SYNOPSIS OF ORAL AND WRITTEN COMMENTS RECEIVED AT PUBLIC MEETINGS BETWEEN JUNE 11 AND JUNE 26, 2018

THIS DOCUMENT REFLECTS PUBLIC COMMENTS THE PDC RECEIVED at public meetings between June 11 and June 26, 2017. Only the portions of the rules and standards that received comment are included. If a rule or standard section is not included in this document, it is because no comments were received during the period identified above.

Comments are noted first by rule and then are set apart by each meeting at which comments were made.

Note: Additional comments are available on the PDC’s website at https://pdc.idaho.gov/rules/negotiated-rulemaking/

Rule Comments
DOCKET NO. 61-0107-1801: RULES GOVERNING THE STANDARDS FOR DEFENDING ATTORNEYS THAT UTILIZE IDAHO’S PRINCIPLES OF AN INDIGENT DEFENSE DELIVERY SYSTEM— Workload Standard for Defending Attorneys

Coeur d’Alene, June 11, 2018
Dan Dinning, Idaho Co. Commissioner: Kimberly, wasn’t an Idaho study done?

Can a more experienced attorney handle more cases? That should be reflected somewhere.

Bob Bingham is right though, when the ACLU suit started, the state tried to tell the court the counties are responsible, so there is a fear we will throw a county under the bus.
Anne Taylor, Kootenai Co. Chief Public Defender: How would you monitor [workload]? How much information would go to the PDC if you were monitoring it? How is that going to work? What would be the mechanism if I went over the limit?

A point system takes into factor a lot of different things, but it’s time consuming because of that. If you say felony, and we can only have 150, Chris Schwartz may have different felonies, so he could maybe have more of those? I like the points, we can get better numbers, but keeping track of it for twenty (20) people would be a nightmare.

Maybe we should talk about defining felonies in a different way. Maybe defining by charge or case type.

We only do grand juries in our county, not prelims.

I like Chris Schwartz’s idea about how many you have open today, not by year. If his numbers change over time, you can adjust, unless you do a look back over the year. The ones that change really fast could be adjusted for.

I think if we broke down the felonies more, that would account for experience as well.

I think they have to have points, I have somebody taking care of that [problem solving] court which meets every day of the week, I don’t want the numbers to be off when we look, but I don’t want all the cases to be counted when they aren’t working on them, but I also want to account for them. One of my attorneys spends five hours in a problem solving court, so it eats up a chunk of his time. If it eats up a whole day, we have to get points for that, but he can’t handle as many other cases.

We have people covering just [the DV docket], it’s been every week, and almost more often. We’ve got all day, sometimes multiple days a week. Somehow we have to assign points to these cases, and they may be counted elsewhere, but we need to count again.

Every single Wednesday we put on a grand jury, they are not the complex sex cases, but sometimes felony DUI and failure to register as a sex offender. We have to get all the transcripts and it slows a lot down.

Jeff Connolly, Bonner Co. Commissioner: The problem I see is nobody is going to know that number, nobody is going to know how many cases are coming in. Do we leave an open line on public defense? ICourts in general is a disaster.

Can you throw those [workload] numbers on a county? How do you account for private cases?

So there are more prosecutors, so there are city prosecutors too?

Janet Whitney, Bonner Co. Chief Public Defender: My question is, if you’re going to do continuous monitoring of caseloads, my office certainly has a database, but it’s old. We need to get a new database to get you the information. We can run a report quarterly. We use Time Matters.

But if you did that [moved a case from a felony to a misdemeanor because it was plead down], it’s because you did good work first.

And [you should track] by case type. If you have a possession case, they resolve pretty quick, as DUIs are a bit more complex. Throw a couple murders in there, and you’re really in deep.

DV courts take up so much time because they actually have hearings. It’s all afternoon or all day.

Some of the problem [with workload] is the judges are assigning stuff. That’s another problem, how the judges assign cases. They would rather give the PD the case if there is anything iffy. Gives us the case until they can bond out at least.

[Regarding looking at prosecutors] You also have to look at how the case works. PAs get the case at the beginning, and... [Prosecutors] start the process.

Phillip Lambert, Benewah Co. Commissioner: All this rulemaking is forcing everyone to have a case load management system. To meet the requirements. By the end of the year we’d have to do that.
You’re going to have a lot more cases after a three day weekend than after a regular weekend, so these numbers are going to be a spike up and down.

You could have a much higher count in a county that doesn’t have grand juries.

Chris Schwartz, Kootenai Co. Deputy Public Defender: Is there even a proposed number at this point? It’s hard to comment without a number.

You could talk to DOC about [how to categorize felonies].

I think that’s it, it’s how many cases you have at one time.

You want to create a system that takes into account attorneys’ experience.

We need to assign points to admin work as well. CPA cases also exist, and how do we assign cases to them. They are more of a time sink than other cases.

Is part of the workload rule about what happens if it gets violated, is that part of this rule? What’s the remedy, whose job is to fix it?

On a functional basis, Jeanne Howe would come to us, how do we address it? I just don’t want it to be our fault.

But there is no standard for prosecutors.

If you really want to cut the amount on spending, you have to cut prosecutors.

That blows up the budget [weekly grand juries], and so the only way to slow that down is the BOCC to put control on that. When they come to ask for money, you can push back on that and highlight how they are spending the budget.

Keisha Oxendine, Shoshone Co. Prosecutor: Some sort of oversight is needed, because if up to the attorney, you could click all the buttons you want. Or if a newer attorney, things would be more complex.

If a case is charged as felony, but resolved to misdemeanor at prelims, could it be reduced?

If you’re working multiple murder cases, you shouldn’t be working much of a caseload.

Matters more for offices, but specialty courts cause a big difference.

The standard that is set in each county, and that affects my cases. In my county, we want to charge people so they will clean and sober up by prelim, the standard that is set by the county. The other thing is the working relationship between the PDs and PAs, and that directly affects your budget, because it affects how quickly things get resolved. In our county, we don’t have a justice levy, a lot of times we also have people who need treatment or an evaluation and we will expedite that process and stipulate because it’s cheaper for us to simply move them forward for that. We constantly have to balance our small resources. I go and say we need more money, and I go to the BOCC and say the PDs need more money too, and I show them the money. The public wants more done, and they have to pay for it.

Jeanne Taylor Howe, Kootenai Co. Deputy Public Defender: Internal labeling would be a different level.

For [prosecutors] to put on a grand jury, and to challenge it, it’s a ton of work on our end. It’s 4 times more work for us than them. A prelim is almost always excluded, the hours required to fight them is much more.

