

CITY OF MAPLE VALLEY, WASHINGTON

RESOLUTION R-12-899

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAPLE VALLEY, WASHINGTON ADOPTING STANDARDS FOR INDIGENT DEFENSE SERVICES PROVIDED TO THE CITY OF MAPLE VALLEY.

WHEREAS, the city of Maple Valley prosecutes misdemeanor offenses that are committed by adults within the Maple Valley city limits. The misdemeanor offenses are filed into the Maple Valley Municipal Court; and

WHEREAS, in accordance with the 6th Amendment of the United States Constitution, and Article I, Section 22 of the Washington Constitution, persons charged with misdemeanors who are deemed indigent are entitled to the effective assistance of counsel at the public expense; and

WHEREAS, Chapter 10.101 RCW establishes a process for determining indigency and requires that municipalities adopt standards for the delivery of criminal defense services to the indigent; and

WHEREAS, the Washington Supreme Court adopted new standards for indigent defense in Order No. 25700-A-1004 on June 15, 2012; and

WHEREAS, the City currently contracts with one or more law firms for the provision of indigent defense services, as follows: the City contracts with a primary law firm for the majority of indigent defense cases, and with a secondary firm to provide indigent defense services in the event there is a conflict of interest that prevents the primary firm from representing a defendant. The City Manager or his /her designee (not the City Attorney or City Prosecutor or any Police Officer) manages the indigent defense contracts; and

WHEREAS, the firms that the City currently contract with dedicate a vast majority of their practices to the defense of indigent misdemeanant defendants, and a majority of each firm's attorneys that perform indigent defense services to the City have extensive experience representing misdemeanor defendants from arraignment through appeal; and

WHEREAS, the City prides itself in providing all indigent defendants with quality public defense available at a reasonable cost to the public. In furtherance of this effort and commitment, and in accordance with Chapter 10.101 RCW and

Supreme Court Order No. 25700-A-1004, the City adopts the following standards for the delivery of public defense services.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MAPLE VALLEY, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Standards Adopted. – The following standards apply to all indigent defense attorney services provided to the city of Maple Valley.

Definitions

A. Attorney. As used in these standards, the term “attorney” or “attorneys” shall mean an attorney under contract with the City of Maple Valley for the provision of indigent defense services, and shall also mean the law firm for which the attorney works. Therefore, these standards shall also apply to law firms who are under contract with the City for the provision of indigent defense services.

B. Defendant. The term “defendant” shall mean a person who has been charged with a misdemeanor offense in the Maple Valley Municipal Court, and who is represented by an attorney as the term attorney is defined in these standards.

Standard 1: Compensation

The City’s contracts for public defense services shall provide for payment at a rate that is competitive for like services in the state of Washington and in the South King County area in particular and takes into account the training and experience of the attorneys to be providing services.

No contract for public defense services shall require the attorney to pay any compensation to another attorney in the event the attorney is disqualified from representing a defendant due to a conflict of interest. Reasonable out of pocket expenses shall be compensated.

Standard 2: Duties and Responsibilities of Counsel

Attorneys shall provide services in a professional and skilled manner consistent with the minimum standards of the Washington State Bar Association, Washington’s Rules of Professional Conduct, applicable case law, the Constitutions of the United States and Washington, the court rules that define the duties of counsel and the rights of defendants, and the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association. Attorneys should be familiar with mental health issues and be able to identify the need to obtain expert services. At all times during the representation of a defendant, the attorney’s primary responsibility shall be to protect the interests of the defendant.

Standard 3: Caseload Limits, Types of Cases, and Limitations on Private Practice

Attorneys shall maintain a caseload such that he or she can provide each and every defendant effective assistance of counsel as guaranteed by these standards. Attorneys shall not accept caseloads that, by reason of their excessive size, interfere with the rendering of quality representation to defendants. Attorneys shall set limits on the amount of privately retained work which can be accepted. These limits shall be based on the percentage of a full-time caseload which the indigent defense cases represent.

