

**General Information****Agency name**

Office of the State Public Defender

**Agency director**

Diane M. Lozano, State Public Defender

**Agency contact**

Brian Young  
307-777-6497

**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, Newcastle, 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 and children in child protection, in children in need of supervision, in termination of parental rights, and some delinquency cases.

**Budget Information**

Expenditures .....\$11,685,017.01

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

Office of the State Public Defender

**Report Period:**

FY2010

**Wyoming Quality of Life Result:**

The Office of the 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. The Office of the Public Defender also ensures that families and individuals live in a stable, safe, supportive, nurturing, and healthy environment.

### **Contribution to Wyoming Quality of Life:**

The Office of the Public Defender Public Defender Program (Public Defender) provides 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 Public Defender maintains 15 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 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 Public Defender provides zealous representation for its clients, including attempts to resolve cases through fair plea negotiations.

The Office of the State Public Defender Guardian *ad Litem* Program (GAL Program) provides legal services as guardians *ad litem* in child protection cases, children in need of supervision cases and in certain termination of parental rights cases, and, under limited circumstances, delinquency cases.

### **Basic Facts:**

The Office of the Public Defender has 89 authorized positions (including 19 part-time positions). The agency employs 51 attorneys (trial, GAL, and appellate), 22 legal assistants, 2 legal support secretaries, 1 administrative assistant, 2 CT personnel, 3 fiscal personnel, 5 investigators, and 2 AWEC attorneys. In addition, the agency utilizes 23 part-time independent contractor attorneys. In addition the Office utilizes 4 independent contract investigators and 39 GAL independent contract attorneys. The FY09/FY10 budget is \$24,167,077. The total appropriation for the Public Defender is 85 percent from state general funds and 15 percent from county augmenting revenues. The total appropriation for the GAL Program is from the state general funds.

The function of the 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 Public Defender 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 FY10, the State Public Defender was appointed to 13,891 including 70 appeals to the Wyoming Supreme Court.

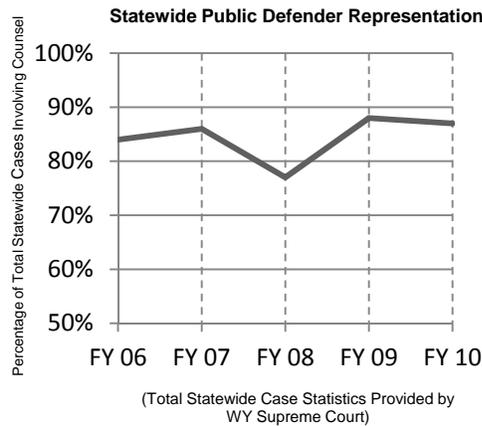
The function of the GAL Program is to provide legal services as guardians *ad litem* in child protection cases, in children in need of supervision cases and in termination of parental rights cases that stem from a child protection case, and in delinquency cases in which the child does not have a parent or guardian who can appear on the child's behalf.

The attorney GAL's role is to represent the child and the child's best interests. In FY10, the GAL Program provided services to 2187, including 880 new cases.

### Public Defender Performance Measure #1

Chart #1 shows the percentage of all represented criminal defendants who were appointed a public defender.

Chart #1



### Story Behind the Performance

The Public Defender represents a vast majority (over 80% over the past 5 fiscal years) of all criminal defendants who seek counsel. In FY10, the Public Defender represented 87% of all represented criminal defendants. Because of this, the Public Defender has the experience and the ability to resolve a large majority of those cases through fair plea negotiations, which conserve the resources of the criminal justice system and the State of Wyoming. The Public Defender's experience ensures zealous representation for clients who choose to go to trial and at all other stages of a criminal case.

Once an accused person appears in court upon a criminal citation or Information, the courts determine whether a person's financial circumstances require the appointment of the Public Defender. Once appointed, the Public Defender must provide representation.

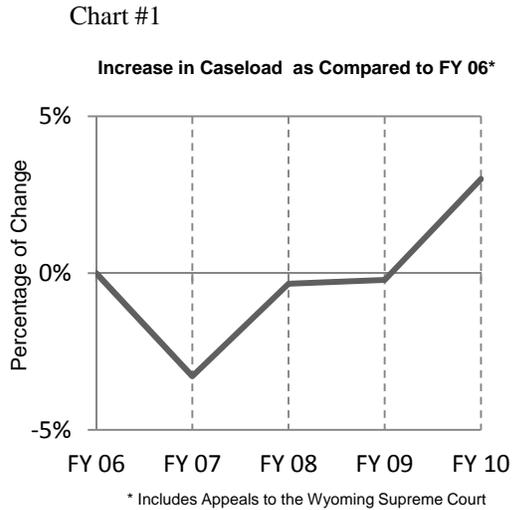
### What has been accomplished?

Additional Resources: In FY10, the Public Defender provided effective representation of counsel to our clients in accordance with constitutional mandates. That was accomplished by reducing the reliance on contract attorneys in Sweetwater County and creating 2 AWEC attorneys. In addition independent part-time contracts were added to Park and Fremont Counties and a part-time attorney position was relocated to Campbell

County. The average newly assigned caseload per FTE remained essentially the same from FY09 (258.15) to FY10 (263.81). Caseloads continue to be high.

## Public Defender Performance Measure #2

Chart #1 shows the percentage of increase in total caseload from FY05 to FY09.



### Story Behind the Performance:

There are 14 Public Defender trial field offices which handle the caseload throughout the state. The trial level caseload for FY10 was 13,821. 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. Chief Trial Counsel handles serious, high profile cases, including capital cases, around the state. The Appellate Division, located in Cheyenne, handles criminal appeals to the Wyoming Supreme Court. The Office provides administrative staff, legal assistants, and investigators to each field office. However, several of the field offices have only part-time secretarial assistance. Investigators are provided regionally, with the main field offices in Campbell, Natrona, Sweetwater and Laramie Counties staffing full-time investigators. The administrative office located in Cheyenne houses the Director, Deputy, IT and fiscal divisions.

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 Public Defender does not have a standard for optimal caseloads, but rather looks to increases in caseload as monitored and recorded by an in-house database system and to findings of effective assistance of counsel by the courts. This agency will continue to look to national standards when monitoring caseloads. The increase in caseload during that five year period from FY06 to FY10 was 3%. The increase in caseload from FY09 to FY10 was 3%. In FY10, the total Public Defender trial caseload was 13,821. In FY10, the average caseload per full-time equivalent trial attorney was 263.81

In order to fulfill ethical and constitutional obligations to provide effective assistance of counsel, 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 agency 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. However, most of the training provided by the agency is done by mentoring and by hands-on experience.

In addition, the 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 all 51 attorneys and 21 legal assistants. Full-time attorneys have been provided the West's Wyoming Statutes Annotated and Wyoming's Criminal and Traffic Law Manual.

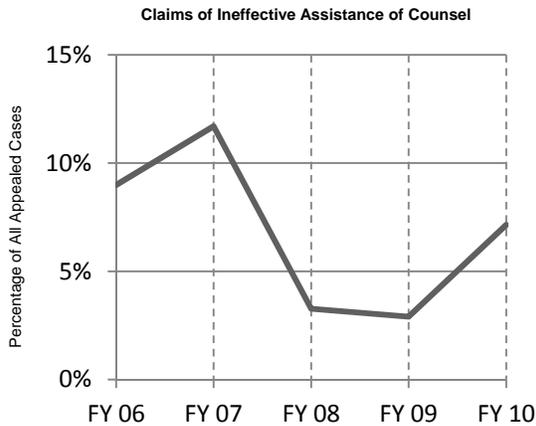
### **What has been accomplished?**

Additional Resources: In FY10, the State Public Defender provided effective representation of counsel to our clients in accordance with constitutional mandates. The Office saw a 3% increase in trial cases assigned statewide. To address this increase, particularly in field offices that had the largest increase in caseloads, part-time contractors were added, increased, or relocated. A part-time attorney position was relocated to Campbell County. Furthermore, to provide better management, oversight and accountability the Office converted vacant part-time independent contracts to full-time AWECs in Sweetwater County. The Office has continued to utilize the Chief Trial Counsel to handle high profile, serious matters around the state, as well as having the Chief Trial Counsel provide mentoring and oversight to the field offices.

Technology: The Office continues to implement a new case tracking system, which included a new method of case counting and case weighting. Both result in a better reflection of effort expended by each attorney and each field office and enable the Office to better allocate resources and better justify budgetary needs and requests.

### Public Defender Performance Measure #3:

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. However, most of the training provided by the agency is done by mentoring and by hands-on experience. The Public Defender was able to provide each employee attorney with Westlaw Access and expanded the resources available to the attorneys on Westlaw.

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. Full-time attorneys have been provided the West's Wyoming Statutes Annotated and the Wyoming Criminal and Traffic Law Manual.

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. In FY10, IAC was raised five times on appeal. There were no findings of IAC in FY10.

**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. A new method of case counting has been implemented statewide and a new case weighting system was implemented in most field offices. The annual caseload inventory has been modified which encompasses a new attorney-client web based system. The system enables the trial attorneys to monitor caseloads, and requires more attorney accountability for case management.

Training: The Office receives scholarships from the annual Western Trial Advocacy Institute in Laramie, WY, for new attorneys. In FY10, four new attorneys attended this weeklong trial college. In addition, the Public Defender provided training to all of its attorneys during the Annual Public Defender Seminar, as well the New Attorney training for new hires. The Office continues to look for low cost training options to meet its obligation to provide competent attorneys to represent the indigent accused. For example, the Office provided attorneys downloaded manuals and guidelines in regard to representation in juvenile delinquency cases.

Low Cost/No Cost Alternatives: The Public Defender has been actively involved in drug courts and has assisted in children and families initiatives. In FY10, the Office has been increased its involvement in juvenile justice issues, including involvement in the Community Juvenile Service Boards and the Juvenile Detention Alternative Initiative (JDAI.)

**Reimbursements:**

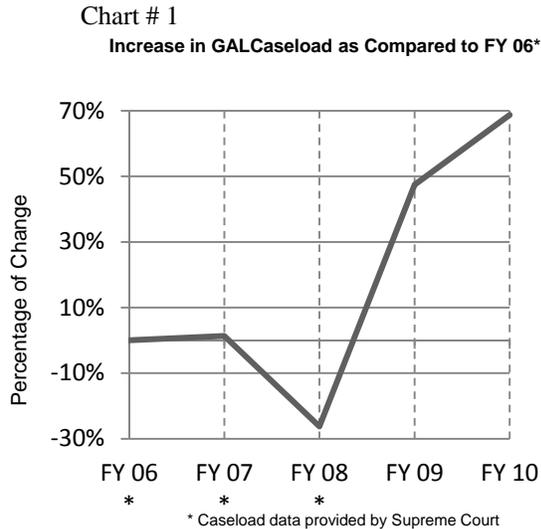
The following is the reimbursement of public defender fees for FY10:

<b>FY10</b>	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 <sup>st</sup> quarter	3674	1084	1211	66
2 <sup>nd</sup> quarter	3342	1073	1225	68
3 <sup>rd</sup> quarter	2932	1101	1591	20
4 <sup>th</sup> quarter	2515	1262	1578	60
Total	12463*	4520	5605	214

\*This total number does not reflect 1,389 cases assigned to the Office during FY10 because of the change in the case counting system which occurred during the fiscal year.

### **GAL Performance Measure #1**

Chart #1 shows the caseload trends of the GAL Program since 2006.



### **STORY BEHIND THE PERFORMANCE:**

The GAL Program was transferred to the Office of the State Public Defender on July 1, 2008. During FY10, the GAL Program contracts with 104 attorneys around the state who provide legal services as guardians *ad litem* at an hourly rate in child protection cases, children in need of supervision cases, in certain termination of parental rights cases and in certain delinquency cases. The Office reimburses 100% of the legal services provided by the GAL attorneys. The Office has entered into Memorandums of Understanding with each of the State's twenty-three (23) counties. Each county has agreed to match twenty five percent (25%) of the state funds expended by the GAL Program. With one exception, the District Courts appoint the GAL Program to provide GAL representation in a case. The GAL Program through the use of regional contact attorney assigns the cases to the GAL attorneys in the given county on a rotation basis. The GAL Program is administered by a Program Director, an attorney, with the assistance of an AWEC receptionist. The Program Director certifies and trains the GAL attorneys, monitors caseloads, reviews itemized billing, bills the counties quarterly for the 25% match monies, provides training, maintains files and tracks case information with the agency created database, and maintains the GAL panel of certified attorneys. The Program Director also supervises the caseloads and maintains a GAL caseload in Laramie County.

The GAL Program must ensure that the GAL services provided are within the standards set by the Program's Rules and Regulations, which include the adoption of the National Association of Counsel for Children (NACC) *Recommendations for Representation of Children in Abuse*

*Neglect Cases* and the consideration of the *ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases (1996.)* These standards include required qualifications and training for GAL attorneys, an outline the details the responsibilities of the GAL attorney and caseload limits. The GAL Program monitors attorney work performance through the use of case audits and rules compliance checks and through the use of a formal complaint process, in addition to review and approval of monthly invoices In FY10, the GAL Program provided services to 2,187 children. The average caseload per GAL attorney was 21.03 cases. This represents an increase of 13% in GAL caseloads from FY09 to FY10.

### **What has been accomplished?**

The GAL Program has adopted the Rules and Regulations for the Guardians *Ad Litem* Program. During FY09, the GAL Program implemented the following policies: Client Meetings and Relationships, Children in Court, and Policy on Payment and Submission of Time. The GAL Program utilizes Child Chat, a monthly training session (webinar), and the GAL Pro Bono Panel. The GAL Program issues a monthly newsletter. The GAL Program partnered with the Children's Justice Project (CJP) to develop and present the 2010 Annual Children's Justice Conference. The GAL Program utilized the services of several law student interns and externs, and entered into a job sharing agreement with the Department of Health, Mental Health and Substance Abuse Division in which a Department of Health employee provided 8 hours of work per week to the GAL Program. The GAL Program has implemented a website which includes the Programs Rules and Regulations, policies, forms, procedures, resources and sample motions.

**Low Cost/No Cost Alternatives:** The Director of the GAL program maintains a GAL caseload. The GAL Program will continue to utilize the work of the law student intern, the partnership with the Department of Health and the GAL Pro Bono Panel. The GAL Program will continue to provide the Child Chat Training and will continue to partner with the Children's Justice Project to develop and present the Annual Children's Justice Conference. Furthermore, the GAL Program will continue to improve the program website to provide more resources and training to the GAL attorneys.

# Organizational Chart

