

**IDAPA 61
TITLE 01
CHAPTER 07**

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

**61.01.07 – RULES GOVERNING THE STANDARDS FOR DEFENDING ATTORNEYS THAT
UTILIZE IDAHO’S PRINCIPLES OF AN INDIGENT DEFENSE DELIVERY SYSTEM**

000. LEGAL AUTHORITY.

Section 19-850 (1)(a)(vii), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules establishing the standards for defending attorneys that utilize, to the extent reasonably practicable taking into consideration factors such as case complexity, support services and travel, Idaho’s Principles of an Indigent Defense Delivery System (IPIDDS) as referenced in the same section.

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 61, Title 01, Chapter 07, “Rules Governing the Standards for Defending Attorneys that Utilize Idaho’s Principles of an Indigent Defense Delivery System.”

02. Scope. These rules establish the standards and guidelines for Indigent Defense Providers and defending attorneys practicing in the State of Idaho. As section 19-859, Idaho Code, establishes that the board of county commissioners of each county shall provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney, these rules also apply to the delivery of such services by the county, section 19-862A(9), Idaho Code.

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the PDC’s office.

003. ADMINISTRATIVE APPEALS.

The PDC’s determination to set standards for defending attorneys is an exercise of its duty to responsibly and prudently implement a system to improve the delivery of trial-level indigent defense services. Nevertheless, unless otherwise stated, determinations made by the PDC are subject to administrative appeal under IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.”

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules:

- 01. “Standards For Defending Attorneys,”** edition 2016, is herein incorporated by reference and is available from the PDC’s office and on the PDC website: <https://pdc.idaho.gov>.

005. OFFICE—OFFICEHOURS—MAILING AND STREET ADDRESS—TELEPHONE—INTERNET WEBSITE.

The location and mailing address of the PDC is 816 West Bannock Street, Suite 201, Boise, Idaho 83702. The offices are open daily from 9 a.m. to 5 p.m., except Saturday, Sunday, legal holidays, and when closed because staffing levels do not permit. The PDC’s telephone number is (208) 332-1735 and the facsimile number is (208) 364-6147. The PDC’s official website is: <https://pdc.idaho.gov>.

006. PUBLIC RECORDS ACT COMPLIANCE.

This agency operates pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code.

007-009. (RESERVED).

010. DEFINITIONS

01. Case.

(a) A case consists of all related charges from a single incident, transaction or occurrence filed within a single case number, handled by one defending attorney. A probation violation or motion for contempt is counted as a separate case.

(b) A felony case is counted as follows:

(i) A case filed as a felony is counted as one felony, whether it is dismissed, remanded, pled, or tried to completion.

(ii) A case filed as a felony that is remanded to magistrate court is counted once as a felony assuming vertical representation occurs.

(iii) A case filed as a misdemeanor that is subsequently amended to a felony is counted once as a felony, assuming vertical representation occurs.

(c) Post-judgment motions, such as those requesting early termination of probation or a reduction in sentence pursuant to Idaho Criminal Rule 35, are not counted as a case.

(d) If two or more cases are consolidated prior to significant representation being undertaken on each individual case, then the consolidated case is counted as one case. If significant representation has occurred prior to consolidation, the cases in which such representation has occurred shall be counted as separate cases.

02. Caseload. The number of cases, as defined in this chapter, assigned to a defending attorney in a fiscal year.

03. Defending Attorney. Defined in Section 19-851, Idaho Code, as “any attorney employed by an indigent defense provider or otherwise assigned to represent adults or juveniles at public expense” in state courts.

04. Established Standards. The “Standards For Defending Attorneys” as referenced in Section 004 of these rules and established pursuant to Section 19-850(1)(a), Idaho Code.

05. Fiscal Year. As referred to in this chapter, fiscal year refers to a county fiscal year beginning on October 1 and ending on September 30 of the following calendar year.

06. Indigent Defense Provider. Any agency, entity, organization or person selected by a board of county commissioners in accordance with section 19-859, Idaho Code, or designee of the commission if the commission’s actions to remedy specific deficiencies pursuant to section 19-862A(11)(b), Idaho Code, involve the direct provision of indigent defense services, as a means to provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense.

07. Workload. The term workload recognizes that a caseload generally consists of a mix of case types that require differing amounts of time and resources. As used in this section, workload takes that fact into consideration.

011. ABBREVIATIONS

01. PDC. The State Public Defense Commission.

02. IPIDDS. Idaho’s Principles of an Indigent Defense Delivery System.

012. – 019. (RESERVED)

020. PUBLIC DEFENSE ROSTER.

01. Roster Membership. The PDC will create and maintain a roster of all institutional defender attorneys, and defending attorneys included in primary or conflict contracts with the counties in the State.

a. Maintenance of Roster. The roster will be updated in May of each year, but may be updated more frequently in order to accurately reflect staff changes at the county level.

b. Roster Contents. The roster will include the name of each defending attorney or non-attorney staff, their Idaho State Bar Number, and professional contact information, including email address, physical address, and telephone number.

c. Availability of Public Defense Roster. The roster will be available upon request from the PDC office.

02. Application for Roster Inclusion. Any attorney who is not employed by an indigent defense provider, or who does not work under an existing indigent defense services contract may apply to the PDC for inclusion on the Public Defense Roster.

a. Approval. Inclusion on the Public Defense Roster must be approved by the Executive Director.

021. APPLICATION OF ESTABLISHED STANDARDS

The established standards detailed in the incorporated document, “Standards for Defending Attorneys,” shall apply to all Indigent Defense Providers, defending attorneys, members of the Public Defense Roster, or any attorney who is assigned to represent at least one indigent defendant or is otherwise assigned to represent an adult or juvenile at public expense in state courts in a fiscal year. Additionally, as section 19-859, Idaho Code, establishes that the board of county commissioners of each county shall provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney, these standards also apply to the delivery of such services by the county, section 19-862A(9), Idaho Code.

022. – 099. (RESERVED)