Effective October 1, 2013, no attorney representing indigent defendants shall accept a caseload of more than 400 cases in a calendar year. The following types of cases fall within the intended scope of this caseload limit: partial case representations, sentence violations, specialty or therapeutic courts, transfers, extraditions, representation of material witnesses, petitions for conditional release or final discharge, and other matters that do not involve a new criminal charge. A case is defined as the filing of a document with the court naming a person as defendant or respondent to which an attorney is appointed in order to provide representation. In the Maple Valley Municipal Court, multiple citations from the same incident can be counted as one case.

Standard 4: Responsibility for Expert Witnesses and Investigative Services

Attorneys shall be free to retain experts and investigators of the attorney's choosing, and may apply to the court for such services pursuant to applicable local court rules, and pursuant to CrRLJ 3.1. The City's contract shall provide reasonable compensation for expert witnesses and investigators necessary to preparation and presentation of the defense case. Attorneys shall be free to retain the expert of their choosing and in no cases should be forced to select experts from a list pre-approved by either the court or the prosecution. Attorneys should employ investigators with investigation training and experience.

Standard 5: Administrative Expenses and Support Services

Any contract for the provision of indigent defense services should provide for or include administrative costs and support costs, including but not limited to travel, telephones, law library including electronic legal research, financial accounting, case management system(s) computers and software, office space and supplies, training, costs to meet the reporting requirements required by the Supreme Court Standards for Indigent Defense, and other costs incurred in the day-to-day management of a contract with the City for indigent defense services. Attorneys shall have adequate numbers of qualified paralegal, secretarial, investigative, interpreters, and other services as deemed appropriate to ensure the effective performance of defense counsel services during trial preparation, in the preparation of dispositional plans, and at sentencing. Attorneys shall have access to an office that accommodates confidential meetings with clients, and a postal address, and shall maintain adequate telephone services to ensure prompt response to client contact. Attorneys should strive to maintain email services that are confidential as a secondary service to ensure prompt response to client contact.

Standard 6: Reports of Attorney Activity

Attorneys shall maintain a case reporting and case management information system, and the attorneys shall provide quarterly reports to the City as set forth herein. Attorneys shall not be required to compromise any attorney confidences when providing these reports. Attorneys shall file a Certification of Compliance form with the Maple Valley Municipal Court and with the City Manager, using the attached form, or a substantially similar form as shown in Attachment 1, in compliance with CrRLJ 3.1. Attorneys shall also file a quarterly report with the City Manager that includes the total number of cases assigned each quarter to include a breakdown of cases assigned that quarter by category (e.g. 4 simple assaults, 8 theft third, 2 assault DV, etc), and indicates the total number of open cases. An open case shall be any case in which no Notice of Withdrawal of Counsel has been filed with the Maple Valley Municipal Court. Quarterly reports shall be due April 15 (for the quarter ending March 31); July 15 (for the quarter ending June 30); October 15 (for the quarter ending September 30); and January 15 (for the quarter ending December 31). The quarterly report shall include attendance of Attorneys at any CLE as required by Standard 7. The quarterly report shall include a description of any defendant complaints received by Attorneys, and a description of how the complaint was resolved (see Standard 11). The quarterly report shall include an itemized accounting of costs for investigators and experts that quarter.

Standard 7: Training

Attorneys shall complete seven (7) hours of continuing legal education (CLE) within each calendar year in courses relating to their indigent defense practice. Attorneys shall report to the City Manager their attendance at this CLE course, in the quarterly report which next follows the attorney's attendance at the CLE. Attorneys should engage in regular training in the areas of criminal defense law, criminal process, trial advocacy, legal writing, appellate work, law practice management, or any other subject that, in the opinion of the attorney, is applicable to the work of indigent defense services.

Standard 8: Supervision, Monitoring and Evaluation of Attorneys

Attorneys shall establish a system in which more senior attorneys regularly review the work of more junior attorneys. The more senior attorneys shall review the case outcomes, caseloads, and any other information deemed appropriate, and shall regularly monitor the attorney's interactions with defendants, case preparation, and in-court activities of more junior attorneys. Attorneys may seek input from judges and other attorneys if appropriate.

