

GENERAL ADMINISTRATION POLICIES AND PROCEDURES
Confidential Incoming Communications

Policy Number: 103

Adopted: December 15, 2022

Policy and Purpose

The purpose of this policy is to address the protection of confidential information about (1) a case involving an indigent person including attorney-client privileged communication and/or attorney work product, and (2) inadvertently sent to the Idaho State Public Defense Commission (PDC) and/or unrelated to Commission business. This policy supersedes any duplicate or conflicting policies previously adopted by the PDC.

References

Chapter 1, Title 74, Idaho Code
Idaho Code §74-105(18)

Under the Idaho Public Records Act certain confidential information is exempt from disclosure. Chapter 1, Title 74, Idaho Code. And under Idaho Code §74-105(18) specific PDC records are exempt from disclosure. Accordingly, the PDC will take appropriate actions to protect confidential information including attorney-client privileged communication and/or attorney work product about a case involving an indigent person or other confidential information inadvertently communicated to the PDC and/or unrelated to PDC business.

When the PDC receives confidential information the sender intentionally communicated to the PDC,

- PDC Staff will advise the communicator that confidential information should not be disclosed to the PDC because the PDC may have to disclose it as public record and/or litigation discovery. PDC Staff will attempt to understand the communicator's information/resource needs and provide or direct them to relevant information/resources.
- PDC Staff will save all such confidential correspondence in the S: drive so that it is available to the Deputy Attorney General (and their staff) assigned to represent the PDC in any litigation for appropriate disclosure pursuant to such litigation.
- PDC Staff will utilize the following correspondence to respond to confidential communications about a case involving an indigent person, which correspondence may be adapted to the particular communication and/or amended by PDC Staff from time to time.

[Name]:

This [letter or email] is in response to your [letter, email, phone call or in-person contact] to the Idaho State Public Defense Commission (PDC) referencing confidential information including attorney-client privileged communication and/or attorney work product regarding your case on [date received or date of in-person contact].

The PDC's mission is to improve the delivery of trial-level indigent defense services and to ensure that the safeguards of the 6th Amendment of the United States Constitution and Article 1, Section 13 of the Idaho Constitution are met. Toward that mission, the PDC collects data, supports compliance with standards, provides training and administers financial assistance. The PDC does not have the statutory authority to advise you or to intervene in cases involving indigent persons.

_____ **County Public Defender:** Any concerns you have regarding your case should be directed to your attorney or his/her supervisor. The _____ County Chief Public Defender is [include chief public defender and when appropriate attorney name and contact information].

Idaho State Bar: The Idaho State Bar investigates information or grievances about an attorney, that if true, constitute a violation the Idaho State Bar's Bar Commission Rules or Rules of Professional Conduct. IBRC 509(a). Here is information about filing a complaint about your attorney's professional conduct with the Idaho State Bar: Grievance information: www.isb.idaho.gov/bar-counsel/grievance-faq/; Phone: 208-334-4500; Address: 525 W. Jefferson, Boise, Idaho 83702.

Idaho Judicial Council: The Idaho Judicial Council investigates and acts on allegations of a judge's misconduct. Here is information about filing a complaint about a judge's conduct with the Idaho Judicial Council: <https://judicialcouncil.idaho.gov/FAQ.htm>. Complete the complaint form available online: <https://judicialcouncil.idaho.gov/discplin.htm> and mail it to Idaho Judicial Council P.O. Box 1397 Boise, Idaho 83701.

ACLU of Idaho: The ACLU of Idaho takes complaints about the public defense system in Idaho and public defenders. Here is information about ACLU public defense system and public defender complaint resources: FAQs: <https://www.acluidaho.org/en/publications/faq-idaho-public-defense-class-action-lawsuit>

File a complaint online: <https://intake.acluidaho.org/>

Email: PublicDefense@acluidaho.org

Write: ACLU of Idaho

Public Defense Class Action

PO Box 1897

Boise, ID 83701

[and/or]

The ACLU of Idaho takes complaints about civil liberties violations. Here is information about ACLU civil liberty violation complaint resources. File a complaint online or print and mail the complaint form available online: <https://intake.acluidaho.org/>

Website: <https://www.acluidaho.org/en/resources/report-civil-liberties-violation>

Additional Information: Please contact me if you need additional information. If you do, **please do not send me or our agency any confidential information including attorney-client privileged communication and/or attorney work product about your case because the PDC may have to disclose it as public record or litigation discovery.** We recommend you protect your confidential information including attorney-client privileged communication and/or attorney work product and not disclose it without discussing it with your attorney. The PDC will keep any confidential information provided as required by law or court order and will not disclose it except to PDC's legal counsel or as ordered by a court.

When the PDC receives confidential information the sender inadvertently communicated to the PDC, PDC Staff will notify the sender and delete any electronic copies and shred any paper copies.