

EXHIBIT A

SCOPE OF WORK Public Defense Auditor

The Public Defense Auditor is responsible for quality assurance, quality control review, and assessment of the Cities' Public Defense System, as well as for recommending to the Cities remedial actions, training, funding adjustments, and other actions appropriate to maintenance of a robust Public Defense System, fully compliant with the Public Defense Standards adopted by the City Councils in February 2016, as such Standards now exist or may be amended. The Auditor shall also familiarize himself with the reports of the Public Defense Supervisor as well as the forms and systems which have been put into place.

The Auditor shall: 1-assess the performance of defense counsel, as described below; 2-work with the Public Defense Contract Administrative Assistant to improve City public defense procedures; 3-review and comment on the proposed public defense budget, and 4-report to the Cities' Mayors, Councils and designated administrative authority about the status of public defense and public defense budgets. Such duties shall include, at minimum, the items listed below. Estimates of the time required to fulfill these duties are set forth in Section II below.

SECTION I DUTIES

A. Public Defense Providers: The Auditor serves as the evaluator of the services provided by the Cities Public Defense Providers. The Auditor is responsible for assessment of Public Defense Providers' adherence to the Standards adopted by the City as well as the constitutional obligations of defense counsel. The Auditor shall be familiar with the December 4, 2013 Memorandum and Decision in *Wilbur v. Mt. Vernon, et al.* The Auditor shall evaluate the Public Defense Providers, counsel and a consult with them regarding performance to the extent consistent with the Auditor's role, and report periodically to the Cities through their Contract Administrator and other city officials. The following list is illustrative and is not intended to limit the discretion of the Auditor to evaluate and promote a robust public defense system which complies with the Cities adopted Standards and state and federal constitution. The Auditor will document any violation of the Standards and contract as well as all reviews, evaluations and assessments referenced below.

1. Timely and confidential client meetings. Evaluate whether Public Defense Providers are making contact, either in person or by phone, in a confidential setting with each new client within seventy-two (72) hours of appointment. The Auditor will review the reason(s) documented by the Public Defense Provider for any failure and whether an opportunity for confidential communications occurred prior the client's first court hearing.

2. Performance of certain tasks during the first client meeting. Evaluate whether the Public Defense Providers perform the following tasks when they first meet with the client:

- (a) Advise the client of their right to jury trial and their right to a speedy trial;
- (b) Advise the client of the elements of the charge and that the prosecutor must prove each element beyond a reasonable doubt to obtain a conviction;
- (c) Advise the client of the right to present a defense;
- (d) Advise the client that it is solely the client's decision whether to accept or reject a plea offer; and
- (e) Discuss with the client any potential witnesses or avenues of investigation.

3. Evaluation of the client's competency and needs. Evaluate the Public Defense Provider's first contact with clients, and whether the Public Defense Providers are determining if each client:

- (a) Appears competent to proceed with the court process;
- (b) Has a sufficient literacy level to understand written court documents such as the guilty plea form and sentencing orders;
- (c) Needs an interpreter; and
- (d) Is a non-citizen in need of expert immigration advice.

4. Appropriate response to information provided by client. Evaluate whether the Public Defense Providers are responding appropriately to information provided by the client and discovery obtained in each case, including pursuing additional discussions with the client, investigations, medical evaluations, legal research, and other appropriate responses as suggested by the circumstances.

5. Client communications and complaints. The Auditor shall review Public Defense Provider's adherence to the policies established by the Public Defense Supervisor for responding to all client contacts and complaints (including jail kites), as well as the length of time in which a response must occur. The Auditor shall review disposition of client complaints by the Public Defense Providers. Unresolved complaints shall be addressed in accordance with the policy created by the Public Defense Supervisor.

6. Use of interpreters, translators, investigators, and other available resources. Evaluate whether the Public Defense Providers are appropriately using interpreters, translators, investigators and other resources. Review the use of these resources.

7. Role of advocate in courtroom. Evaluate courtroom proceedings to ensure that the Public Defense Providers are fulfilling their role as advocates before the court on the client's behalf.

8. Full advisement and options. Evaluate whether the Public Defense Providers are fully advising clients of their options regarding possible dispositions, including information on treatment services, any options for less onerous disposition based on treatment, explanation of plea offers, the consequences of a conviction, the conditions that are normally imposed at sentencing, any applicable immigration consequences, and any other consequences about which the client expresses concern.

9. Adequate recording keeping. Evaluate whether the Public Defense Providers are complying with contract terms regarding the maintenance of contemporary records on a daily basis and providing the reporting required by contract.

10. Evaluate appropriate allocation of cases. Evaluate whether cases are being allocated to each Public Defense Service Provider in consideration of existing workload, the seriousness of the charges, any factors that may make a case more complex or time consuming, and the attorney's experience level.

11. Review of Public Defender's Files. Select and review randomly chosen files from each Public Defender to ensure that the necessary tasks are being performed and documented, with appropriate time spent on each task. Review shall be of "de-identified" files in a manner which fully acknowledges and preserves the attorney/client privilege. No client file, however, de-identified, shall be reviewed if the client fails to consent to review of his or her file. A system to document the client's consent or refusal of review shall be created.

12. Report of Data. Review the reports of Public Defense Providers to ensure compliance with the Standards and Contract. Review reports to assure that they are being provided in accordance with the reporting system established by the Public Defense Supervisor.

B. City Public Defense Contract Administrator: The Auditor shall meet with the Cities' Contract Administrator to review the Cities' public defense procedures, including assigning cases to the conflict counsel panel, recruiting, evaluating and retaining a qualified and robust conflict counsel panel, and receiving and reviewing complaints regarding the Cities Public Defense System and counsel.

The Contract Administrator and Auditor shall review at least quarterly the closed case reports filed by the Cities' primary public defense firm, the hours spent on each case and in total, and the disposition of each case.

The Contract Administrator and Auditor shall review reports filed monthly by the Cities' primary public defense firm which reports shall detail the number of cases assigned to the firm and individually to each attorney and, (redacted of client identifying information), work done by staff investigators and attorneys, detailing jail visits, legal research, investigation, client meetings, and other information contained in the reports now provided by the firm to the Cities.

The Contract Administrator and Auditor shall review and comment on the procedures for soliciting Requests for Qualifications (RFQs) for public defense services and the procedures for assessing any request to extend an existing public defense contract.

The Auditor will provide to the Contract Administrator and City Administrators the Auditor's assessment of whether the Cities' Public Defense System (a) provides actual representation of and assistance to individual criminal defendants including reasonable investigation and advocacy, and where appropriate, adversarial testing of the prosecutor's case and (b) complies with all provisions of the Public Defense Provider's Contract and the Cities' Standards. Whenever improvement is required, the Auditor should meet with the Contract Administrator and City Administrators to advise how the Public Defense Providers' services and the Public Defense System can be improved.

The Auditor shall be available to consult with the Contract Administrator regarding issues related to public defense services or issues that may affect public defense services that may arise during the year.

C. Budgets: The Auditor shall be provided with the adopted public defense budget for the year in which he/she is appointed, and with a report of the prior year's adopted budget vs. actual expenditures, in time for the Auditor to provide timely and meaningful recommendations about the proposed public defense budget for the following year. The Auditor's recommendations shall be provided in writing to the person each City timely identifies as responsible for development of the proposed budget. That City employee shall meet and confer with the Auditor about the Auditor's recommendations.

D. Reports to City Administrators and Elected Officials: On or about April 1 and October 1 of each year, the Auditor shall report in writing to the Mayor, City Council, and designated City Administrators regarding the Public Defense System, in light of the Public Defense Standards.

The Reports shall be specific to each City and shall include a summary of the Auditor's observations of defense counsel, evaluation of reports filed by the defense firm and conflict counsel; discussion of the impact of the budget, and evaluation of procedures for any RFQ for public defense services or extension of an existing contract contemplated by the Cities.

The Reports shall assess the performance of the Cities' Public Defense Contractors and address any impediments to the delivery of public defense services in the City's Criminal Justice System, including screening and court procedures.

The Reports shall detail the impact of actions taken by other participants in the Criminal Justice System (for example changes in filing practices or jail operations), upon the delivery of public defense services.

The October Report shall review the proposed public defense budgets in light of the Cities' projected public defense caseloads; and include recommendations related to the Cities'

public defense and criminal justice systems, including appropriate changes, if any, to the Public Defense Standards.