Standard 9: Substitution of Counsel and Assignment of Contracts

Attorneys shall not assign a defendant to another law firm or subcontract with another law firm without first obtaining the express written permission of the City and shall remain directly involved in the representation of assigned defendants.

Standard 10: Qualifications of Attorneys

Attorneys shall endeavor to provide the highest quality indigent defense services. At a minimum, attorneys shall comply with the following: satisfy the minimum

qualifications to practice law as established by the Washington Supreme Court; be familiar with the statutes, court rules, case law and constitutional law applicable to misdemeanor criminal defense work; be familiar with Washington's Rules of Professional Conduct; be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association; be familiar with the consequences of any conviction or adjudication including but not limited to immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction, and be familiar with mental health and substance abuse issues and be able to identify the need to obtain expert services.

Standard 11: Disposition of Defendant Complaints

Attorneys shall establish a process for responding to complaints made by defendants. At a minimum, all complaints shall be reviewed by one or more senior attorneys of the law firm. Complaints that are not resolved by the attorney shall be directed by the attorney to the City Manager, or may be directed to the Washington State Bar Association.

Standard 12: Cause for Termination of Defender Services and Removal of Attorney

Contracts with the attorney shall include grounds for termination. Such grounds for termination shall be based on good cause, which shall include, but shall not be limited to, the failure to provide effective assistance of counsel, the disregard of the rights and interests of the defendant, and or a willful disregard for these standards.

Standard 13: Non-Discrimination

Attorneys shall not discriminate in the hiring of employees or the provision of services pursuant to a contract with the City, and shall be required to execute a certification of compliance with the City's policy regarding minority and women contractors.

PASSED BY THE CITY COUNCIL OF THE CITY OF MAPLE VALLEY,
WASHINGTON, AT A SPECIAL MEETING THEREOF THIS 13th DAY OF
NOVEMBER, 2012.

William T. Allison, Mayor

ATTEST:

Shaunna Lee-Rice, City Clerk

Additional signatures appear on following page

APPROVED AS TO FORM;

Christy A. Todd, City Attorney

Attachments:

1. Certification of Compliance Form

1 **Attachment 1 to Resolution R-12-899**

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5
6 **STANDARDS FOR INDIGENT DEFENSE**

7 **CERTIFICATION OF COMPLIANCE**
8 **“Applicable Standards” required by CrRLJ3.1**

9
10 For criminal misdemeanor cases, a signed certification of compliance with Applicable
11 Standards must be filed by an appointed attorney by separate written certification on a
12 quarterly basis in each court in which the attorney has been appointed as counsel.

13 The certification must be substantially the following form:
14

15 **SEPARATE CERTIFICATION FORM**

<p>17 _____ Court of Washington</p> <p>18 for</p>	<p>19</p> <p>20 Certification of Appointed Counsel of</p> <p>21 Compliance with Standards Required by</p> <p>22 CrRLJ 3.1</p>
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23 The undersigned attorney hereby certifies:

- 24 1. Approximately ____% of my total practice time is devoted to indigent defense cases.
- 25 2. I am familiar with the applicable Standards adopted by the Supreme Court for attorneys

26 Standards for Indigent defense

27 **Washington State Bar Association**
1325 Fourth Ave - Suite 600
Seattle, WA 98101-2539

1 appointed to represent indigent persons and that:

- 2 a. **Basic Qualifications:** I meet the minimum basic professional qualifications in Standard
3 14.1.
- 4 b. **Office:** I have access to an office that accommodates confidential meetings with clients,
5 and I have a postal address and adequate telephone services to ensure prompt response to
6 client contact, in compliance with Standard 5.2.
- 7 c. **Investigators:** I have investigators available to me and will use investigation services as
8 appropriate, in compliance with Standard 6.1.
- 9 d. **Caseload:** I will comply with Standard 3.2 during representation of the defendant in my
10 cases. [Effective 9/1/13: I should not accept a greater number of cases (or a proportional
11 mix of different case types) than specified in Standard 3.4, prorated if the amount of time
12 spent for indigent defense is less than full time, and taking into account the case counting
13 and weighting system applicable in my jurisdiction.]

14 _____
15 Defendant's Lawyer, WSBA #

16 _____
17 Date