



SIXTH
AMENDMENT
CENTER

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Montana Task Force on State Public Defender Operations
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Dear Members of the Task Force on State Public Defender Operations,

This memorandum is responsive to a request received on January 24, 2016, for information on the number of states with public defender commissions, the membership size of said commissions, and, the primary roles/functions of the commissions. I have included a 50 state table for easy reference as an appendix.

When looking at indigent defense commissions, it is very important to understand the structural differences existing between the various state models. Some statewide commissions cover only a part of a system (e.g., an “appellate only” commission), part of a state’s geography (e.g., a rural public defense commission), or offer only limited oversight of a system in exchange for state financial support. Such states are defined herein as having commissions with “limited” authority.

Perhaps more importantly, some indigent defense commissions follow national standards more rigorously and offer greater protection of the system. Those states that fall short of national standards are also generally defined as having limited authority.

National standards are clear that the defense function must be insulated from outside political or judicial interference by a board or commission appointed from diverse authorities, so that no one branch of government can exert more control over the system than any others. For example, footnotes to the first of the American Bar Association *Ten Principles of a Public Defense Delivery System* refer to National Study Commission on Defense Services’ (NSC) *Guidelines for Legal Defense Systems in the United States (1978)*. The *Guidelines* were

created in consultation with the United States Department of Justice (DOJ) under a DOJ Law Enforcement Assistance Administration (LEAA) grant.

NSC *Guideline 2.10 (The Defender Commission)* states in part:

A special Defender Commission should be established for every defender system, whether public or private. The Commission should consist of from nine to thirteen members, depending upon the size of the community, the number of identifiable factions or components of the client population, and judgments as to which non-client groups should be represented.

Commission members should be selected under the following criteria: The primary consideration in establishing the composition of the Commission should be ensuring the independence of the Defender Director. (a) The members of the Commission should represent a diversity of factions in order to ensure insulation from partisan politics. (b) No single branch of government should have a majority of votes on the Commission.

There are 33 states that currently that have some form of a statewide indigent defense commission (66% of all states). Nineteen of these have commissions that oversee all aspects of indigent defense services.¹

However, only 12 of those 19 states statutorily require diverse appointing authorities to name public defense commission members.² Of the remaining seven states, five cede all appointing authority to the governor and two give all appointments to the judiciary.³

Fourteen states have commissions with “limited authority,” nine of which statutorily require diverse appointing authorities. Three of these cover only part of the state’s indigent defense system: Idaho (trial-level only); Nebraska (capital trials/appeals, and limited non-capital felonies); and Tennessee (capital post-conviction only). Five more have commissions that offer state support to county-based systems: Indiana, New York, Ohio, South Carolina and Texas. North Carolina is categorized with this group because, despite having apparently broad authority to oversee both primary and conflict services, the commission there

¹ For ease of explanation, we include in this group both Colorado and Michigan. Each of those states has two statewide commissions. Colorado has one commission over the primary system and a second overseeing conflict representation, while Michigan has one commission overseeing appellate services and a second overseeing trial level representation.

² Connecticut, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Mexico, North Dakota and Virginia.

³ Governor appointed commissions: Arkansas, Hawaii, Maine, Missouri and Wisconsin. Judiciary appointed commissions: Colorado and Oregon.

does not have the power to determine the indigent defense delivery model in each county. The authority to determine the delivery model used is a legislative decision with input from local actors (county bars, judiciary, etc.). Additionally, the presiding judge of the Superior Court in the North Carolina district has the authority to hire the local chief public defender.

That leaves five states with limited authority commissions that do not vest diverse authorities with appointment powers. Illinois' public defense commission oversees only appellate services. There, the judiciary makes all appointments to the appellate commission. The other four states with limited commissions allow the governor to make all commission appointments. The Kansas commission only oversees felony and appellate representation. The commission in Oklahoma only administers services in rural counties (Oklahoma City and Tulsa remain outside of the state system). Georgia's public defense statutes allow counties to opt out of the system, meaning the state has no regulatory authority over those regions. Additionally, the executive director of the state system is a direct gubernatorial appointee. Similarly, though the commission in West Virginia has broad authority to improve indigent defense services statewide, the executive director is a direct gubernatorial appointee as are the other members of the commission.

That leaves seventeen states that have no commission at all: Alabama, Alaska, Arizona, California, Delaware, Florida, Iowa, Mississippi, Nevada, New Jersey, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming.

Please feel free to contact me with any further questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "David Carroll". The signature is written in a cursive, slightly slanted style.

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APPENDIX: PUBLIC DEFENDER COMMISSIONS IN THE 50 STATES

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Alabama	No			
Alaska	No			
Arizona	No			
Arkansas	Yes	7	Governor appoints all commission members. Four commissioners must be attorneys; one must be a county judge, and one a district judge.	<p>Trial-level services: The Arkansas Public Defender Commission (APDC) has statutory authority to set standards and policies related to the delivery of indigent defense services, including the power to determine how best to deliver services throughout the state. APDC delivers the majority of indigent defense services through staffed public defender offices in each of the state's 23 judicial circuits (covering 75 counties), although they have determined that certain circuits require multiple offices, while other circuits share just one office. APDC also sets standards for the qualification, training and performance of private attorneys paid under contract for conflict representation. APDC has supported the creation of conflict public defender offices in urban areas of the state that have a large number of conflicts.</p> <p>Appellate & training: APDC has a central office that houses a conflict capital office, appellate services and a training unit.</p>
California	No			
Colorado	Yes (2)	Trial: 5; Conflict: 9	State supreme court appoints all members of both trial and conflict commissions.	<p>Trial: Independent commission selects state public defender to implement and enforce commission's policies throughout the 21 regional defender offices across the state.</p> <p>Conflict: Independent commission implements and enforces the commission's policies in conflict cases and oversees the Office of the Alternate Defense Counsel, which contracts with attorneys to provide representation.</p>
STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY

Connecticut	Yes	7	The Chief Justice appoints 2 judges of the Superior Court, or a judge of the Superior Court and any one of the following: A retired judge of the Superior Court, a former judge of the Superior Court, a retired judge of the Circuit Court, or a retired judge of the Court of Common Pleas. The speaker of the House, the president pro tempore of the Senate, the minority leader of the House and the minority leader of the Senate each appoint 1 member. The Governor appoints a chairman.	The commission has authority to adopt rules relating to the operations of a Division of Public Defender Services and provide any facilities other than those provided in the courts by the Judicial Department necessary for the carrying out of those services. The Commission appoints the Chief Public Defender and Deputy Public Defender.
Delaware	No			
Florida	No			
Georgia	Yes (Limited)	15	2 members appointed by the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court of Georgia, and the Chief Judge of the Georgia Court. One circuit public defender is elected to the Council by a majority vote of all the circuit public defenders (the initial member chosen by the Supreme Court of Georgia). 4 members, who must be county commissioners, appointed by Governor.	Georgia Public Defender Standards Council (GPDSC) appoints circuit public defenders to oversee trial-level indigent defense services in 49 of the state's judicial circuits. GDPSC also oversees a central office providing training, capital support services, appellate representation, and mental health advocacy. GPDSC has limited authority to enforce standards it promulgates. However, counties can opt out of the system, meaning the state has no regulatory authority over those regions.

