



Assigned Counsel Division Newsletter

2024 ANNUAL DEFENDER CONFERENCE

The Annual Defender Conference is right around the corner - scheduled for November 14th and 15th at the Hyatt Regency in downtown Milwaukee. There is an amazing line-up of speakers and topics. This year's conference covers trial skills, litigation, youth & family defense, appeals, revocations and new this year - hands on sessions to navigate Cellebrite, Axon & creating a Digital Trial Notebook.

In conjunction with the State Bar we are offering sessions on how to start and run a solo/small firm, and how to use public defender appointments to build a successful practice. We will also discuss incorporating as a non-profit business that qualifies for student loan forgiveness, and recent changes to the federal student loan forgiveness program that may allow contractors to qualify for loan forgiveness.

The full agenda along with the registration form is available at www.training.wisspd.gov

We are excited to celebrate all defenders this year by focusing on “Empowering Advocacy, Evolving Litigation, and Elevating Client-Centered Defense!” We hope that you consider joining in person to get your CLE credits and to mix and mingle with your fellow defenders!

SPD 2025-27 BUDGET REQUEST

In September, the SPD submitted its 2025-27 state budget request. The request covers resource needs as well as proposals to reduce the number of cases through decriminalization. Specifically to private bar attorneys, the request includes:

- Increase the hourly rate to \$125 an hour for serious cases (as defined by the DNA statute)
- Increase the mileage reimbursement rate from the state rate of \$0.51 per mile to the federal Internal Revenue Service rate (currently \$0.67 per mile)
- Allow a 2% charge on the total amount to SPD to account for the time spent compiling and submitting invoices to SPD
- Create a loan assistance pilot program for private bar attorneys taking SPD appointments in rural counties

The request will be analyzed by state budget staff prior to the Governor releasing his biennial budget request in February 2025. The legislature will then review and vote on the budget with the goal of having it signed into law by June 30, 2025.

If you have any questions in the meantime, please feel free to reach out to Adam Plotkin (plotkina@opd.wi.gov.)

UPDATE FROM THE APPELLATE DIVISION

The SPD Appellate Division is currently updating the Appellate Handbook, and shared this checklist for trial attorneys. Also, be on the lookout for news about an Appellate Skills Academy in mid-2025!

Appeal Checklist for Trial Attorneys

*All underlined documents are available at <https://www.wispd.gov/appellate-division>

- **Before Sentencing**
 - ☐ Review appellate rights with client (Notice of Rights (NOR) Form CR-233)
 - ☐ Calculate sentence credit and address at sentencing
 - ☐ Address restitution, if applicable
 - ☐ Consider whether requesting a stay pending appeal will be appropriate
- **After Sentencing**
 - ☐ E-file a motion to stay pending appeal, if appropriate
 - ☐ Determine whether your client wants to appeal the judgment and e-file the NOR
 - ☐ If your client is undecided, follow-up with them within 20 days to get an affirmative answer
 - ☐ If your client wants to appeal, e-file the Notice of Intent (NOI) within 20 days of sentencing¹
 - ☐ If you miss the NOI deadline and can show “good cause”, you must efile a motion to extend in the COA²
 - ☐ Make sure to address restitution if not already addressed³
 - ☐ Email the following to madisonappintake@opd.wi.gov
 - ☐ E-file date stamped NOI
 - ☐ Trial Attorney Questionnaire
 - ☐ Any transcripts already received
 - ☐ Do not order any additional transcripts for Appellate⁴
 - ☐ Send entire client file to appointed appellate attorney upon request⁵
 - ☐ If a former client reaches out and you are unsure how to respond, contact Appellate
- **Interlocutory Appeals**
 - ☐ Determine whether it is appropriate to file a petition for leave to appeal a non-final order and if so, file a petition within 14 days from written order
 - ☐ If the state files a petition for leave to appeal a non-final order, file a response within 14 days
 - ☐ If the petition is accepted by the COA, email madisonappintake@opd.wi.gov *immediately* so an appellate attorney can get appointed
- **State’s Appeals**
 - ☐ If the state is appealing as of right, email madisonappintake@opd.wi.gov *immediately* so an appellate attorney can get appointed
- **IAC Claims**
 - ☐ Consult with appellate counsel- you do not need a waiver from the client
 - ☐ Maintain duty of loyalty and confidentiality to client- do not talk to the DA
 - ☐ Attorney client privilege is not waived until the hearing and then only to the extent necessary to address issues raised in the motion

¹ In TPR cases, the deadline to file the NOI is 30 days and must have the client's written signature.

² See Initiating a Direct Appeal: What to File & What to Do When It's Too Late for instructions.

³ If restitution or sentence credit is determined after a NOI has been filed after sentencing and there is an amended JOC, efile another NOI. This ensures that the Appellate Division will order the transcript of the additional hearing.

⁴ Unless you are appealing an order for involuntary medication and treatment in a competency appeal. If so, you must request the transcripts within 3 days of the order. See <https://www.wispd.gov/competency> for more information on litigating competency.

⁵ This includes discovery, correspondence, investigation memos, notes, research. (EF-16-03. SCR 20:1.16 (d)).

Assigned Counsel Division Contact Information

You may reach ACD staff by telephone at 608-261-0632 or by email at ACD@OPD.WI.GOV