

Resolution No. 449

A resolution regarding the establishment of Public Defense Standards

WHEREAS, State Law requires that City's establish and adopt standards for the delivery of public defense services;

WHEREAS, the City has utilized the services of the Clallam County Public Defender Office to ensure the provision of quality services;

WHEREAS, the City, however, has determined that in order to ensure compliance with RCW 10.101.030, that the adoption by resolution of the standards included in any contract is required;

THEREFORE, BE IT RESOLVED THAT

I. Purpose:

The City adopts these standards to ensure that those indigent criminal defendants obtaining court appointed legal defense are afforded quality representation by the Public Defenders appointed to represent them. Further, the City adopts this resolution to ensure its compliance with State law and Court decisions. When there is a need to do so, the provisions of this resolution shall be broadly and liberally construed to achieve the stated purpose. "Quality representation" describes the minimum level of attention, care, and skill that would be expected by any citizen from the State's criminal justice system. These standards may be formally amended by the Council, or applied as needed by the Mayor and applicable staff, to ensure continued compliance with those rules established by the State, its Court, the Washington State Bar Association, or similar such entities.

II. Duties and Responsibilities of Counsel

- A. Any attorney assigned by the Court to provide public defense services shall ensure that their representation provided to the client is in a professional, skilled manner consistent with the minimum standards of the Rules of Professional Conduct, the Washington State Bar Association, and applicable case law and court rules associated with their duties as counsel and criminal defense attorneys. Regardless of the source of payment for the services provided, the primary duty of the Public Defender is to advocate, promote, and protect the interests of their client.
- B. Duties of the Public Defender shall be defined by this resolution, and/or contract for such services, and will include:

1. Compliance with all federal, state and local non-discrimination laws. The duty of non-discrimination relates not only to the provision of services by the Public Defender to their clients, but also to their management and hiring practices;
 2. Familiarity with:
 - a. Constitution, statutes and cases relevant to criminal defense practice;
 - b. Washington Rules of Professional Conduct;
 - c. Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association;
 - d. Requirements associated with maintaining client confidentiality;
 - e. Consequences of convictions or adjudications on immigration status;
 - f. Consequences of civil commitment proceedings based upon criminal convictions; and,
 - g. Mental health issues and the availability of expert services to assist their client.
 3. Ensure, when multiple attorneys may be associated with the provision of all public defense services, that adequate staffing will be provided that complies with the case load requirements of no more than 400 cases per year by any one attorney providing public defense services in courts of limited jurisdiction to the City of Forks. When an attorney is carrying a caseload consisting of City of Forks cases and cases from other jurisdictions, the attorney, and/ or their employing agency, shall ensure that the total case load assigned shall not exceed the requirements of this paragraph;
 4. Ensure adequate funding and availability of administrative support necessary to undertake the primary duty associated with their representation;
 5. Ensure compliance with mandatory legal education requirements; and,
 6. Filing the necessary Certification of Compliance required by State court rules.
- C. Compensation.
1. The attorneys assigned public defense duties shall be compensated by the agency employing them at a fair and reasonable rate that takes into account their training and experience. Conflict attorneys shall be compensated in a fair and reasonable manner at a rate determined by the Court.
 2. The employer, and/ or the attorney, will be compensated for reasonable out of pocket expenses. The City will be responsible for costs associated with investigator and interpreter services as needed.
 3. The reasonable rate associated with the services will include the administrative overhead costs of the employing agency.

D. Conflict Counsel.

1. Understanding at times there are multiple defendants associated with a criminal complaint, and in such situations, the ability of one Public Defender to represent all of the indigent defendants is not possible due to conflicting interests of each indigent defendant. In such cases, the Court will appoint a conflict counsel to provide indigent defense services in a manner compliant with this resolution.
2. Compensation of conflict counsel shall be at a rate established by the Court and shall be paid by the City. Conflict counsel shall be paid upon receipt of a bill, or invoice, submitted monthly to the City. Payment will be made within 45 days of the receipt of the bill/ invoice by the City. Reasonable expenses associated with the conflict counsel's representation will also be paid in a similar manner as would be for the Public Defender.
3. Conflict counsel should also be familiar with the Standards for Indigent Defense Services adopted by the Washington Bar Association and ensure compliance with those standards in their representation.

E. Complaints.

1. The Clerk/ Treasurer shall be the contact point for complaints regarding the provision of services by the Public Defender.
2. In any complaint, *the* Clerk/ Treasurer shall notify either the employing agency, or the conflict attorney, and afford said party the opportunity to resolve the complaint.
3. Complaints regarding the provision of services under contract, or regarding a violation of these standards shall be investigated in a reasonable period of time by the Clerk/ Treasurer. However, any complaint regarding trial strategy, case outcome, or other matter which could breach confidentiality shall be referred to the Washington State Bar Association or the Judge of Clallam County District Court II.
4. Nothing within this section, nor anywhere else within these standards, shall be interpreted as requiring either the Public Defender or the indigent defendant to breach any duty of confidentiality, including but not limited to trial strategy.

F. Reporting. The Public Defender, or the agency employing them for such services associated with a contract from the City, shall provide reports as needed, at the most monthly, indicating the number of cases assigned to the agency by the City, and/ or the attorneys within that agency, the hours associated with said cases, and the attorney's total case load.

G. Supervision. The Public Defender, or the agency employing them for such services, will work to ensure that there is an understanding of the provisions of Standard 10 and 11 as established by the Washington Bar Association, Standards for Indigent Defense Services, approved 3 June 2011. Further, the Public Defender, or the agency employing them for such services, will make provisions for the supervision, monitoring and evaluation in accordance with the Bar Association's standards, or

provide some alternative means of providing such level of supervision.

- H. Termination of services. Upon the completion of an investigation noted above, and a determination that good cause exists for terminating the representation, the City may request the Public Defender, if time permits, resign as counsel and a conflict counsel be appointed. Good cause is defined as including the failure of the Public Defender, or conflict counsel, to render adequate representation to clients, the willful disregard of the rights and best interests of the client, and the willful disregard of these standards. Further, termination may occur if there is an express violation of these standards; PROVIDED HOWEVER, that legal counsel shall be provided a reasonable opportunity, following notice, to cure any technical violations of these standards that do not impair the provision of quality representation to the indigent client. FURTHER, removal by the Court of counsel from representation normally should not occur over the objection of the attorney and the client.
- III. The City states its intent to review and modify these standards as needed in order to address changes by the Washington State Legislature, the Washington State Supreme Court, and/ or the Washington State Bar Association

Passed by the City Council on this 23rd day of November 2015.



Bryon Monohon, Mayor

Authenticated and Attested to:



Audrey Grafstrom
Clerk / Treasurer

Approved as to Form:



William R. Fleck
Attorney / Planner