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Hawaii	Yes	5	Governor appoints all 5 members.	Defender council chooses state public defender. State public defender can only hire assistant public defender, investigators, and other necessary staff subject to council's approval.
Idaho	Yes (Limited)	7	2 representatives from the state legislature including 1 from the senate and 1 from the house of representatives; 1 representative appointed by the chief justice of the Idaho supreme court; and 4 representatives appointed by the governor and confirmed by the senate (1 from the Idaho association of counties; 1 who has experience as a defending attorney; 1 from the office of the state appellate public defender; and 1 from the Idaho juvenile justice commission).	<p>The commission has the power to hire an executive director and all additional staff the commission deems necessary to complete the work of the commission, and may provide an office, office equipment and facilities for the office. The commission, director and staff are to immediately address the lack of public defense training in the state, specifically authorizing them to promulgate rules on training and continuing legal education to promote "competency and consistency" for the following case-types: criminal, juvenile, abuse and neglect, post-conviction, civil commitment, capital and civil contempt. The commission is also to establish uniform data reporting requirements in order for defenders/offices to submit annual reports, including caseload, workload and expenditure data. Additionally, each year the commission may make recommendations to the legislature for legislation on public defense system issues.</p> <p>The commission is considered to have limited authority because it does not oversee appellate services, which are overseen by the Office of the State Appellate Public Defender (SAPD).</p>

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Illinois	Yes (Limited)	9	Chairman appointed by the Governor, 1 member appointed by the Supreme Court, 1 member appointed by each of the 5 Appellate Courts, 1 member appointed by the Supreme Court from a panel of 3 persons nominated by the Illinois State Bar Association.	The State Appellate Defender Commission is limited in that it only has oversight of the appellate services throughout the state. The commission advises the State Appellate Defender and may, subject to rules of the Supreme Court, recommend policies for the operation of the office of State Appellate Defender. The commission shall approve or modify an operational budget submitted to it by the State Appellate Defender and set the number of employees each year. The commission may recommend to the Supreme Court the removal of the State Appellate Defender. The State Appellate Defender shall submit reports to the commission on the operation of the office, and a comprehensive report at the end of each fiscal year.
Indiana	Yes (Limited)	11	3 members appointed by the Governor, 3 members appointed by the Chief Justice, 2 members appointed by the Speaker of the House, 2 members appointed by the Senate President Pro Tempore, 1 member appointed by the Indiana Criminal Justice Institute.	The commission has authority to make recommendations to the supreme court concerning standards for indigent defense services in death penalty cases, including: indigency determinations, selection and qualification of attorneys, determining conflicts of interest and investigative, clerical and other support services necessary to provide adequate legal representation. The commission may adopt guidelines and standards for eligibility of counties for reimbursement in felony, juvenile and parental termination and children in need of services cases, including: determination of indigency and eligibility for representation, issuance and enforcement of orders requiring the defendant to pay for representation, use and expenditures of county supplemental public defender services funds, qualifications of attorneys, compensation of attorneys, and minimum and maximum caseloads of attorneys.
Iowa	No			

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Kansas	Yes (Limited)	9	All members appointed by the Governor, with consent of the Senate	<p>The commission is limited in that it only covers indigent defendants charged with felonies. The commission coordinates the provision of indigent legal services for indigents charged with felonies, establishes in each county or combination of counties a system of providing counsel, approves an annual operating budget for the board, collects court-ordered payments from indigent defendants and adopts rules necessary for the operation of the board and the performance of its duties. Additionally, the commission shall establish rules for defenders including: standards for entitlement to legal representation at public expense; standards and guidelines for compensation of appointed counsel and investigative, expert and other services within the limits of appropriations; criteria for employing contract counsel; and qualifications, standards and guidelines for public defenders, appointed counsel and contract counsel. The commission shall adopt and maintain reimbursement tables of the cost of indigents' defense services for each separate category of service provided, submit an annual report, and must hold a hearing before changing the system for providing legal services if such a hearing is requested by two or more members of the board. The commission may create training programs for defenders, provide technical aid and assistance to trial and appellate counsel, and contract with cities or counties to provide non-felony defense services, at the expense of the city or county.</p>

