

General Information**Agency name**

Office of the State Public Defender

Agency director

Diane M. Lozano, State Public Defender

Agency contact

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Mailing address

2020 Carey Avenue, Ninth Floor
Cheyenne, Wyoming 82002

Web address

<http://wyodefender.state.wy.us>

Other locations

Cheyenne, Laramie, Rawlins, Rock Springs, Evanston, Jackson, Lander, Cody, Sheridan, Gillette, Worland, Casper, Douglas.

Statutory references

W.S. §§ 7-6-101 through 7-6-114 (Lexis 2005)

Clients served

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

Budget Information

Expenditures\$8,949,900

Report Narrative**Department/Division/Program:**

Office of the State Public Defender

Report Period:

FY2008

Wyoming Quality of Life Result:

The Office of the State Public Defender is a responsible steward of state assets and effectively responds to the needs of residents and guests of the State of Wyoming by representing indigent persons accused of a crime.

Contribution to Wyoming Quality of Life:

The Office of the State Public Defender's sole purpose is to provide effective assistance of counsel to indigent adults and juveniles accused of a crime in the circuit, district and juvenile courts as mandated by the federal and state constitutions. The State Public Defender maintains 14 field offices located throughout the state, providing Wyoming counties with competent, experienced counsel to represent a vast majority of the criminal defendants who seek counsel. The State Public Defender ensures the protection of due process rights for its clients at all stages of a criminal proceeding by informing, advising, advocating and negotiating on behalf of the client. In all stages of a criminal case, the State Public Defender provides zealous representation for its clients, including attempts to resolve cases through fair plea negotiations.

Basic Facts:

The Office of the State Public Defender has 80 authorized positions (including 19 part-time positions). The agency employs 46 attorneys (trial and appellate), 17 legal assistants, 5 administrative assistants, 2 CT personnel, 3 fiscal personnel, and 5 investigators. In addition, the agency utilizes 27 part-time independent contractors. The FY07/FY08 budget is \$16,682,108. The total appropriation is 85 percent from state general funds and 15 percent from county augmenting revenues.

The function of the State Public Defender is to represent persons accused of misdemeanors, felonies and probation violations in circuit and district courts who cannot afford to hire an attorney. The agency represents juveniles accused of delinquency in juvenile court and individuals on appeal in the Wyoming Supreme Court. Additional functions include representing individuals who are to be extradited to other states and individuals seeking post-conviction relief.

In FY08, the State Public Defender was appointed to 13,374 trial cases and 70 appeals to the Wyoming Supreme Court.

Performance #1:

Chart #1

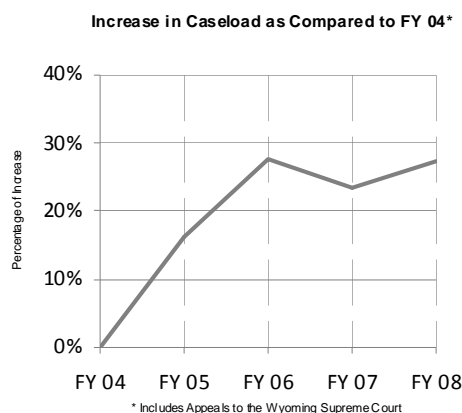
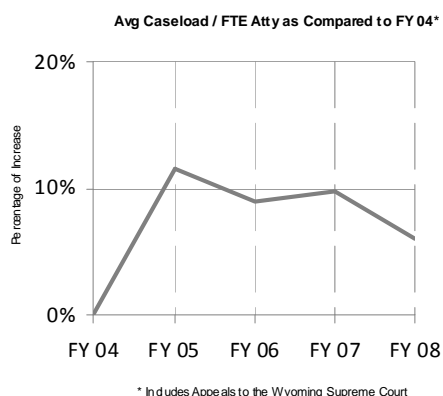


Chart #2



Story Behind the Last Year of Performance:

The State Public Defender is a reactionary agency; once a person has been cited or charged with a crime, the courts determine whether a person's financial circumstances require the appointment of a public defender. Once appointed, the State Public Defender must provide representation.

The State Public Defender oversees 14 field offices, which handle the caseloads throughout the state. Some field offices are responsible for more than one county. The county in which the field office resides must provide office space or a stipend for each public defender attorney. Some field offices exist in an attorney's private office. The Office provides administrative staff, legal assistants, and investigators to each field office. However, several of our field offices have only part-time secretarial assistance. Investigators are provided regionally. The main field offices have full-time investigators, including Campbell, Natrona, Sweetwater, Teton and Laramie counties. The administrative office located in Cheyenne includes the director, the deputy, and the Division of Administrative Services, which includes the fiscal, human resources and IT offices. The appellate office is also located in Cheyenne.

