

# Public Defender

## Mission and philosophy

The Wyoming Public Defender Program, as part of the criminal justice system, fulfills a constitutional obligation by providing effective assistance of counsel to our clients, needy persons accused of crime whom we are appointed to represent. By providing legal assistance to those who cannot provide for themselves, we are part of the human services of this state, and by assuring the proper functioning of the criminal justice system, we contribute to the public safety of the residents of this state.

## Results of outcomes

### Effective Assistance of Counsel

Public defenders statewide provided legal counsel to 12,214 new clients during FY05, including 79 appeals to the Wyoming Supreme Court that were handled by the appellate division. Clients were represented in accordance with constitutionally defined standards for effective assistance of counsel and in accordance with the Rules of Professional Conduct for Attorneys at Law. In FY05, no federal or state court made a specific, written finding of ineffective assistance of counsel by a public defender attorney involving a public defender case.

No written complaints from members of the judiciary were made to the Public Defender administration, and no public action was taken by the Board of Professional Responsibility against any public defender.

### Manageable Caseloads

In FY05, the average caseload per full-time attorney per month was approximately 23 new cases, or a yearly total of approximately 281 new cases per full-time attorney. This exceeded national guidelines of 175 to 200 new trial-level cases per year. Additionally, the three-attorney appellate division received 79 new appeals in FY05. This slightly exceeded the national guidelines of no more than 25 new appeals per attorney per year.

In FY05, this agency had 43.19 full-time equivalent (FTE) attorneys to handle the trial level cases. The 43.19 FTE attorneys included all employees (part-time and full-time) and independent contractor attorneys. It does not include one attorney assigned to the Capital Case Unit (CCU) and one part-time attorney assigned to handle conflict or difficult cases statewide.

Caseloads are perhaps the single most significant factor in an attorney's satisfaction with their job. An excessive caseload will quickly turn a content attorney into a dissatisfied one and can ultimately result in a finding of ineffective assistance of counsel.

### General information

Kenneth M. Koski, state public defender

### Agency contact

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### Other locations

Listed in organizational chart

### Year established

1978

### Statutory references

Wyo. Stat. §§ 7-6-101 through 7-6-114 (LEXIS 2005)

### Number of authorized personnel

53 full-time, 19 part-time

### Organizational structure

Administrative and Fiscal Division, Capital Case Unit, Trial Division, Appellate Division, and Post-Conviction Unit.

### Clients served

Indigent persons charged with and/or convicted of a crime in Wyoming and juveniles charged with and/or convicted of a delinquent act in Wyoming.

### Budget information

General Funds .....	\$5,221,795
Other.....	921,493
B-11 (Workforce Funds) .....	11,960
<b>Total .....</b>	<b>\$6,155,248</b>

### Conflict-free Representation

Asch v. State, 2003 WY 18, 62 P.3d 945 (Wyo. 2003) sets forth guidelines in regard to conflict-free representation of clients. Conflict of interest may occur by virtue of representation of co-defendants or key witnesses. The agency has adopted "Conflict of Interest Guidelines," which are to be followed by our respective public defenders. Essentially, these guidelines prohibit representation of co-defendants or key witnesses by public defenders located within the same field office. In FY05, there were no findings by any court of a conflict of interest in violation of the dictates of Asch v. State.

### Position Parity and Salary Equity

On May 1, 2004, the Division of Human Resources, Department of Administration and Information eliminated the classification of attorneys into Attorney I, Attorney II, Attorney III, and Attorney Supervisor. All attorneys employed by the executive branch for the state of Wyoming are now in one class--Attorney (ATTY) in the same pay band on the X-pay scale. This reclassification effectively eliminated the ability to measure this outcome as set forth in our Strategic Plan dated September 1, 2003.

The agency still has not achieved total salary parity in our respective class codes with our counterparts in state government.

### Program Turnover

In FY05, the agency had 72 authorized positions – 53 full-time and 19 part-time. In addition, the agency utilized 20 independent contractors comprised of 18 part-time attorneys and 2 part-time investigators. Among our full-time employees, we had three attorneys resign and one support staff (administrative assistant) resign. The turnover among full-time employees was 7.6 percent. This compares favorably to the statewide average turnover of 12.7 percent in calendar year 2004.

Unfortunately, we had one part-time attorney die, which resulted in turnover among part-time employees of 5.3 percent. Additionally, one independent contractor was terminated, resulting in turnover of 5 percent among independent contractors.

With 92 staff (including our independent contractors), the total agency turnover for FY05 was 6.6 percent.

### Reimbursements

Wyoming Statute § 7-6-106(d) requires that the agency's annual report contain pertinent reimbursement information.

Reimbursement payments collected by the counties and returned to the State's General Fund also increased from FY04 to FY05. In FY04, \$317,038.29 was collected. In FY05, \$347,366.60 was collected, an increase of approximately 10 percent.

### FY05 Number of Cases Appointed to Public Defender (excluding appeals)

1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	TOTAL
2962	2699	3278	3196	12,135

### FY05 Reimbursement Ordered

1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	TOTAL
1208	1241	1446	1459	5354

### FY05 No Reimbursement Ordered/Specific Finding of No Ability to Pay

1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	TOTAL
1069	1113	1207	1141	4530

### FY05 No Reimbursement Ordered/ No Finding of Inability to Pay

1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	TOTAL
11	15	62	10	98

*Note:* In the above chart, the appointment and reimbursement processes will not occur during the same reporting quarter. The court initially appoints the Public Defender's Office (i.e., the first column) to represent a client. That appointment can last over several months and in some cases more than a year. Reimbursement is to be ordered when the case is closed out. There is also an additional column "No Attorney Fees/No Cost Incurred" which is not shown. This occurs, for example, when the court appoints the Public Defender's Office and the client hires private counsel or the charges are dismissed without any court hearing with the assigned public defender. Detailed quarterly reimbursement information by court as required by statute is available in the Public Defender's Office.

## Strategic plan changes

On September 1, 2005, the agency adopted a new strategic plan, with two performance measures (i.e., outcomes). The quality of life result (i.e., primary goal) in the new strategic plan: The Wyoming Public Defender Program will provide effective assistance of counsel to our clients.

The agency strives to meet this goal by 1) having manageable caseloads and 2) providing effective assistance of counsel. Manageable caseloads are set at no more than 200 new trial-level cases per year per full-time equivalent (FTE) attorney or 25 new appeals per year per appellate attorney. Effective assistance of counsel is measured by the number of cases in which a court has a published decision or opinion finding ineffectiveness of counsel by a public defender attorney or by public action by the Wyoming State Bar against a public defender attorney involving a public defender case.

## Public Defender organizational chart