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Kentucky	Yes	12	7 members appointed by the Governor (3 lawyers recommended by Kentucky Bar Association, 1 child advocate, 1 recommended by DPA's Protection & Advocacy Division; and 2 others), 1 member appointed by each of the 3 Deans of Kentucky law schools, 2 members appointed by the Kentucky Supreme Court.	The commission has the authority to recommend nominees for public advocate to the Governor, assist the public advocate in drawing up procedures for the selection of his or her staff; review the performance of the public advocacy system and provide general supervision of the public advocate; assist the Department for Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system; and review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.
Louisiana	Yes	15	6 members appointed by the Governor (1 representing each of the 4 law schools, 2 others); 2 members appointed by the Chief Justice (1 juvenile justice expert, 1 retired judge); 1 appointed by the Senate President; 1 appointed by the Speaker of the House; 2 members appointed by the president of the Louisiana State Bar Association; 1 appointed by the President of the Louis A. Martinet Society (African-American Bar); 1 appointed by the Chairman of the Louisiana State Law Institute's Children Code Committee; and 1 appointed by the executive director of the Louisiana Interchurch Conference.	The Louisiana Public Defender Board shall have all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power incidental or necessary to such regulatory authority, control, supervision, and jurisdiction over all aspects of the delivery of public defender services throughout the courts of the state of Louisiana. The Board shall employ executive staff and regularly evaluate their performance, and review and approve the strategic plan and budget proposals submitted by the state public defender, regional directors, and district public defenders. Among the board's other duties it may adopt rules for the establishment of salary ranges for attorneys and support staff delivering public defender services, taking into consideration variations in public defense practices and procedures in rural, urban, and suburban districts as well as professional experience.

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Maine	Yes	5	The Governor appoints all 5 members. Appointments are subject to review by a joint legislative committee on judicial matters. 1 member must be appointed from a list of qualified nominees submitted by the President of the Senate, 1 from a list submitted by the Speaker of the House, and 1 from the Chief Justice.	The commission has authority to hire an executive director. The commission has authority to set standards, including: governing eligibility for representation, prescribing attorney training and qualifications, attorney caseloads, attorney evaluations, representation for defendants receiving conflict counsel, attorney expense reimbursements. The commission is also charged with devising the state's indigent defense delivery model, made up of appointed and contract attorneys, submitting an annual report and budget, and developing trainings for attorneys.
Maryland	Yes	13	The Governor appoints 11 members with the consent of the Senate – one from each of the state's 11 judicial districts. The Senate President and the Speaker of the House of Delegates each appoint one member.	The commission is charged with studying and observing the operation of the Office of the Public Defender; coordinating the activities of the regional advisory boards; and advising the Public Defender on panels of attorneys, fees, and other matters about the operation of the public defender system.
Massachusetts	Yes	15	The Governor appoints 2 members, the President of the Senate appoints 2, the Speaker of the House of Representatives appoints 2, and the Supreme Court Justices appoint 9 (1 public defender, 1 private bar advocate, 1 criminal appellate attorney, 1 member with public administration/finance experience, and 1 member associated with a law school)	The commission shall establish a definition for indigency and uniform standards and procedure for determining eligibility of services. The commission is also responsible for establishing standards and guidelines for training, qualification and removal of counsel; training counsel; establishing and maintaining a system for appointment of counsel; contracting with private counsel or groups of attorneys as necessary; and establishing a children and family law program to provide representation to indigent persons in children and family law cases. The commission shall establish standards including: vertical or continuous representation, training, caseload limits, investigative services, social services, expert witnesses, supervision and qualifications and compensation rates for vendors to provide the above services.
STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Michigan	Yes (2)	Trial-level: 15	Trial-level: The Governor	Trial level: The Michigan Indigent Defense Commission