[Regarding parity] Please keep in mind the money they [prosecutors] get that they don’t put into their budget. Parity plays into this quite a bit. One thing that doesn’t show up in subpoenas served by the police, that money doesn’t show up in their budget. How are they going to track that? I had to bring in a bunch of witnesses, and I had to serve subpoenas. CDA police, I can’t call them up and ask them to do a follow-up or deliver subpoenas.

Claire Freund, Kootenai Co. Deputy Public Defender: We get a lot of DWP, and they are really quick to handle. They add to your caseload, and they aren’t much work.
The PAs have vast resources and other folks, and the PDs handle the city charges and everything as well.

A lot of what happens in our county is grand juries that slows down a lot.

**Lynn Brooks, Boundary Co. Primary Public Defender, Kootenai Co. Conflict Defender:** Kootenai County, does Scott report that [referencing public vs. private caseload]?

[Regarding the sheriff doing the same for the PA and the PD} Or they don’t make the same effort, if it’s the PA, they will go back and try again.

**Bob Bingham, Kootenai Co. Commissioner:** This far into the process, we already have the training. Before this kicks in, without funding this crushes counties. I don’t think it will be pretty as an unfunded mandate. The State says “we have to do this.” We might have to start firing prosecutors or cops. The most recent documents from the ACLU seem to be on our side, is the state supplying enough money? After the workload, maybe my defending attorney has 100 cases, and my prosecutors have 150.

But this isn’t something we can look at without looking at the other side [prosecutors]. The PDs have more staff than the prosecutors. This is why it would be good to have a nice civil discussion. We have meetings separately and then each bring their own side. I wanted to work it out together. They both come in and argue parity.

I thought we agreed in that one meeting it was the deputy sheriffs arresting.

This thing seems to be squishy, but literally, Anne Taylor comes in and says I need this for parity, and then the PA comes in and says this.

I brought that [parity] up on behalf of Chris Schwartz, and I brought that up with Barry. He said that everything the sheriff department does you [PDs] get as well.

**Paige Nolta, Contract Public Defender, multiple counties:** But your public defender is also doing the civil contempt... And they are dealing with the AG on the civil cases.

**Lewiston, June 12, 2018**

**Don Ebert, Clearwater Co. Commissioner:** Why is flat fee banned for contract if below number?

I know we are boxed a bit, but instead of giving them an incentive to get them to be more efficient, we are giving them an incentive to spend more time. It doesn’t work under capitalism. At what point does the [Idaho State] Bar step in and say “you need to be acceptable [on the number of hours you put into one case].” If they are within the acceptable standards at the end of the day, like “look, here’s how much work, here’s how much money.” The way we are headed is not right.

As far as choosing to be in public service, the governor doesn’t make as much as the CEO of Microsoft. I know you hear this every time.

Is there any appetite [interest] toward a normal type case, like DUI or something, burglary, to pay by the case, and then pay more for exceptional elements. If we could do that and make it pass muster, it would be a system that would be fair and ensure time. They could also make more money if they wanted to work harder. If we take away the token that says if you do more work, you’ll make more money. I’m afraid we already know the conclusion of all this, and my fear is we are going to have to pay all the attorneys by hour and they are going to turn in all the hours they want. I know we can ask the Bar to review hours, but I don’t want to do that. Is there any way we can avoid that?

I’m not an attorney, and I rarely stick up for you guys, but you guys have a lot of integrity.

Are you going to take our input and synthesize it? So this will go to the Commission.

I’m not an attorney, I’m arguing above my head. The prosecutors have the burden of proof, so that sort of hurts that as well. As for keeping prosecutors at defense levels, here’s an example. The first time you get an expert witness who has to testify about an hour after, the prosecutor then wants an
expert as well. I think it’s a good argument that when we hold defending attorneys to higher standards, prosecutors will want more funding as well.

You had said something early about going to the legislature about “this will cost this county” so much, and I want my comments to make a difference. I feel like you can’t say that because you can’t know how many hours the public defender will turn in. I had another thought about the standard, 150 cases a year doesn’t mean 150 cases in a month. DEQ has a water test over time and instantaneous, so many think about incorporating that into your standard. I think I would like to specifically have included in that rule, that a flat fee contract would be okay if they are under the caseload limit. If you have more cases, you have to hire a new attorney. Then I also have to point out, so you’re on the panel to represent public defenders, but your role should be more neutral. You’re kind of arguing for public defenders, with all due respect. I don’t know if that’s appropriate.

We have to. I know there are more murder cases, but we have paid $100,000 more once we got this. And it didn’t make a difference in what defense the clients got.

I understand it’s not about, one time Jack Hathaway said, I have to do this in one case so it doesn’t happen all the time.

The legislature should pay off student loans if they do public service. From the state level for Idaho students. I just hope they would consider it. We don’t have enough attorneys.

Does workload study assume 40 hours a week? What’s your thoughts on that? Full time? Quarter? Most of the high income attorneys work 60 hours a week. How do you figure they work over 40? Hours they don’t turn in? They do extra? Both?

Rick Winkel, Clearwater Co. Commissioner: Flat fees don’t allow them to milk us. We have no way of tracking hours, it’s not like they punch a clock.

We are also having sort of a weird year, we are having two murder cases. It’s a huge amount of money. If we increase the PDs, we have to increase the PAs. We don’t have a contingency fund for weird years like that when the costs go up dramatically.

The other thing is experience. Going to relate it back to contractors. I watch myself do stuff, and I watch folks who are newer, it takes them longer. It might take them ten counts instead of me doing one. That experience doesn’t have anything to do with age.

So as far training goes, let’s talk about that for a minute. The first question is who is responsible. [ED of the PDC responds “We have $110,000 for training each year, we asked for $15K more.”] So how does that structure work? Do we get them together for conferences? One of the things I struggle with is the training, I’m not an attorney. I don’t have a clue if the attorney is good or not. Is it due to experience or not? Should he have picked up on that, for example? So it’s hard for me to make a jump to managing a bunch of attorneys.

The other thing with it is we don’t know we have a problem until we have a problem. It’s hard to fight the ACLU with that one.

Just so you understand, and I know this goes for everybody at the IACC meeting. Every time you talk we hear cha-ching, cha-ching. ($$). We don’t always understand everything that is being thrown at us. We are trying to communicate as well as possible, so it may get repetitive. We are very much concerned about what’s going on. That’s half the equation [referring to knowing what we need]. If we add to public defenders, we have to increase the prosecutors as well. It’s a double hit. If you have twelve defender attorneys, then the prosecutor wants more attorneys. This is the first time I’ve heard this, it’s not a side I’ve heard.

