

Idaho's Public Defense Reform Story

2008: ACLU of Idaho begins to track public defense issues in response to an increase in intake complaints.

2010: National Legal Aid and Defender Association releases a report finding unconstitutional public defense systems in all of the Idaho counties studied. Idaho's governor-appointed Criminal Justice Commission creates a subcommittee on public defense.

2012: Idaho Criminal Justice Commission's Public Defense Subcommittee recommends creating an interim committee of the Idaho Legislature to focus on public defense reform.

2014: Legislature bans flat-fee public defense contracts.

Spring 2015: Legislature creates a statewide Public Defense Commission with very limited powers.

June 2015: ACLU, ACLU of Idaho, and Hogan Lovells US LLP file a class action lawsuit in state court against the Governor and Public Defense Commission members over the statewide public defense system.

January 2016: State trial court dismisses our lawsuit on standing, ripeness, and separation of powers grounds. We immediately appeal to the Idaho Supreme Court.

March 2016: Governor signs public defense reform bills, which:

- Allocate \$5 million in new funding for public defense, to be distributed in grants by the Public Defense Commission—the first time in Idaho's history that state funding is appropriated for trial-level public defense.
- Require the statewide Public Defense Commission to promulgate public defense standards.
- Give the Public Defense Commission enforcement authority to hold counties accountable to new public defense standards.

January 2017: Public Defense Commission promulgates new rules that fail to include workload or caseload standards and use permissive rather than mandatory language.

April 2017: Idaho Supreme Court rules that ACLU/Hogan Lovells lawsuit should go forward, holding that “the counties have no practical ability to effect statewide change” and so “the State must implement the remedy.”

November 2017: PDC issues new standards requiring prompt independent investigation and appropriate use of experts.



January 2018: District Court certifies the *Tucker* lawsuit as a class action. ACLU now represents all those facing criminal or juvenile charges in Idaho state courts who have yet to be sentenced.

November 2018: PDC issues first ever public defense caseload standards in Idaho. Plaintiff class and State each file cross motions for summary judgment, asking the District Court to rule on the case based on the documentary evidence.

March 2019: Legislature doubles state funding for public defense to over \$10 million.

April 2019: Ruling on summary judgment motions in March, the District Court recommends that the Idaho Supreme Court take the case on appeal again to decide the applicable legal standard. In April, Idaho Supreme Court accepts the extremely unusual appeal.

April 2021: The Idaho Supreme Court rules that the plaintiffs in the lawsuit, represented by the ACLU, can win the case if they show that Idaho's public defense system suffers from widespread, persistent structural deficiencies that likely will violate Idahoans' constitutional right to counsel. The case will continue so the plaintiffs can show that.