If at any time during the year the Auditor has concerns about the City Public Defense System or the impact of a policy on public defense, he or she shall raise the issue in advance of the April and October Report dates.

SECTION II — TIME REQUIRED

A. Introduction.

Attorneys in the public defense system for the Cities of Burlington and Mount Vernon represent 1200-1600 indigent clients per year. Public defense attorneys must appear in three physically separated courts: the Mount Vernon Municipal Court, the Burlington Municipal Court, and the Skagit County District Court (located in the Skagit County Jail building). Few if any opportunities now exist for the Cities’ stakeholders--police, jail, court, prosecution, public defense, county probation, and ordinary citizens--to discuss and act on systematic criminal justice issues, such as court scheduling and the new Skagit County jail. Discussion with the courts is a challenging part of the Auditor’s role.

The Public Defense Auditor will assess the quality of the public defense systems of the Cities of Mount Vernon and Burlington on an ongoing basis, including assessment of information reported by the primary public defense provider and by conflict panel attorneys. In addition to assessing the quality of public defense, the Auditor should be a bridge between stakeholders and provide a public defense perspective on systemic criminal justice issues.

B. Duties and time estimates.

The Auditor’s duties, as described in Section I of this Scope of Work, include review of unresolved complaints and disposition of resolved complaints, assist in resolution of complaints, in-court observation of attorneys from the office of the primary defender and a six to eight attorney conflict panel, review of case information reported by primary provider and conflict attorneys, recommendation of measures to address systematic issues, the impact of systematic changes by others in the criminal justice system (e.g. jail or court scheduling), budget review and comments, and two written reports each year. The time demands of the Auditor’s work will vary and the following time estimates are conservative:

Review monthly primary defender reports (now provided in Excel) with Public Defense Administrative Assistant (PDAA), and consult with primary defender as needed	.5 day/month
Review quarterly Conflict Counsel reports with PDAA, consult with conflict counsel as needed Estimated 1 day/quarter-averaged to .33/month	.33 day/month
Review 2 closed cases per primary defender attorney per/month, including police reports, client file to extent possible, court file and Judicial Information System (JIS) docket. Estimated 10 files/month/45-60 min per file	1 day/month

Observe combination of primary defender and conflict panel attorneys on out of custody calendars, in custody calendars in the jail, motion calendars, trials, consult with attorneys and primary defender supervisor	2 day/month
Obtain transcripts of court proceedings trials, review with attorney and supervisor.5day/month	.5 day/month
Consult with PDAA regarding comments, both resolved and unresolved complaints and follow up, as needed	.5 day/month
Consult with PDAA on issues that arise, e.g. jail access, recordings, and observe screening and appointment process	.5 day/month
Review public defense budget, including budget for primary provider and conflict counsel, expert services ordered by the court, PDA cost, prior year budget to actual. Estimated 2 days per/year	1.5 hrs/month*
Write April report for each City, which must include summary of work, observations and recommendations Estimated 2 days/year	1.3 hrs/month*
Write October report for each City, which must include comments/analysis and recommendation on proposed public defense budget in light of past expenditures, case projections and potential impacts on public defense system of changes in the justice system. Report to City Councils. Estimated 3 days/year 1.5hrs/month*	1.5 hrs/month*
Consult with PDAA generally e.g. conflict counsel recruitment, retention, applications, meeting with new applicants at their offices, miscellaneous public defense issues Estimated 1.5 day/ year	1 hr/month*
Review PDAA work for adherence to procedures, discuss conclusions and recommendations with PDAA. Estimated half day per quarter, two days per year.	1.33 hr/month*
Subtotal known average time/month 6.48day/month	6.48 day/month
Discuss with City representatives about systematic issues such as: configuration of Mount Vernon courtroom to provide space for confidential communication, remodel of Burlington Municipal courtroom contemplated by City of Burlington, impact of new Skagit County Jail now under construction, future issues such as client survey 1day/month	1 day/month
Total Estimated Monthly Average	7.48 day/month

*Estimate of hours per month is total time needed, for example two days, to write April report, divided by months of the year to arrive at an average number of hours per month, though the total time will probably be spent in a single month. The monthly average hours totaled, divided by 8 hours/day are included in estimated monthly total days.

Please note that this estimate of the time required does not include travel time either to the Cities or between the Courts nor office administrative time.