		<p>Appellate-level: 7</p>	<p>appoints all members based on recommendations submitted by: Speaker of the House of Representatives (2); Senate Majority leader (2 appointees); Supreme Court Chief Justice (1); Criminal Defense Attorney Association of Michigan (3); Michigan Judges Association (1); Michigan District Judges Association (1); State Bar of Michigan (1); bar association advocating for minority interests (1); former prosecutor recommended by Prosecuting Attorney's Association of Michigan (1); and 1 member to represent the general public and 1 to represent local units of government. The supreme court chief justice serves as an ex officio member of the MIDC without vote.</p> <p>Appellate-level: Supreme Court appoints 2 members, Court of Appeals appoints 1, Michigan Judges Association appoints 1, State Bar of Michigan appoints 2, and Governor appoints 1 member of general public.</p>	<p>(MIDC) has authority to propose minimum standards for effective assistance of counsel, which must be officially approved by the state supreme court. Each county determines the delivery methods it will use to provide direct services, and must submit a plan for compliance with MIDC's standards. MIDC has authority to investigate, audit and review the operation of county right to counsel services to assure compliance. MIDC has authority to hire an executive director and staff, which will establish an annual budget, develop data reporting requirements, and other duties.</p> <p>Appellate level: The commission is responsible for developing a system of indigent appellate defense services including the office of the state appellate defender and locally appointed private counsel. The commission is authorized to develop minimum standards for appellate defenders. The commission must compile and maintain a statewide roster of attorneys accepting indigent defense appointments, and shall provide continuing legal education training programs.</p>
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STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Minnesota	Yes	7	The supreme court appoints 4 members and the governor appoints 3 members	The commission has the authority to appoint a chief administrator. The commission is authorized to recommend to the legislature a budget for the commission, the office of the state public defender, the judicial district public defender and the public defense corporations; establish procedures for distributing funding to local defenders; and require data reporting from attorneys. The state public defender must seek the commission's approval before establishing standards, including in the following areas: attorney qualifications, attorney caseloads, eligibility criteria, model attorney contracts, support staff, and handling of conflict cases.
Mississippi	No			
Missouri	Yes	7	The Governor appoints all members, with advice of the senate. Four of the members must be lawyers, and no more than four members can be of the same political party. State Public Defender is an <i>ex officio</i> member of the commission without vote.	The commission has the power to select a director, deputy directors and public defenders, and remove a director for good cause, draft procedures for the selection of staff, handle client complaints, evaluate the performance of the office, educate the public about the role of defenders, review the office's budget, set attorney compensation rates, and establish rules for the administration of the state public defender system.
Montana	Yes	11	Supreme Court (2 appointees); the President of the State Bar (3); the President of the Senate (1); the Speaker of the House (1); and the Governor (4 appointments, but they must be from organizations representing: (a) indigent persons, (b) Native American interests, (c) people with mental illness, and (d) people with addictions).	Commission oversees Office of State Public Defender. Regional directors oversee trial-level services and determine models to be used in those regions, possibly involving both public and private attorneys. Commission also has statutory authority to promulgate standards related to attorney qualification and training, performance guidelines, supervision, caseloads, and reporting on workloads and staffing levels.

