFENSE, APPEAL
  - FAMILY – TERMINATION, CHILD PROTECTION, Guardianship, Appeal
  - OTHER – CIVIL CONTEMPT, COURT-INITIATED CONTEMPT, RULE 75 CONTEMPT, INVOLUNTARY MENTAL HEALTH COMMITMENT
STANDARDS FOR DEFENDING ATTORNEYS

• PROPOSED RULE: IDAPA 61.01.07
  • PROPOSED STANDARDS
• NEGOTIATED RULEMAKING
• PUBLIC HEARINGS
• PENDING RULE TO BE SUBMITTED NOV. 25, 2016
  • COMMENTS DUE BY 5PM MST NOV. 18, 2016

KIMBERLY J. SIMMONS
EXECUTIVE DIRECTOR
IDAHO STATE PUBLIC DEFENSE COMMISSION
816 WEST BANNOCK ST., SUITE 201
BOISE, ID 83702
(208) 332-1735 – OFFICE
(208) 869-3124 – MOBILE
KIMBERLY.SIMMONS@PDC.IDAHO.GOV