I want you to know I appreciate you still showing up, and not just throwing the book at us.
I’m going to say what I said again at the IACC, I’m concerned about that because you would confine our negotiations to a box. I’ve watched Don Ebert go through negotiations and they corral us until they put us over the barrel and have us. We have watched them milk us, and it’s not a little bit, it’s thousands of dollars. We’ve had them cough up the reasoning for that, it’s itemized billing.

**Greg Johnson, Lewis Co. Commissioner:** But neither does our prosecutor [track time]. That’s what I’m looking at, I think it should be somewhat equal. We talk to him more about civil work and he has to juggle.

Under the caseload standard, we know we can’t have a flat fee contract with no experts or witnesses, and we don’t do that. We don’t know what the caseload is going to be. Lewis County is the anomaly, nothing happens there, what if we have it in our contract that this is our average caseload, if we exceed that by a certain level, we go to additional funding.

I guess the end goal we are having here is that defendants get better representation.

And this doesn’t have anything necessary with public defenders, are we seeing less attorneys go into that, or is it static? Could the PDC go into Idaho law school and guide those folks?

So this wouldn’t be a set in stone model? It’s something we could change.

I’ve talked to Aaron and the others about our conflict attorneys, we would like something simple to use.

**Patty Weeks, Nez Perce Co. Clerk:** What you were saying early on how much a case takes, these commissioners don’t know. They don’t know something simple or not. So part of this is compounded in the last standards that came through, the first appearance. Nez Perce County followed along with what the prosecutors said, and we are now paying $85,000 to do that. They felt panicked and they felt they had to do something before you came in and took the money. It costs way more than it should.

Roads give us the money based on a formula, not compliance, liquor funds, there’s a formula, and we get it done. I hate the grant forms, it’s ridiculous. The grant form is a bugaboo. The public defenders come in and say we want this much money, and we say okay. Or they say if they don’t get that, we are walking. So we just give them the money. I don’t know how much they spend on office stuff. How do I apply if I don’t know what compliance is.

The prosecutors also have to attend first appearances now.

We do it by case. We have been sort of taken by the hourly thing.

So on the things to consider for caseloads, I don’t see anything on here for technology and using technology to be more efficient.

**Idaho Falls, June 18, 2018**

**Kim Muir, Madison Co. Clerk:** Where does a defender’s experience come into this?

- Kimberley Simmons, ED of the PDC, pointed out that our current standard talks about it and we want to consider it.
- Ms. Muir stated that because of their attorney’s experience, he may not need more than 15 minutes. What is he supposed to do with all of his excess time?

How do you have an attorney there before they are appointed?

**Dave Radford, Bonneville Co. Commissioner:** Seems that cases handled by attorneys who need more time may actually hurt in figuring a standard out.

[A] caseload standard won’t work. There will be a lot of push back.

Have there been other states that have classified crimes or caseload in statutes?
A number of people explained that there are a number of states that have different “levels” of felonies and misdemeanors.

**Bill Baxter, Fremont Co. Commissioner:** Asked if Idaho had classes for crimes.

- Asked if when the workload standards are set, will the ACLU take case complexity into account?
- Asked why having a public defender present at first appearance wasn’t required before.
  - **Jim Archibald, Defending Attorney:** Required based on a recent judges interpretation of the constitution.

The problem is, does the ACLU care about the differences between Idaho and NYC? Are they going to balk at you?

- Someone stated: No county in NY is like Clark County with “only 800 residents.”

Can the PDC classify the crimes?

- Kimberly Simmons, clarified that the PDC can only create classifications for our own reporting purposes and for the workload standard. The legislature would need to codify a statewide system to be used throughout the criminal justice system.

Asked about the financial contributions of the State v. the counties local share.

- Kimberly explained that if the PDC bumps the maximum eligible amount to 20% and froze local share – the PDC would need to ask for $6.2 million.

**Jim Archibald, Defending Attorney, multiple counties:** Had a situation last week where he had to talk to co-defendants prior to being appointed. It’s a scary moment to give advice when he knew he had a conflict.

Pointed out that the judge in Madison County will not allow bond arguments in court at first appearances.

Talked about the 1973 study. Ridiculous to think the PDC will ask how much private work is being done. Creates the feeling that an attorney is “not worthy” to do public defense work. Puts small counties in a bind.

- **Kimberly Simmons:** Not interested in private cases. Only in public defense cases.

**Pam Eckhardt, Bingham Co. Clerk:** When I finally understood that they were not trying to argue the case at the time of first appearance, only bond, she was okay with it.

Had a question regarding continuous managing of caseloads. Said that they have gotten pushback from Commissioners as clerks try to manage caseloads. She said that the Commissioners have said that all PDs must be assigned equally.

One of the major conflicts is from prosecutor who said that attorneys don’t have a right to have a private practice and then do PD cases.

- **Kimberly:** Realistically, that can’t happen.
- **Bill Baxter, Fremont Co. Commissioner:** Our PD has a full time practice in Rexburg. He doesn’t think Fremont County will ever get to the point that they can have a full-time PD.
- **Dave Radford, Bonneville Co., Commissioner:** A lot of the judges have to move to the rural counties because they don’t have attorneys who live in those counties.
Kimberly Simmons, Executive Director, PDC: Gave everyone a heads-up that at the next PDC meeting Paige Nolta will be presenting information regarding a regional office.

- Bill Baxter, Fremont Co. Commissioner: Regarding having the State take over public defense, the state seems to say, “What is it about ‘no’ you don’t understand?”

- Dave Radford, Bonneville Co. Commissioner: We should look at that here. Regional office makes sense to him. State should at least fund 2/3 of the costs. Puts the State on the hook… Makes sense to do it on a regional basis.

- Jordan Crane, Bonneville Co. Chief Public Defender: Bonneville could help with that. If a county only needs a part-time PD, they could work out of their office.

- Pam Eckhardt, Bingham Co. Clerk: Some interest in that in Commission Meeting. Like elections, just give money – don’t make them comply.

- Kimberly: The PDC will be asking to change description to financial assistance, not grants, and would gather request for that through reports, not applications.

Pocatello, June 19, 2018

Mark Bair, Bingham Co. Commissioner: Why is Idaho insisting on adopting a caseload standard? If other states haven’t – why Idaho?