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Nebraska	Yes (Limited)	9	The nine members are appointed by the Governor from a list of attorneys submitted by the executive council of the Nebraska State Bar Association after consultation with the board of directors of the Nebraska Criminal Defense Attorneys Association	Six attorneys working in the commission provide direct representation in capital trial, appeals, and some serious felonies involving drugs and violent crimes. Commission has developed standards for trial-level representation and workloads, but lacks statutory authority to enforce them or provide statewide oversight.
Nevada	No			
New Hampshire	Yes (2)	NH Judicial Council: 24 NH Public Defender: 9	NH Judicial Council: 5 appointees of the judicial branch; the Attorney General or designee; a superior court clerk appointed by the Superior Court Clerks Association; a district court clerk appointed by the District Court Clerks Association; president-elect of the NH State Bar Association; chairperson of the Senate Judiciary Committee or designee; chairperson of the House Judicial & Family Law Committee or designee; 8 members appointed by the Governor (3 lawyers; 5 lay people); 5 members appointed by the Chief Justice (3 lawyers; 2 lay people). NH Public Defender: The President of the State Bar appoints three members and the Board elects the rest.	The <i>NHJC</i> is essentially the state's coordinating committee for all justice matters (both civil and criminal). Besides serving as a forum for objective justice policies, collecting objective justice data, and providing public education on the court system, the judicial council also oversees the state's indigent defense fund. The indigent defense fund provides state money for all right to counsel criminal services and funding for civil matters for which there is a state right to counsel. The <i>NHPD</i> has independent authority to provide primary services as they see fit. The central office in the state's capitol (Concord) houses the administrative offices, the state appellate unit, the Merrimack County trial-level unit, and a statewide special defender office doing just "Sexually Violent Predator" involuntary commitment cases. In addition there are eight other public defender offices. Some serve multiple counties, some are single-county offices, and two offices are located in the state's most populous county. Since 2011 the NHJC gave the NHPD authority to make the direct appointment to conflict counsel when conflicts are identified to ensure that there is not a delay in getting counsel appointed quickly. Therefore, the NHPD now qualifies and appoints all conflict counsel.
STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
New Jersey	No			

New Mexico	Yes	11	Governor (1 appointee); Chief Justice (3); Dean of University of New Mexico School of Law (3); Speaker of the House of Representatives (1); Senate President (1); and. Majority floor leaders of each chamber (one each).	The commission selects the state's chief public defender. The chief is responsible for the provision of right to counsel throughout the state's trial and appellate courts, and provides direct client services through a mixture of traditional public defender offices and contracts with private attorneys.
New York	Yes (Limited)	9	The chief justice serves a chairman of the Board with the Governor appointing other members based on recommendations by: President of the Senate; the Speaker of the Assembly, the New York State Bar Association; state association of counties (2); and, the Chief Justice (judge or retired judge). The Governor also appoints one attorney and one other person of his choosing.	Commission has only limited authority to assist the state's county-based indigent defense systems to improve the quality of services provided. It does so primarily through funding assistance grants to counties

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
North Carolina	Yes (Limited)	13	Chief Justice (1 appointee, current or retired judge); Governor (1 – non-attorney); President Pro Tempore of the Senate (1 attorney); Speaker of the House of Representatives (1 attorney); North Carolina Public Defenders Association (1 attorney); North Carolina State Bar (1 attorney); North Carolina Bar Association (1 attorney); North Carolina Academy of Trial Lawyers (1 attorney); North Carolina Association of Black Lawyers (1 attorney); North Carolina Association of Women Lawyers (1 attorney); and the Commission itself (3, one non-attorney, one judge, and one Native American).	Commission has authority to promulgate standards relating to training, attorney qualification and performance. IDS also houses centralized representation units: appellate defender, office of parent representation, capital defender, and the juvenile defender. Trial-level representation is provided by staff public defenders, assigned counsel, and contract defenders throughout the state. The authority to determine the delivery model used in each judicial district is a legislative decision with input from local actors (county bars, judiciary, etc.). To date, only 16 judicial districts have established public defender offices. The presiding judge of the Superior Court in the district has the authority to hire the chief public defender.
North Dakota	Yes	7	Governor (2 appointees, one from a county of less than 10,000 people); House of Representatives (1); Senate (1); Chief Justice (2 appointees, one from a county of less than 10,000 people); and, North Dakota State Bar Association (1)	The Commission has established six full-time public defender offices (Dickinson, Minot, Williston, Grand Forks, Fargo, and Bismarck) since 2005. Private counsel under contract to the Commission handles conflict cases in these six regions, as well as all indigent defense services in regions where there is no full-time public defender office. Though the Commission has the statutory authority to establish standards to control workload for both public defenders and contract counsel, they have not yet done so.

