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**IDAPA 61
TITLE 01
CHAPTER 02**

**61.01.02 – RULES GOVERNING UNIFORM DATA REPORTING REQUIREMENTS AND
FORMS FOR DEFENDING ATTORNEY ANNUAL REPORTS**

000. LEGAL AUTHORITY.

Section 19-850 (1)(a)(ii), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules establishing uniform data reporting requirements and model forms for the Annual Reports submitted pursuant to section 19-864, Idaho Code. (5-1-19)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA, Title 01, Chapter 02, “Rules Governing Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports.” (5-1-19)

02. Scope. These rules contain the provisions of uniform data collection of Idaho’s defending attorneys and establish the procedures by which defending attorneys shall report data to the PDC. Data collected by the PDC shall be detailed enough to provide information about Idaho’s public defense system, however, shall be redacted in such a manner so as to protect attorney-client confidentiality. (5-1-19)

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. (5-1-19)

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.” (5-1-19)

004. INCORPORATION BY REFERENCE.

IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions” is incorporated into this Chapter. (5-1-19)

005. OFFICE – OFFICE HOURS – 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 operation. 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>. (5-1-19)

006. PUBLIC RECORDS ACT COMPLIANCE.

This agency operates pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (5-1-19)

007. – 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

Refer to IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions.” for definitions of the terms and abbreviations used in this Rule. (5-1-19)

011 – 019. (RESERVED)

020. APPLICATION OF REPORTING REQUIREMENTS.

In accordance with section 19-864, Idaho Code, Indigent Defense Providers and any defending attorney whose information is not otherwise included in a report from an Indigent Service Provider shall submit an Annual Report to the PDC, the board of county commissioners, and the appropriate administrative district judge in conformance with

the rules promulgated pursuant to section 19-850(1)(a)(ii), Idaho Code. (5-1-19)

01. Entities Required to Report. All Indigent Defense Providers and defending attorneys shall be included in an Annual Report, but not all defending attorneys must submit a report. The following entities or individuals must submit an Annual Report: (5-1-19)

- a. Each Chief Defender for an institutional public defense office. (5-1-19)
- b. Each Chief Defender for a joint institutional public defense office. (5-1-19)
- c. Each Indigent Defense Provider under contract to provide indigent defense services. (5-1-19)
- d. Each attorney appointed at public expense to represent an indigent person. (5-1-19)

02. Exceptions to Reporting Requirements. The following are exceptions to the entities required to report: (5-1-19)

- a. If an Indigent Defense Provider is a law firm, only one Annual Report is required for the firm. (5-1-19)
- b. An attorney, appointed at public expense by the court and not under contract to provide indigent defense services for the county in which she was appointed, who handles fewer than ten (10) indigent defense cases in a fiscal year, may receive an exception to the reporting requirement. The attorney must contact the PDC, who may waive the reporting requirement if an alternative method of fulfilling the reporting requirements can be established. (5-1-19)

021. REPORTING REQUIREMENTS.

Information to be included in the Annual Report. (5-1-19)

01. Case Information. Each Annual Report for the previous fiscal year shall include for each defending attorney the following: (5-1-19)

- a. The number of cases handled; (5-1-19)
- b. The types of cases handled; (5-1-19)
- c. The method of resolution of each case handled (i.e., plea, dismissal, found guilty at trial, etc.); and (5-1-19)
- d. Case outcomes. (5-1-19)

02. Continuing Legal Education Information. Each Annual Report shall contain each defending attorney's Mandatory Continuing Legal Education (MCLE) hours as reported to the Idaho State Bar (ISB) for the previous fiscal year. The Annual Report shall be accompanied by one MCLE report from the ISB for each defending attorney. If the reporting period began during the previous fiscal year, an MCLE report for the entirety of the previous fiscal year must be sent. An attorney may have to request this information from the ISB. (5-1-19)

03. Expenditure Information. Being mindful of attorney-client confidentiality, each Annual Report shall contain expenditures related to indigent defense services. The reports shall not contain expenditure information related to specific cases. Expenditures related to indigent defense services include, but are not limited to: (5-1-19)

- a. Investigations; (5-1-19)
- b. Expert witnesses; (5-1-19)
- c. Interpreters; (5-1-19)

- d. Mental and physical health examinations; (5-1-19)
- e. Medical records; (5-1-19)
- f. Polygraph examinations; (5-1-19)
- g. Exhibits for trial demonstrations; (5-1-19)
- h. Scientific tests; (5-1-19)
- i. Extraordinary travel expenses; (5-1-19)
- j. Transcripts; (5-1-19)
- k. Discovery costs; and (5-1-19)
- l. Costs related to compliance with this rule. (5-1-19)

04. Support Staff. Each Annual Report shall contain a comprehensive listing of support staff, including investigators, employed by an Indigent Defense Provider or a Defending Attorney. Only staff who provide services related to indigent defense services must be included in the report. (5-1-19)

05. Method of Data Collection. Each Annual Report shall contain the method of data collection utilized by the Reporter to obtain the requested information, such as the name of a Case Management System or software program. (5-1-19)

06. Attorney Experience. Each Annual Report shall contain a brief description of each defending attorney's experience, including years of experience. (5-1-19)

022. REPORTING CYCLE.

The PDC shall conduct the reporting cycle in accordance with Section 19-864, Idaho Code, and the following schedule so far as it does not conflict with Idaho Code: (5-1-19)

01. Form Availability. The PDC shall make the Annual Report form available by July 1 each year for the subsequent fiscal year (i.e., July 1, 2019 for the Annual Report due November 1, 2020). (5-1-19)

02. Purpose. The data collected will inform the PDC on how to improve client representation, justify budget and resources, and recommend changes to indigent defense system practices and policies. (5-1-19)

03. Reporting Period. The Annual Report shall reflect the fiscal year immediately prior to the due date. (5-1-19)

023. REPORTING PROCEDURE.

The Annual Report shall be completed and submitted according to these rules. (5-1-19)

01. Forms. A Reporter shall file the appropriate fiscal year form supplied by the PDC and any other requested documents, both of which shall have original or digital signatures. (5-1-19)

02. Method of Delivery. The Annual Report shall be submitted to the PDC via mail, email, or facsimile. (5-1-19)

03. Review. A Reporter may review the Annual Report with PDC staff prior to submitting the Annual Report to ensure it meets the PDC's criteria. (5-1-19)

04. Incomplete Annual Report. Incomplete Annual Reports will be rejected by the PDC unless the Reporter can provide a reasonable explanation as to why the Annual Report is incomplete. Incomplete reports will be considered not submitted to the satisfaction of the Commission, which could prohibit the disbursement of the

county's Indigent Defense Grant Funds. (5-1-19)

05. Due Date. The Annual Report shall be delivered to the PDC on or before November 1 of each year. (5-1-19)

024. EXPLANATION OF DATA NOT TRACKED.

Any data which should be included in the Annual Report but was not tracked during the fiscal year must be reported to the PDC along with an explanation addressing why the data was not tracked. If the PDC determines a failure to track data is justifiable (i.e. non-willful), the disbursement of the county's Indigent Defense Grant Funds will not necessarily be prohibited. Examples of a justifiable reason include, but are not limited to, the data would violate attorney-client confidentiality, or the data is/was too cumbersome to track. A satisfactory explanation must be provided to support the inability to track such data. (5-1-19)

025. FAILURE TO SUBMIT AN ANNUAL REPORT.

Any defending attorney who fails to submit an Annual Report or fails to be included in an Annual Report may be removed from the public defense roster, as outlined in IDAPA 61.01.06.026. (5-1-19)

026. FRAUDULENT INFORMATION.

Any Reporter who includes fraudulent information in the Annual Report is subject to enforcement as outlined in IDAPA 61.01.06.026. (5-1-19)

027. – 999. (RESERVED)

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