Here is the problem. Our attorney that handles misdemeanors handled a little over 1100 cases last year. If the misdemeanor standard is adopted Bingham County will need to hire four more additional defense attorneys. If the standards are adopted, Bingham will need six more attorneys. Painted a target on the back.

- Dave Martinez, Bannock Co. Chief Deputy Public Defender: Target is already there.

- Rep. Kelley Packer, Idaho House of Representatives: Target is on the State, not the counties.

- Lon Colton, Oneida Co. Clerk: In the end I may not agree, but I need to write the check. There is no guarantee the State will pay.

  - There was discussion between Representative Packer & Mr. Colton about how that works and who bears the responsibility.

- Kimberly Simmons, Executive Director, PDC: Ultimately, if the state doesn’t appropriate, then we are exactly where we are at now. That is the point of these conversations. To give the legislature the information they need to make the decision regarding appropriation.

The first question from the legislature will probably be how much money are we talking about? Is the PDC intending on getting that number to the legislature this session?

- Kimberly Simmons, Executive Director, PDC: Explained what she intends to do this year with the ability to ask for supplemental next year.

Can Kimberly tell us about the interaction with IAC?

- Kimberly Simmons, Executive Director, PDC: Mostly through counties. She reaches out to Seth regularly and doesn’t get a lot of response. He is busy. She is also trying to get information out through the IAC newsletter. Kimberly needs information from the counties to get the needed information to the legislature.

- Shelly Daniels, Oneida Co. Commissioner/PDC Member): Talked about how there are disagreements within IAC because of turnover among the delegates.

Chase Hendricks, Bingham Co. Deputy Prosecuting Attorney: What is the numerical breakdown between standards and no standards? What about the states around Idaho?

Have you thought about breaking crimes down into classes? All felonies are not created equal.

Has there been any thought into the likelihood of prison time? Likelihood of prison is higher in sex offense than possession of meth?

Will there even be enough attorneys in the State to cover this [a workload standard]?
One of the best fixes would be to look at certain crimes and modify certain felonies to be something else.

Shelly Daniels, Oneida Co. Commissioner/PDC Member: What is the significance of urban v. rural in the Colorado example? As a follow-up, is there another system that is similar to ours?

- Kimberly Simmons, Executive Director, PDC: Not really. Most workload studies are in statewide systems. NY is not, but they are very different from us.

[The] whole system has conflicts. Commissioners pay for everything. There will be major pushback if prosecutors are taken from the Commissioners. They trust them.

- Kimberly Simmons, Executive Director, PDC: We’d like to work with them to find out how it should work.

- Mark Bair, Bingham Co. Commissioner: It will be different from every county. The other hard thing is that experience makes so much difference. I am assuming that a one year lawyer could handle far less than an experienced attorney.

- Rep. Kelley Packer: There will be a continuing push in the State to amend crimes as needed to reflect what they should be, such as driving without privileges.

The State needs to consider the difference between the “bigs” and the “littles” [referencing county size].

Lon Colton, Oneida Co. Clerk: You indicated that some states have standards, but no studies. How do they compare?

- Kimberly Simmons, Executive Director, PDC: Most adopted standards close to national standards.

Will we be able to get attorneys to cover the cases? Private attorneys won’t want to take the cases if it interferes with their livelihood.

William Lasley, Power Co. Commissioner: As we look at this, regardless of which standard, where is the money going to come from? Will the standards only pass if the funds are approved?

- Kimberly Simmons, Executive Director, PDC: Explained willful v. non-willful non-compliance. If the state doesn’t fund it and the county is trying, then the non-compliance is non-willful.

- William Lasley, Power Co. Commissioner): Expose himself to liability by enacting rules and then hoping and praying that the State ponies up the money.

- Senator Mark Nye, Idaho State Senate): What does the ACLU say?

Kimberly Simmons, Executive Director, PDC: This will be an ongoing process. We don’t have all the data to have a workload standard that considers all of the case types. I expect that in each year the PDC will be asking for something different.

- Lon Colton, Oneida Co. Clerk: So the PDC is proposing that the state will pay the difference after the frozen local shares?

- There was general discussion about why the counties even need to be involved if the local share will be frozen and then the state will pick up the remainder. The thought was presented that the PDC should be able to just do it.

Shauna Geddes, Franklin Co. Clerk: Where will the money come from? Even if the State takes over, the money has to come from somewhere. This often means that the State takes money away that has been used in other areas.

- Kimberly Simmons, Executive Director, PDC: I’ll have to work on that.

- Representative Packer tried to answer their questions.

Regarding initial appearance, how are counties meeting that standard?

- Kimberly Simmons, Executive Director, PDC: video conferencing, contract with separate attorney

Lon Colton, Oneida Co. Clerk: If PDC asks for more money, when will it be available?
Kimberly Simmons, Executive Director, PDC: October 2019. If we get additional information prior to that, we can request money supplemental.

Is there any consideration given if attorneys settle more cases than a “caseload” standard so they can handle more cases?

Kimberly Simmons, Executive Director, PDC: Talked about the benefits of workload “point system” v. annual caseload. Likely we’ll land somewhere in the middle of those systems for now and we can adjust in the future.

Boyd Burbank, Franklin Co. Commissioner: What happens if the PDC says they need to hire one additional attorney and the prosecutor says they need to hire additional?

Kimberly Simmons, Executive Director, PDC: This is not a prosecutor standard.

Dirk Bowles, Franklin Co. Commissioner: You’ll also need to increase the amount of the minimum award [for Indigent Defense Grants].

Why is this a grant instead of an appropriation?

Sen. Mark Nye: It’s wrong.

Rep. Kelley Packer: She would like clarification as well. The way she understood it initially is because they were trying to work through the details before it was a line item.

Shelly Daniels, Oneida Co. Commissioner/PDC Member: It is really like a pass through, not a grant. It isn’t competitive. If you qualify, you will get it.

Kimberly Simmons, Executive Director, PDC: Suggesting to legislature to call it financial assistance, not grants and reports, not applications.

What does a county do when they get three murders and can’t handle it? If an attorney takes more cases and exceeds the workload and makes it so another attorney is overworked – how does that work?

Dave Martinez, Bannock Co. Chief Deputy Public Defender: Tried to answer how that works in his office.

Boise, June 20, 2018
Rick Buckham: There should be a time limit about when an attorney has to meet with a client. It shouldn’t be right before court and they should be required to meet within a certain amount of time from when they get the client.

You should count cases the way the judge does it—by each case number.

One way to think about assigning points to cases is to use an analogy from catering, where at the beginning of a week each upcoming catering job is on a calendar, and at the beginning of the week a particular event requires less time than it will on the day of the event.

Steve Botimer, Ada Co. Dep. Public Defender: Maricopa County, Arizona, has rules about the number of days a PD has to contact a client.

In terms of possibly giving certain types of cases a certain number of points, cases change over time. They’re much more time intensive at the front end, while the attorney is relationship-building with the client. Then as the case progresses, that case doesn’t take as much time.

It’s possible to reduce workloads by making sure attorneys have adequate support and tools because it allows them to be more efficient. If there are support staff, investigators, and social workers it really alleviates attorneys’ workloads.

Terry Ratliff, Elmore Co. Primary Public Defender: In terms of counting cases, each case number has to be a case rather than each defendant on a case.

I keep a monthly count of how many active cases I have, and for all the attorneys in my office, so that we have a good idea of workload.

I have a list of tasks that we track for billing and I can forward it to you [to Steve Botimer].

Pre-sentence Investigation reports are taking up to eight (8) weeks in Elmore Co., which is slowing down cases.

Seth Grigg, Executive Director, Idaho Association of Counties: Structuring felonies and misdemeanors by some sort of internal classification of charges would be helpful, such as by the amount of time it typically takes to process cases with different charges.

The experience of the attorney can impact how long it takes to do the work. How do you adjust for the experience level of the attorney? Would it be possible to stratify the workload number based on experience of the attorney?

IAC would like to see a differentiation between urban and rural workloads/caseloads.

Rep. Phyllis King, Dist. 18: The system of reporting should be efficient for the attorneys.

IDHW tracks time and might have a system you could look at.

Are there any national standards for how many support staff attorneys should have?

Kathy Griesmyer, Policy Director, ACLU of Idaho: Has there been any discussion on how to track these cases, whether it’s points or another method? Would monitoring workload or caseload be done in real time, and how would it be monitored, or will this be a “review what happened and re-assess?”

Twin Falls, June 21, 2018

Terry Kramer, Twin Falls Co. Commissioner: You need to distinguish the types of cases. The experience of attorneys matters, too.

We’re seeing a 40% increase in felonies all over the state.

We have a concern in Twin Falls Co. that we’ll get into a specific number [for attorney workload], then we get into a more state-controlled situation where someone is going to mandate that the county MUST do something. We don’t want a dictatorial State authority saying, “You must do this.” I’m not opposed to district control, just opposed to someone dictating who we must hire.

Are you looking at breaking down by number of cases or by defendant? One guy could have four (4) felonies—is that one case or four? Do we look at multiple charges over different case types by the most severe charge?
Matt Pember, Gooding Co. Prosecuting Atty.: Are any of the states [whose standards are reflected in the meeting workbook] enforcing these standards?

Jack Johnson, Twin Falls Co. Commissioner: Could you talk more about what constitutes “willful?”

Marilyn Paul, Twin Falls Co. Chief Public Defender: Public defenders get appointed to represent both county and city cases; prosecutors don’t have that. The public defender is appointed on all city cases. In Twin Falls, we have more misdemeanor city cases than we do felonies.

Twin Falls is in good shape with vertical representation due to the work with the BOCC over the last four (4) years. Hiring a civil attorney to do child protection has been very helpful. When Twin Falls grows the number of judges, vertical representation can be more challenging—for example look at Canyon and Ada Counties. There, judges haven’t been keen on adjusting calendars for vertical representation.

Prosecutors don’t have vertical representation requirements for their client, the State. They may have for victims, but not for cases.

Caldwell, June 26, 2018

Aaron Bazzoli, Canyon Co. Chief Public Defender: Prefers the term workload “guidelines” instead of “standards” because “standards” seem like an absolute. He would like to see a sliding scale for caseload requirements.

What about deviation from the standard? What will be acceptable?

Is the caseload tracking information provided accurate?

Does it show the actual work that was done for each case?

It takes smaller offices longer to complete tasks than larger offices because of the support staff that larger offices have.

How are the crimes/charges classified?

There are ethical considerations for conflict attorneys that should be considered such as the “Chinese Wall” when in the same building with contract attorneys.

Conflicts are not as big of a deal in smaller communities because everyone in a small community is connected anyway.

Commissioners see this as an unfunded mandate. The state needs to fund this.

We need to address the percentage of cases that are indigent cases.

The legislature needs to change the jail-able offenses to reduce the public defender’s needs.

Johannes Claus, Canyon Co. Deputy Public Defender: Referring to the ACLU lawsuit, is there going to be a bright line rule for non-compliance?

Marc Shigeta, Payette Co. Commissioner: The county really does not have leverage over attorneys for compliance or enforcement regarding caseload standards. How can the county assist the PDC in this area? Who has the oversight? Is it the Idaho State Bar?

Payette County would like to have and plans to have a generic contract that will include requiring reporting and caseload standards.

One of the problems for the county is the amount of non-resident defendants. Payette county is extremely busy because of the legal marijuana in Oregon.

Georgia Hanigan, Payette Co. Commissioner: When the new standards go into effect, maybe the county will have to limit the number of contract attorneys they will have.

Kelly Aberasturi, Owyhee Co. Commissioner: Did everyone get a subpoena in the ACLU lawsuit?

Our biggest issue is how to pay for the additional attorneys that are going to be required.
Idaho doesn’t have different classes of felonies, so it is hard to keep up with workload standards. Attorney requirements for different classes of felonies vary drastically depending on the type of felony.

The state has to put more money into public defense. The counties have already put in a lot, and the counties are strapped for money.

Regarding freezing the local share, would the State then fund the bill that remains? I am 100% for that model of funding.

If the state increases public defense money, the prosecutors will want more money too.

Scott Davis, Canyon Co. Public Defender: I do not understand where my cases fall in the classifications (child protection), and there is always an appeal in child protection cases.

Angie Barkell, Owyhee Co. Clerk: Are there other states that have a hybrid funding model?

Are we on the low end of state funding compared to other states?

One problem is that prosecutors pursue every charge in order to get more money.

[A] problem is that the money is moved around within a county in order to fit a budget, so the data may not be completely accurate.

Judges seem to approve all indigencies.

Tom Dale, Canyon Co. Commissioner: Is there discussion of a state centric model? I understand this is a long range goal, but the county cannot continue to raise all of the money necessary.

Qualification for indigent defense is to arbitrary by the judges. Who qualifies? This needs to be tightened up.

Most commissioners would pay what they pay today for public defense. The state should pay the rest.

DOCKET NO. 61-0102-1801 (NEW CHAPTER): RULES GOVERNING UNIFORM DATA REPORTING REQUIREMENTS AND FORMS FOR DEFENDING ATTORNEY ANNUAL REPORTS

Coeur d’Alene, June 11, 2018

Dan Dinning, Idaho Co. Commissioner: With that, a judge appoints a conflict attorney that doesn’t have an agreement, in your current rule, if they don’t cooperate, we are the ones that get penalized. We don’t have an agreement or contract, and the judge ordered it. Even with an agreement, I believe that’s unfair if the attorney doesn’t cooperate. The legislature at some point will question it.

We counties have been down the road with other things, and there becomes 44 different wants to solve this problem. We need one system everybody can use.

Before we move on, there is a perception in legislature that the counties are flush. There is a move to restrict foregone taxes, and if they reality arises, if the county has foregone taxes, they could have funded it. But we are still on the hook for providing. I understand your concept of willful, and there is a belief that it is there.

Lynn Brooks, Boundary Co. Primary Public Defender, Kootenai Co. Conflict Defender: They [counties]bare really in a bind, they are so limited by how many attorneys they have. The one attorney is not doing things specifically to avoid appointments.

Janet Whitney, Bonner Co. Chief Public Defender: Coming back to the reporting stuff, they don’t report because they don’t have the data to do it. Case outcomes, for example, my database doesn’t report that. It’s just open or closed. That’s difficult for us to do. I would love to have one that tracks trial or any other sort of appeals, it doesn’t track appeals, I have to remember back for those. Did it go to the
SAPD? I have to think all that back. [We’d want tracking software to include] trials, the appeals, juveniles, case outcome, client demographics (no way to track that).

TPRs can take days and days. Where it goes, how long we’ve had it. Another thing that is difficult for us is the reporting period for the PDC doesn’t match the county. Our county reports are due May 1st, and we are on a fiscal year.

I’m interested in what’s the best [case management] program. And some of the conflict attorneys are going to have to have software. My conflict attorneys mostly do PD stuff.

Unknown speaker: Within CPAs, it’s not considered a trial, but there are shelter hearings and adjudicatory hearings.

Jeff Connolly, Bonner Co. Commissioner: Don’t know if Tyler has worked with anyone to come up with a module? It [a case management system] will almost have to be a Tyler project, we are finding out that if you use a non-Tyler project, it won’t really work.

Yeah, unless you are aware of what they [the Legislature] are going to fund it out, you get a pass. How are they going to enforce something that you can’t actually fund.

Anne Taylor, Kootenai Co. Chief Public Defender: We have the equivalent of Justware, it’s called E Defender, it was created for us, it’s a little bit of a mess, but it’s getting better.

Bob Bingham, Kootenai Co. Commissioner: What about third party expenses? One of the odd things is nobody at Pas ask for permission, we just get bills. The PD has to come ask us. As an attorney, I could sub out, or do it all myself. If I’m a good manager and parceling things out, how do you drill down into that if they are hiring investigators and experts and optimizing resources, how do you capture that? Number of people hired?

In data that you’re collecting, when it comes to the money folks, money should be the...with uniform reporting, what is your budget for public defense? When I look at Kootenai, when I look at Ada and Canyon and there is a 50% disparity, and you think we need new attorneys, what would happen to them? That’s the other thing about the grant money, this is the leader to it being permanent to it going away. If there’s nothing in its place, those positions would go away if we lost that money.

[Funding] has to be there when these Standards take place, I don’t know what you’re going to roll out, you may start in May, my budget year doesn’t start until October 1st, so this legislature has to put money into that. But the legislature has to appropriate the money this year. So they would have to be willing to let the money go as soon as they pass it. It would be time to meet the standard, and we won’t have the money let.

What it does do is put the state in a very bad place, the ACLU would be able to say the state isn’t doing something. For our own state it is vital the funding comes before the rule.

Ada and Canyon have a disparity, and we do not. If you’re hurting, they must be a lot worse. We could probably use another judge, but where do we put them? And then we have facilities, what do we do with them?

Keisha Oxendine, Shoshone Co. Prosecutor: [Responding to Comm. Bingham] That’s one of the things you’re talking about, for prosecutors, a lot of expert data comes from lab or medical examiners, and the PD can’t do that. So they have to hire people to review things. All we pay for is the autopsy, but PDs have to hire somebody to review photographs and reports and offer an opinion, but there’s an issue there. We aren’t paying $25,000 to $50,000 for cause of death, because they are hired for the autopsy cost. But a defense attorney has to go through the step of having somebody review that to make sure there isn’t a mistake, and the medical examiner won’t do that themselves. In that sense, the prosecutors do have that advantage and it doesn’t hit our budget unless we have to hire rebuttal expert.
Sometimes those reports don’t tell you much, so you have to have it reviewed. It’s not necessarily because they were hired to give you a certain opinion, but just because it can be interpreted differently.

It’s important to see the big picture, it’s apples and oranges. You have to see all the different sides to see how everything relates.

*Phillip Lambert, Benewah Co. Commissioner:* At least currently, they can’t give us a mandate with no funding.

**Idaho Falls, June 18, 2018**

*Kimberly Simmons, Executive Director, PDC:* We’re going to try to appease attorneys that only do a couple of cases to use a different system, verbal reports or some other tracking.
- *Jordan Crane, Bonneville Co. Chief Public Defender:* As long as it is uniform.
- *Pam Eckhardt, Bingham Co. Clerk:* We struggled with keeping track of numbers in ISTARS.
- *Manuel Murdoch, Bingham Co. Defending Attorney:* If I hadn’t kept my own numbers, I would have been lost.

*Pam Eckhardt, Bingham Co. Clerk:* How do we deal with cases that roll over from year to year?
- *Kimberly Simmons, Executive Director, PDC:* That is why caseload is difficult and workload is more accurate.
- *Jordan Crane, Bonneville Co. Chief Public Defender:* It will be better to monitor as they go along and adjust rather than notice in June that you have a problem.

*Jim Archibald, Defending Attorney, multiple counties:* Discussed problems with tracking cases simply by case type and determining how much time they will take. Gave the example of a felony is filed and the prosecutor amends to a misdemeanor and the PD only spends 20 minutes on the case that affects the average. Gave example of 4 co-defendants who are all charged with possession of meth and the prosecutor makes sensible decision at prelim to amend.

*Dave Radford, Bonneville Co. Commissioner:* Have any legislators worried about the extra money they have been asked for?
- *Kimberly Simmons, Executive Director, PDC:* One legislator was worried based on the 4-hour information from the workload study.

*Asked about Texas workload standard and asked if Kimberly could enlighten them on what it means.*
- *Kimberly Simmons, Executive Director, PDC:* Compared it to Colorado. She thinks they are similar when you average it out.

What about the training requirements? That affects PD time too.

*Pam Eckhardt, Bingham Co. Clerk:* Asked Manuel if he breaks down felonies similar to one of the states? Does he create levels for felonies?

*Kim Muir, Madison Co., Clerk:* Has another concern. County budget. This is going to kill us as counties.
Boise, June 20, 2018
Richard Morgan, Homeless Advocates Outreach: Collecting data helps people understand what’s going on.

Kathy Griesmyer, Policy Director, ACLU of Idaho: Regarding collecting demographic data, what kind? At this particular time, collecting identifiable information about immigration status isn’t a good idea. The ACLU would be concerned about collecting data that could be tracked to individuals.

Twin Falls, June 21, 2018
Melissa Kippes, Twin Falls Conflict Defending Attorney: The current report was kind of difficult for us. I already know we aren’t collecting the information for this year the way you’re asking for it in the sample report [in the meeting workbook].

I’m doing some work on a contract as primary, and some work as a conflict. Do I need to fill out two separate reports?

Jack Johnson, Twin Falls Co. Commissioner: Be as easy as you can on our conflict attorneys.

DOCKET NO. 61-0103-1801 (NEW CHAPTER): RULES GOVERNING CONTRACTS AND CORE REQUIREMENTS FOR CONTRACTS BETWEEN COUNTIES AND PRIVATE ATTORNEYS FOR THE PROVISION OF INDIGENT DEFENSE SERVICES

Coeur d’Alene, June 11, 2018
Dan Dinning, Idaho Co. Commissioner: I would like the PDC to come up with a model contract. I know there is a concern about liability from the prior commission, but each county has their own civil counsel to look at it first. So I don’t think the PDC is on the hook for that.

The counties put in $34 million a year, the state puts in about $5 million? [ED of the PDC states “About $30 million, state $4.5 million.”] So the state can afford a little more.

Bob Bingham, Kootenai Co. Commissioner: How do we know when we have this contract, how do we know if there is any limit on the cost? I can’t manage what I’m not allowed to supervise, and I know as a commissioner, if I said no, I would put the county in jeopardy. When it comes in, I highlight it, I don’t even know how much in conflict attorney costs we really pay. You have those other counties that need help, and we only have two attorneys who are capital qualified. People can get shot in any county of any size, so maybe that’s a place to start to say the state is going to take over all the murder cases or level four or five cases.

If everybody was moving in the same direction, it would help. (Regarding regional / state office). Even your office, if you said your appraisal was looking at this office over here might help. Montana went statewide.

It scares me to model anything we do off the federal system. If the state took over all conflicted cases and no attorney, and you have the regional offices, you could contract out more and that would be covered by the state.

A good part of this to me, again, we are only addressing one wheel of this. Chris Schwartz seemed like he had good ideas to reduce the amount of incarceration. We can throw money at it and ignore the engine, or we can step back and address the engine. If the PDC said we needed to create another entity and bring a bunch of players that might help.

Jeff Connolly, Bonner Co. Commissioner: So what sticks out to me is where the state does a little bit over there and a little bit over here, it doesn’t work. The people are ours to look over, but it doesn’t work. It needs to be either “you take them” or “we take them.”

Janet Whitney, Bonner Co. Chief Public Defender: You really can’t control your conflict bills, because even I can’t look at it.
Lewiston, June 12, 2018

Greg Johnson, Lewis Co. Commissioner: I’ve talked to Aaron and the others about our conflict attorneys, we would like something simple to use.

But then we are out of that equation again [about a case coming back on appeal]. The only way we know about conflict is when we pay the bill and when the grant form comes around.

One more thing to suggest, on the grant, we sign the back page, and then we sign everything. Why do we receive another page once we get accepted? We already signed.

Patty Weeks, Nez Perce Co. Clerk: We have that now with the Supreme Court model contracts, and most counties don’t use them, but we do tweak them. It’s not a new concept. They were on the Supreme Court website.

We can tell them how many cases they are handling. You do ask for that. And if they are not qualified, what happens? That puts the county in an awkward position. But the judge thinks they are qualified. Maybe we need a certain amount of time to notify the PDC when we find one has been appointed. But at what point are we good when they get appointed? Because it’s not going to change, judges will continue to do that.

I think this goes to the third wheel of getting rid of the county.

It’s a no-win situation, we have no authority and we have to be compliant. You’re disregarding the authority of the judge in that. The judge is using their discretion and authority.

So one way to handle it would be to make a resolution to give the judge the ability to appoint folks at a level you agree with.

We do a monthly stipend, and then if one case goes over 60, we pay over hours for that case, and only that cases. Then for other expenses we pay money.

Rick Winkel, Clearwater Co. Commissioner: [If] the state wants to pay for it, I don’t care what they want to do.

[Regarding “having no authority to appoint attorneys and being required to be compliant”] Exactly, we get in the middle.

I think this whole thing boils down to “are our public defenders qualified?” It’s not what you know, it’s who you know. A lot of them don’t know who to ask. If that is the core problem, then you need to focus your attack on and then that will automatically bring that up the bar.

Goes back to the same thing we’ve been saying all along, it’s a state issue, and they are the only ones with control over the court. Throwing us in the middle, the counties, is a dumb thing. They are just trying to shirk responsibility. This whole thing revolves around if they are qualified. At least if we get this solved they are on the same team.

Remember when you came to Grangeville, and I told you that this would hold us up? I’m not sure the attorneys are not charging us for that.

I don’t even know why they are funding 12.5%, it’s a slap in the face. You need to go back several years to see what our PD costs were then, not so much back now. We understand why you have to do it, but it’s the money we are concerned about.

That’s what King County did. They cut the sheriff budget and went on the news and said they won’t do any misdemeanors or felonies.

Time reporting needs to be in the contract, and it needs to come from you.
Don Ebert, Clearwater Co. Commissioner: We have conflict contracts, but for example, back in the day, there was a family who made their kids fight, and we couldn’t contract that many people. The judge had to appoint people. All we get is a “you shall.”

I can see this. “Judge, I know who you appointed, and they are not qualified.”

You have to come spend time in our county, it’s not a matter of being qualified, it’s a matter of them being there. We don’t have any attorneys who aren’t qualified. I had to hire public defenders in a hurry because one of our attorneys got sick, and we got one that lasted for only a while because of personal things, and we had to replace them pretty fast, and I don’t know if I ever want to talk to one again. The judges call in favors and I don’t know what he does. If I call somebody, they don’t even pick up the phone or says hell no. If the judge calls them, they say yes.

There are a couple things though, what is a contract, it’s an agreement. Does it say it has to be written? When the judge appoints, there is a contract, just not written. I don’t want to beat a dead horse, but isn’t a contract offer and acceptance, so isn’t the judge making a contract?

So what do you do if the attorney appointed isn’t experienced? [Paige Nolta responds: “Mentoring.”]

And you are going to do all this before arraignment? I’m just making a point here. I don’t think I need to tell the judge that (the attorney isn’t good enough). What about a statute that says the Judge is to appoint qualified attorneys.

So my frustration is, commissioners are told to have contracts and control over something we have no control of. I just can’t condone nonsense to fit a rule that isn’t practical. The judge orders them on the case, and we pay the bill. The judge will tell us to go back down to the first floor if we complain to them.

I think that statute needs to change, all it does is makes us criminals. Don’t put the commissioners in the middle, change the damn statute.

I had a call from a public defender who said if they had to do this it would require more hours.

I have trust issues with the legislature, so it may be more of a function of “the counties could do that, let’s have them do this, and this.” I hope at some point we can turn the discussion into “if you don’t give us money to do this, it’s more crime unsolved.” We have no choice but to cut the sheriff’s office. They just assume down the road the county will make it work.

Here’s what happened to us, and we trusted a lawyer. We had to put a cap on the hours and pay for hours after that cap. I asked them about 80 hours, and we put that in place, and every month they went to 100 hours. Then we went to 120 hours, and now they are reporting 138 hours.

Idaho Falls, June 18, 2018

Bill Baxter, Fremont Co. Commissioner: Asked how the contract issue is going to be addressed? Budgets are crushing since their county moved away from flat-fee contract.

- Kimberly Simmons, Executive Director, PDC: Wants to get detailed information so she knows how much money will need to be requested from State.
- Bill Baxter, Fremont Co. Commissioner: Is there any chance the State will do that?
- Pam Eckhardt, Bingham Co. Clerk: Need to work with PDC so we can present good information to legislature.

Kim Muir, Madison Co. Clerk, and Pam Eckhardt, Bingham Co. Clerk: Will the PDC be sending model contracts? We’d both like that.

Jim Archibald, Defending Attorney: Judges and Prosecutors all handle more cases than they used to, why not PDs?
Manuel Murdoch, Bingham Co. Defending Attorney: Point system seems really complex. How does that work? Also, what more information or what process will be used to figure out the workload study? When the PDC sends the rule drafts, will they also send the methodology? How the PDC arrives at the number?

Pam Eckhardt, Bingham Co. Clerk: Would like the attorneys to comment on the contract portion of the negotiated rules.

- Manuel Murdoch, Bingham Co. Defending Attorney: Doesn’t have any suggestions at this time. Would like to see draft before he proceeds.

Someone asked: Is it envisioned that the model contract will be required to use?

- Kimberly Simmons, Executive Director, PDC: No. Must address certain areas and then model contract provided as a resource.

Pam Eckhardt, Bingham Co. Clerk: Concerned about how to address compensation in a contract system for attorneys with vastly different experience.

There was a general discussion among the group regarding cities’ contribution to PD workload, with it noted that cities have their own prosecutor, but they don’t contribute to the PD.

Boise, June 20, 2018

Terry Ratliff, Primary Public Defender, Elmore Co.: I have a great contract—you should adopt mine statewide.

We’re only keeping files for three (3) years, and it looks like you’re talking about keeping them for five (5) years. We’d like that to be reconsidered. There’s no one paying for file storage once the case closes, and five (5) years is a burden.

Seth Grigg, Executive Director, Idaho Association of Counties: There are a lot of counties interested in actual contracts. If the PDC can make it easier on counties by providing a sample contract that would be very helpful.

Defining “parity” would be very helpful for us. There seem to be a lot of areas it covers, and some commissioners believe it means equal pay and/or equal numbers of attorneys.

Kathy Griesmyer, Policy Director, ACLU of Idaho: Will there also be a model conflict contract?

Steve Botimer, Ada Co. Dep. Public Defender: Could a contract attorney take a look at whatever you create? That way, if you could show the counties that a contract attorney had already vetted it, that might be more helpful for the counties.

Twin Falls, June 21, 2018

Melissa Kippes, Twin Falls Conflict Defending Attorney: Asked if the handout was a suggested contract.

Helen Edwards, Gooding Co. Commissioner: We were told we couldn’t have contracts any longer.

Asked if there had been any discussion of the State taking over public defense.

Tonya Page, Minidoka Co. Clerk: My PDs were offended that they were asked to sing a contract. They said that for $65 an hour they aren’t going to do a contract and fill out paperwork at the bargain rate.

Caldwell, June 26, 2018

Aaron Bazzoli, Canyon Co. Chief Public Defender: Because of I.C.12.2, expenses for evaluations and experts are depleting the budgets. There is no mechanism in place to object to the payment of the expenses. This needs to be addressed on the contracts. Can they apply for ELF funds?

Will 44 county commissioners actually agree on the money needed to be a collective voice to speak to the legislature?
You will never win by giving more money to criminals’ defense. The prosecutors’ interests are geared toward re-election and appealing to constituents. The legislature needs to change the definitions and punishments for some crimes.

It is not that expensive to get software database programs, so we shouldn’t need to rely on Odyssey. We should get our own database software. One problem is that many don’t track time and this needs to be the same database for all users throughout the state.

Contract negotiations became cumbersome because of so many people involved: prosecutor’s office, public defenders, and county commissioners.

*Angie Barkell, Owyhee Co. Clerk:* Parity would make a huge difference because now prosecutors pursue every charge to the fullest extent.

What do other counties charge for conflict attorneys? Who sets that amount?

The state should be able to tell us the case classifications and numbers with the Odyssey in place.

*Tom Dale, Canyon Co. Commissioner:* Some commissioners have told the police not to pull over people for speeding because of the budget.

*Kelly Aberasturi, Owyhee Co. Commissioner:* Until there is a definite case classification model, the counties cannot put anything into place, including the number of attorneys needed, budget, or compliance standards.

Our prosecutor wants to add another attorney. We are hesitant to add one until we know what public defense funds will be needed.

We sent contract formation to an outside attorney.

*Marc Shigeta, Payette Co. Commissioner:* BSU used defender data. Is that what we used? It would be nice to have standard software for all.