



Idaho State Public Defender

History of Public Defense in Idaho



How Far We Have Come

- 1887 Idaho Revised Statutes – At arraignment, the Defendant must be informed of his right to counsel and if he/she desire counsel – the Court must assign.
- Idaho Constitution Art. I, Sec. 13.
- *State v. Montroy*, 37 Idaho 684 (1923) – the court must assign counsel to the defendant at public expense.
- *Gideon v. Wainwright*, 372 U.S. 335 (1963) – 6th and 14th Amendment guarantee the right to have an attorney appointed at government expense.

Idaho – Still Progressing

- In 1967, the Idaho Legislature delegates public defense to the counties.
- In 1998, the Office of the State Appellate Public Defender ("SAPD") was created
- In 2007 the National Legal Aid and Defender Association ("NLADA") releases management audit of SAPD.
- 2007 – Idaho Criminal Justice Commission ("ICJC") authorizes NLADA to evaluate adult trial level public defense system.
- In 2009, the ICJC forms a Public Defense Subcommittee – 2009
- 2010 – NLADA finds Idaho fails to provide the level of representation required by the United States Constitution.

Public Defense Commission

- In 2014, the Idaho Legislature created the Idaho Public Defense Commission ("PDC").
- After the PDC was created, the ACLU filed a suit against the State of Idaho alleging statewide deficiencies in public defense.
- The State of Idaho increased funding for public defense, infused training money into public defense, and provided additional money through the extraordinary litigation fund.

Fast Forward

- In 2022, the Idaho Legislature passed HB 735a – establishing a dedicated funding source for public defense, while providing tax relief to the counties.
- In 2023, in working with defenders from institutional offices and contract attorneys throughout Idaho, the Idaho Legislature passed HB 236.
- HB 236 created the Office of the Idaho State Public Defender ("SPD").
- Following the process created in consultation with current Idaho public defenders – I was appointed by Governor Little on September 25, 2023 to serve as the State Public Defender

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- Appropriated \$4,380,700 for FY2024
- Authorizes 10 full-time equivalent positions, to be housed inside the Public Defense Commission.
- On July 1, 2024, the SPD will absorb the PDC – adding an additional 7 positions into the Administrative Office.
- The SPD FY2025 Budget - \$49,598,100
- HB 236 authorizes 7 district defenders to manage each of the 7 judicial districts.
- The district defenders are appointed by the magistrate commission, without the ADJ and with two additional defense attorneys appointed by the SPD.

Transition Committee

- HB 236 creates a transition committee to assist in the move from the county to the state system – 2 representatives from the IAC and 7 attorneys, one from each judicial district. Of the 7 attorneys, 3 must be from institutional offices and 2 must be from counties with a contract to provide PD services.
- Transition Committee:
 - (1) Commissioner Leslie Duncan (IAC Rep. - Kootenai)
 - (2) Commissioner Brent Mendenhall (IAC Rep. – Madison)
 - (3) Dist. 1 – Luke Hagelberg – Bonner County
 - (4) Dist. 2 – Joanna McFarland – Contract Attorney – Nez Perce
 - (5) Dist. 3 – Aaron Bazzoli - Canyon County
 - (6) Dist. 4 – Monica Gray – Ada County
 - (7) Dist. 5 – Doug Nelson – Blaine County
 - (8) Dist. 6 – Ashley Lavalley – Bannock County
 - (9) Dist. 7 – Jim Archibald – Contract Attorney

2024 Legislative Session

- House Bills 593 and 697 – Allows those county employees moving to the State system to transfer up to 40 hours of vacation and 40 hours of sick leave to the State.
 - Employees will accrue both vacation and sick leave at the rate commensurate with State employees based on their PERSI time in the county.
- Senate Bill 1397 – Codifies the jurisdiction of the SPD to handle Child Protection Act and guardian ad litem cases in addition to Sixth Amendment obligations.

Going Forward

- October 1, 2024
- Case Management System
 - LegalServer
- Education and Training – Public Defense
 - Montroy Series
 - Trial College
- System Public Defense Support
- ABA Standards
 - Caseloads v. Workloads
 - Flat Fee Contracts