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Ohio	Yes (Limited)	9	The Governor (5 appointments – 2 each from the major political parties) and the Supreme Court (4 appointments – 2 each from the major political parties).	The Ohio State Public Defender (OSPD) provides direct representation in only certain case types statewide. OSPD's Legal Division, it's largest team, handles non-death adult appeals and post-conviction cases. OSPD reimburses counties a portion of the cost of trial-level representation. The commission is responsible for promulgating standards, and the office responsible for disbursing state funds to counties meeting those standards.
Oklahoma	Yes (Limited)	5	The Oklahoma Indigent Defense System (OIDS) is overseen by a 5-person Board of Directors appointed by the governor with advice and consent of the Senate.	The Oklahoma Indigent Defense System is a state-funded agency in the executive branch that provides trial-level, appellate and post-conviction criminal defense representation to the indigent accused in 75 of the state's 77 counties (all except Tulsa and Oklahoma). Trial-level services are provided by staff public defenders operating out of one of six offices (Clinton, Guymon, Magnum, Norman, Okmulgee, and Sapulpa). Private attorneys under contract to OIDS provide services in conflict cases.
Oregon	Yes	7	Chief Justice of the Oregon Supreme Court appoints all members	The commission is statutorily responsible for promulgating standards regarding the quality, effectiveness, and efficiency by which public counsel services are provided. With all funding for direct services provided by the state, the commission's central Office of Public Defense Services handles the day-to-day management of the system. Oregon is the only statewide system in the country that relies on entirely contracts for the delivery of public defense services. The statewide office lets individual contracts with private not-for-profit law firms (which look and operate much like the public defender agencies of many counties with full time attorneys and substantive support personnel on staff), smaller local law firms, individual private attorneys, and consortia of private attorneys working together. The actual contracts are the enforcement mechanism for the state's standards, with specific performance criteria written directly into the contracts.
STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Pennsylvania	No			

Rhode Island	No			
South Carolina	Yes (Limited)	13	The governor appoints nine members. Five gubernatorial appointments are based on the recommendations of the South Carolina Bar Association, and four are based on recommendations of the South Carolina Public Defender Association (and must reflect geographic diversity based on the state's four Judicial Regions). The chief justice of the South Carolina Supreme Court makes two appointments: one must be a retired circuit court judge, and one must be a retired judge with either family court or appellate experience. The Senate and House Judiciary chairs each appoint one person from their respective committees.	The commission has the authority to promulgate standards regarding the provision of indigent defense services, including, among others: attorney qualification, performance, workload, training, data collection, attorney compensation, and indigence determinations. The commission also oversees the state's Office of Indigent Defense, a central office that: (1) provides day-to-day management of the statewide system; (2) processes and pays vouchers submitted by appointed counsel (Family court Abuse and Neglect cases, Termination of Parental Rights cases, other Family court matters, and Post Conviction Relief cases, and criminal conflicts); (3) operates an Appellate Division (handling all indigent appeals); and, (4) maintains a Capital Trial Division that provides death penalty representation throughout the state (usually alongside a local public defender) as first chair or second chair. At the trial level, the commission employs 16 circuit public defenders that serve four-year terms and that are selected through a complex process that begins at the county Bar level.
South Dakota	No			
Tennessee	Yes (Limited)	9	Appointments are made by the Governor, Lieutenant Governor/Speaker of the Senate (same position), and Speaker of the House (3 each)	Commission oversees post-conviction work performed by Tennessee Office of Post-Conviction Defender (OPCD). Responsibilities include ensuring compliance with federal and state constitutions and national standards for capital litigation. OPCD also provides advice and training for private capital attorneys within the state

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Texas	Yes (Limited)	13	<p>Eight members are ex officio members of the Judicial Council as follows: the chief justice of the Supreme Court of Texas (the state court of last resort on civil matters); the presiding judge of the Court of Criminal Appeals (the state court of last resort on criminal matters); the chair of the House Criminal Jurisprudence Committee; two members of the Senate appointed by the lieutenant governor; one member of the House of Representatives appointed by the House speaker; one Court of Appeals justice appointed by the governor; and one county court judge also appointed by the governor. The governor appoints five additional members with the advice and consent of the Senate: one presiding district court judge; two county court judges or county commissioners (one of which must represent a county with a population greater than 250,000); one practicing criminal defense attorney; and one chief public defender.</p>	<p>The Texas Indigent Defense Commission (TIDC) is authorized to set standards and policies related to, among others: attorney performance; attorney qualifications; training; caseload controls; indigence determinations; contracting; and attorney compensation. Counties are required to submit an annual indigent defense plan to TIDC indicating how the county meets TIDC standards, and in return TIDC disseminates state funding to offset the cost of meeting standards. TIDC serves as a compliance monitor for state standards, acts as a clearinghouse for Texas indigent defense data, and provides technical assistance to counties looking to improve right to counsel services. Importantly, TIDC also awards single- and multi-year grants to fund innovative direct client services.</p>
Utah	No			
Vermont	No			

STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY
Virginia	Yes	14	The chairmen of the House and Senate Committees for Courts of Justice; the chairman of the Virginia State Crime Commission; the Executive Secretary of the Supreme Court; the Virginia State Bar (two attorneys); Governor (2 appointees) the Speaker of the House of Delegates (3 appointees); and, the Senate Committee on Rules (3 appointees).	Commission has authority to set standards and to enforce compliance against those standards through its central office in Richmond. The Commission's executive director administers a statewide roster of qualified assigned counsel handling all cases where there is no public defender office, and handling conflicts where there is such an office. The executive director, however, has limited authority to select the heads of the local public defender offices, which are instead selected by a hiring committee established solely for such purpose and then disbanded.
Washington	No			
West Virginia	Yes (Limited)	11	Executive Director is at-will appointee of the Governor; The Director of West Virginia Public Defense Services (WVPDS) serves as the commission chairperson with the Governor appointing the remaining members as follows: one former or retired circuit judge; three experienced criminal defense lawyers (one from each of the state's Congressional districts); one sitting chief public defender; one non-lawyer; one mental health or developmental disability advocate; and, one juvenile justice advocate	West Virginia Public Defense Services (WVPDS) provides no direct trial-level services, but it does oversee an appellate defender office and a trial-level resource center. WVPDS also has an administration department that oversees contracts with non-profit public defender corporations and pays assigned council vouchers with 100% state funds. The commission sets compensation levels for public defenders, experts, and investigators, though statutory language sets assigned counsel compensation at \$65 (in court) and \$45 (out of court). WVPDS also has total authority to decide how services are delivered in the state's 55 counties. Conflict services in all counties and primary services in those counties with no public defender corporation are provided by private attorneys paid the statutory rate. Though WVPDS pays the vouchers, the local judiciary of each county administers the assigned counsel panels, including determining who is on the panels and approving vouchers to be paid by WVPDS.
STATE	COMMISSION?	MEMBERS	APPOINTING ENTITIES	COMMISSION AUTHORITY

Wisconsin	Yes	9	A state public defender serves as the system's chief attorney, who is appointed by an independent, nine-person commission, and who is responsible for carrying out the commission's policies and directives. The Governor appoints commission members with advice and consent of the Senate.	<p>The commission oversees all indigent defense services (both primary and conflicts). Primary indigent defense services are provided by government staff attorneys working in 35 local public defender offices to handle trial-level services, plus another two offices for appellate work, all overseen by the system's central administration in Madison.</p> <p>The Commission also oversees certification, appointment, and payment of private attorneys who represent indigent clients. Private attorneys are paid in two ways: (1) an hourly rate; or (2) a flat, per case contracted amount (misdemeanor cases only).</p>
Wyoming	No			