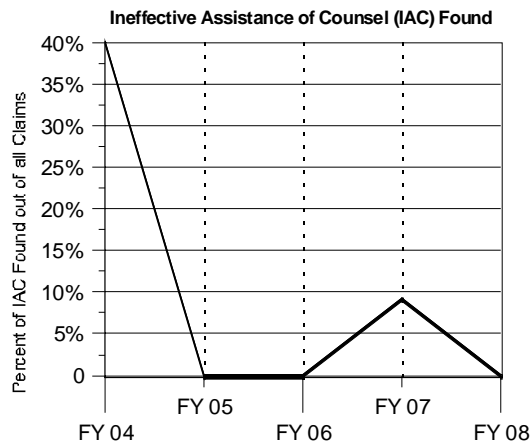
Each attorney must have a manageable caseload. The *ABA Standards for Criminal Justice* state that "defense counsel should not carry a workload that, by reason of its excessive size, interferes with the rendering of quality representation, endangers the client's interest in the speedy disposition of charges, or may lead to the breach of professional obligations." Standard 4-1.3(e). Whether or not a caseload is excessive depends not only on the number of cases but also on case complexity, availability of support systems and the lawyer's experience and ability. The State Public Defender does not have a standard for optimal caseloads, but rather monitors increases in caseload as recorded by an in-house database system. The State Public Defender will continue to look to national standards when monitoring caseloads, and is currently creating a case management or case weighting system that will better reflect the effort expended on cases in order to improve caseload distribution. The increase in caseload during that five year period from FY04 to FY08 was 27 percent. In FY08, the total State Public Defender caseload was 13,374 trial cases and 70 appeals.

What has been accomplished?

Additional Resources: In FY08, the State Public Defender provided effective representation of counsel to our clients in accordance with constitutional mandates. That was accomplished with the addition of eight new positions and an increase in the funding for independent contractors which began in FY07. The average caseload per FTE decreased marginally from BFY05 to BFY08 due to the addition of new positions authorized since BFY05. Caseloads continue to be excessive. Furthermore, the State Public Defender has reorganized some select field offices, including the opening of an office in Lander, WY, for the housing and supervision of the Fremont County Public Defender trial office. Also, the office has combined the Goshen County field office with the Converse/Platte/Niobrara counties field office located in Douglas, WY.

Performance #2:

Chart #1



Story Behind the Last Year of Performance:

In order to fulfill ethical and constitutional obligations to provide effective assistance of counsel, State Public Defender attorneys must have the necessary time, training and resources. Necessary resources include funding for expert witnesses. In order to be effective and competent, a public defender attorney must have the necessary knowledge and training in criminal defense. The State Public Defender conducts an annual seminar that provides some training to our attorneys, support staff, and investigators. Newly hired attorneys receive a one-day training provided by in-house attorneys. The State Public Defender sent new attorneys to the annual Western Trial Advocacy Institute in Laramie, WY, and sent one attorney to the National Criminal Defense College. In addition, the State Public Defender has sent a small number of attorneys to various seminars within the State of Wyoming. However, most of the training provided by the agency is done by mentoring and by hands-on experience.

In addition, the State Public Defender requires adequate technological resources. The agency provides hardware, software and connectivity to its offices. This includes laptops and power point presentation software. Currently the agency provides electronic legal research through Westlaw for 35 attorneys. Full-time attorneys have been provided the West's Wyoming Statutes Annotated.

To determine the effectiveness of the representation provided by the State Public Defender, the appellate division attorneys may decide to raise an issue of ineffective assistance of counsel (IAC) as an issue on appeal. Less than one percent of all State Public Defender cases are briefed for appeal. Chart #1 displays the percentage of State Public Defender cases that are briefed for appeal in which IAC was raised. The Wyoming Supreme Court determines whether an IAC claim is substantiated. The Wyoming Supreme Court found that a public defender attorney was ineffective only three times from FY04-FY07. No such finding was made in FY08.

The Guardian *Ad Litem* program (GAL program) was added to the Office of the State Public Defender pursuant to 2008 Wyoming Session Laws Chapter 48, §316. Although funding for the program did not begin until July 1, 2008, the legislature authorized the State Public Defender to promulgate rules and regulations for the GAL program. The agency has begun the rule making process and has also worked to set up the program before July 1.

What has been accomplished?

Technology: The current in-house case management system is being revised and remodeled in the attempt to create a more accurate representation of caseloads which will take account several factors which impact the amount of effort expended on each case. This first phase of this new system is finished and has aided in the accounting and management of cases and includes impact factors such as the type of case, the number of counts charged, and required travel. This new revision is ongoing. Some new technological equipment was purchased for a few selected offices.

Death Penalty Cases: The State Public Defender discontinued the Capital Case Unit and began utilizing attorneys from around the state who have been trained and are qualified to provide high quality representation in capital cases per the *ABA Guidelines for the Appointment and Performance of Defense Counsel in Capital Cases, Revised Edition, 2003*. One capital case has been tried through penalty phase which resulted in a life without the possibility of parole verdict. In addition, public defender attorneys negotiated a life without the possibility of parole for two clients who were facing the death penalty. The State Public Defender is currently representing a capital case client whose trial is still pending. The public defender team involved in this current case was selected and trained pursuant to the *ABA Guidelines*.

Low Cost/No Cost Alternatives: The agency has been actively involved in drug courts and has assisted in children and families initiatives.

Reimbursements:

The following is the reimbursement of public defender fees for FY08:

FY08	No. of New Case Appointments	Reimbursement Ordered	No Reimbursement Ordered-Specific Finding of No Ability to Pay	No Reimbursement Ordered-No Finding of Inability to Pay
1 st quarter	3307	1596	952	17
2 nd quarter	3253	1743	1039	39
3 rd quarter	3318	1762	1255	39
4 th quarter	3496	1968	1735	183
Total	13374	7069	4981	278

Note: In the previous 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. 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 State Public Defender 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 at the Office of the State Public Defender.

Organizational Chart:

