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THE STATE OF NEW HAMPSHIRE
JUDICIAL COUNCIL
www.nh.gov/judicialcouncil

Sarah T. Blodgett, Executive Director
25 Capitol Street, Room 424
Concord, New Hampshire 03301-6312

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June 11, 2019

His Excellency, Governor Christopher T. Sununu
And the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Judicial Council to enter into a "sole source" contract in the amount of $46,871,187, with Governor and Council approval, for the period effective July 1, 2019 through June 30, 2021, between the State of New Hampshire, acting through the Judicial Council, and the New Hampshire Public Defender, (hereinafter NHPD, Vendor Code 155941), pursuant to the provisions of RSA 604-B:4. 100% General Funds. This is a sole source contract because only one organization in the State has the current capacity to meet the contractual obligations.

Funds will be available, pending budget approval for fiscal years 2020 and 2021, as follows:

	FY 2020	FY 2021
02-07-07-070010-1094-102 Public Defender Program	$23,119,355	$23,751,832

EXPLANATION

The Judicial Council requests authorization to enter into a contract for the biennium with the statewide Public Defender Program. The Public Defender Program would continue to operate in all ten counties ~~under the terms~~ of this contract through June 30, 2021 and would maintain its administrative offices at 10 Ferry Street, Suite 425, Concord N.H. The Public Defender meets the requirements of RSA 604-B:4; has been approved by the New Hampshire Bar Association; and is the State's most cost-effective method of delivering indigent-defense representation mandated by the State and Federal Constitutions and authorized by the statutory provisions of RSA 604-A:2. In Fiscal Year 2018, the Public Defender Program handled approximately 84% of all indigent-defense cases in the system statewide and during the current fiscal year the Program's caseload share has remained consistent. This contract anticipates that NHPD will handle at least the same percentage of cases in Fiscal Years 2020 and 2021. Using this primary component of the indigent-defense system reduces reliance on the more expensive and less predictable assigned counsel system, and provides reliable representation in the broad range of homicide, felony, misdemeanor, appellate, and sexual-violent-predator cases brought in New Hampshire courts against the indigent accused.

Phone: (603) 271-3592
Fax: (603) 271-1112
TDD: Relay NH 1-800-735-2964

The Attorney General's Office has approved this contract as to form, substance and execution.

REQUEST FOR PROPOSALS AND REVIEW PROCESS

The Judicial Council developed a detailed Request for Proposals and made the RFP available on the Judicial Council website. The availability of the RFP and the opportunity to submit proposals were also publicized in a statewide newspaper, (the *Union Leader*), in February of 2019. In addition, the RFP was advertised on the statewide contract list through the Bureau of Purchase & Property of the Department of Administrative Services. Notice regarding the availability of the RFP appeared on the NH Bar Association's Website and its March 6, 2019 e-bulletin.

Other than the New Hampshire Public Defender, no group or individual submitted a proposal for consideration. The proposal submitted by the New Hampshire Public Defender was reviewed thoroughly by the Indigent Defense Subcommittee of the Judicial Council and was found to be compliant with the Judicial Council's Request for Proposals.

Thank you for your consideration. I would be glad to answer any questions you may have regarding this proposed contract.

Respectfully submitted,

Sarah T. Blodgett

Sarah T. Blodgett
Executive Director

Attachments

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Judicial Council		1.2 State Agency Address 25 Capitol Street, Room 424 Concord, NH 03301	
1.3 Contractor Name New Hampshire Public Defender		1.4 Contractor Address 10 Ferry Street, Suite 425 Concord, NH 03301	
1.5 Contractor Phone Number 603-224-1236	1.6 Account Number 010-007-1094-102	1.7 Completion Date June 30, 2021	1.8 Price Limitation $46,871,187
1.9 Contracting Officer for State Agency Sarah Blodgett, Executive Director		1.10 State Agency Telephone Number 603-271-3592	
1.11 Contractor Signature Cathy J. Green		1.12 Name and Title of Contractor Signatory CATHY J. Green President, Board of Directors NHPD	

1.13 Acknowledgement: State of NH, County of Merrimack

On 6/10/19, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.

1.13.1 Signature of Notary Public or Justice of the Peace

[Seal]

1.13.2 Name and Title of Notary or Justice of the Peace

Henry Klementowicz, Notary, my commission expires 3-9-2021

1.14 State Agency Signature Nina C. Gardner Date: 6/10/19	1.15 Name and Title of State Agency Signatory Nina C. Gardner, Chair NH Judicial Council

1.16 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)*

By: Director, On:

1.17 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)*

By: On: 6/10/2019

1.18 Approval by the Governor and Executive Council *(if applicable)*

By: On:

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.
Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Contractor Initials CJS
Date 6/10/19

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000per occurrence and $2,000,000 aggregate ; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

Contractor Initials CJG

Date 6/10/19

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.
15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A *("Workers' Compensation").*
15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Contractor Initials CG
Date 6/10/19

EXHIBIT A
SERVICES

1. The New Hampshire Public Defender Program, (NHPD), shall provide statewide legal representation at all stages of criminal proceedings for all criminal defendants, juveniles in delinquency cases, and respondents in involuntary commitment proceedings under RSA 135-E, qualifying as indigents. Consistent with the statutory scheme of appointment described in RSA 604-A:2 II, the Public Defender shall accept all indigent case appointments in the Circuit, Family, District, Superior, Probate, and the Supreme Courts, except in those cases in which the Rules of Professional Conduct would bar the representation, and except in those cases in which caseload limits as defined herein have been reached.

2. NHPD shall provide such other representation as is necessary and consistent with normal criminal defense, including but not limited to representation in specialty courts, as required by the provisions of the United States and New Hampshire Constitutions, as well as related activities. For purposes of this provision, "related activities" includes but is not limited to the following:

A) Representation in matters arising under RSA 169-D which are factually and procedurally related to juvenile delinquency matters such that effective representation in the matter to which NHPD has been appointed requires participation;

B) Representation in non-criminal matters such as motor vehicle and other violations, Class B misdemeanors, proceedings brought under R.S.A. Chapter 173-B, Grand Jury proceedings, proceedings related to R.S.A. 265-A:30, and the like, when such representation is required to provide effective representation in a matter to which NHPD has been appointed;

C) Representation in proceedings under R.S.A. Chapters 135 and 135-C related to a finding of a lack of competency to stand trial in a case to which NHPD has been appointed. In such matters, NHPD may seek compensation from other agencies if such compensation is normally made for such representation when provided by non-NHPD counsel.

3. NHPD shall employ an Executive Director to supervise the Program. NHPD shall hire such other staff as is necessary to provide the services under this contract. It is understood and agreed that the staffing levels will be supported by the expenditure of funds under this Agreement to purchase and install necessary equipment such as books, office equipment, computer hardware and software, telephones, desks and chairs.

4. The present NHPD offices located in Manchester, Concord, Nashua, Laconia, Stratham, Dover, Keene, Littleton, Newport and Orford will continue to be staffed with full-time attorneys and part time attorneys. Office locations will not be modified without prior written approval from the Judicial Council (Council). Public Defender attorneys shall not be otherwise engaged in the practice of law. Contract attorneys, other than appellate attorneys, will be compensated on a caseload basis rather than on an hourly or per diem basis.

5. Subject to the normal turnover of staff and the availability of qualified replacements, NHPD shall employ not fewer than 116 full-time attorneys or the equivalent for the period of this agreement. Attorney staff not specifically designated for areas of representation by this Agreement shall be assigned responsibilities by NHPD based upon caseload growth. NHPD shall

Contractor's Initials: CJ
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maintain specific minimum attorney staffing by employing no fewer than:

A) 22 full-time attorneys serving Northern Hillsborough County.
B) 19 full-time attorneys serving Southern Hillsborough County.
C) 19 full-time attorneys serving Rockingham County.
D) 15 full-time attorneys serving Merrimack County.
E) 7 full-time attorneys serving in Cheshire County.
F) 3 full-time attorneys serving in Sullivan County.
G) 10 full-time attorneys serving Strafford County.
H) 10 full-time attorneys serving Belknap and Carroll Counties.
I) 3 full-time attorneys serving Coos County.
J) 5 full-time attorneys serving Grafton County.
K) 3 full-time attorneys providing appellate representation.

6. NHPD and the Judicial Council acknowledge that staffing levels contemplated under this agreement do not make provision for the capacity of NHPD to provide representation in trial level, capital-case litigation.

7. NHPD shall have the option to sub-contract for attorney services as may be deemed necessary or appropriate to provide the representation specified under this Agreement. The use of all subcontractors must be pre-approved by the Judicial Council or the Indigent Defense Subcommittee. NHPD shall provide the Judicial Council with copies of all proposed subcontracting agreements and information on the role the subcontractor will play, how they will be used, assigned cases, supervised and paid.

8. For purposes of determining the minimum staffing requirements set forth above, "full-time attorneys or equivalent" shall be computed as follows: Full-time attorney staff shall be those attorneys who are salaried and devote 100% of their time to NHPD representation; Part-time attorney staff shall be given equivalent value based upon the ratio of their caseload responsibilities compared to the workload of full-time salaried attorney staff; Contract attorneys shall be given equivalent value based upon the ratio of their contract workload responsibilities compared to the workload of full-time salaried attorney staff.

9. The caseloads of NHPD attorneys shall be consistent with the Rules of Professional Conduct and shall conform to the requirements of the plan adopted by NHPD and approved and monitored on a continuing basis by the Judicial Council (See Exhibit A-1). Said plan shall allocate cases between NHPD and other counsel, shall establish caseload limits for defender attorneys in accordance with professional standards under the Rules of Professional Conduct, and shall provide for appointment of other counsel only when maximum caseloads have been reached, when conflicts exist or when NHPD attorneys are otherwise unavailable.

10. In all accepted cases, the assigned attorney will provide the client with a closing letter after the case has resolved. The closing letter will summarize the resolution of the case, including any action that the client is required to take. It will also provide basic information about the annulment process, if appropriate. The closing letter can be provided to the client electronically.

11. NHPD shall operate and administer the Conflict Case Administrator Office. The Conflict Case Administrator Office shall distribute conflict cases to contract attorneys and assigned counsel. In the event that NHPD reduces or closes case intake from a particular court or courts, the Conflict Case Administrator shall assign all of the cases refused by the Public

Contractor's Initials: CJS
Date: 6/10/19

Defender Program. In the event that NHPD reduces or closes case intake from a particular court or courts, and the Conflict Case Administrator is called upon to assign all of the cases refused by the Public Defender Program, the Public Defender Program shall sufficiently augment the resources made available to the Conflict Case Administrator Office in order to accommodate the workload increase.

12. NHPD shall undergo a financial risk assessment by an independent certified public accountant firm that has been pre-approved by the Judicial Council. This process shall include an assessment of whether the roles and responsibilities of the vacant Director of Administration and Finance position have been assigned appropriately or the position should be filled. This work shall be performed in accordance with the American Institute of CPA's Consulting Standards. The provider shall review policies and procedures, monthly and annual reports and system generated reports. This assessment shall occur during the first six months of FY20. A written report of the procedures performed, the results of these procedures, and any recommendations will be provided to the Council. The cost of this assessment shall be borne by NHPD and will not exceed $25,000.

Contractor's Initials: CJ9
Date: 6/10/19

EXHIBIT A-1
CASELOAD MANAGEMENT PLAN

Because persistently excessive caseloads threaten a lawyer's ability to provide competent representation to the accused, the New Hampshire legislature enacted RSA Chapter 604-B:6, requiring that a plan for caseload management be adopted by the New Hampshire Public Defender and approved by the Judicial Council. Accordingly, the parties hereto adopt the following Caseload Management Plan:

1. Representation

The Public Defender Program shall represent any eligible, indigent person in the Circuit, Family, District, Superior, Probate or Supreme Courts at all stages of criminal prosecutions, delinquency matters, and proceedings concerning the involuntary commitment of dangerous persons. The Public Defender Program is authorized to provide such other representation as is necessary and consistent with normal criminal, delinquency, and civil-commitment defense as required by the provisions of the United States and New Hampshire Constitutions. Representation shall be provided in accordance with this Plan.

2. Rules of Professional Conduct

The Public Defender Program shall not represent an individual when doing so would constitute a violation of the Rules of Professional Conduct.

3. "Case" Definition

A "case" for the purposes of this agreement is defined as a single charge; or, multiple related charges that occurred at the same time and place which are to be tried as one case regardless of the number of complaints; or, multiple charges that involve the same type of offense committed over a proximate period of time which are to be tried as one case regardless of the number of complaints.

4. Caseload Management

In order to ensure adequate representation for the accused, the Executive Director of the Public Defender Program shall monitor the caseloads of attorneys. If caseloads become excessive and the Executive Director of the Public Defender Program decides that closing off or reducing case intake is necessary, he or she will consult with the Executive Director of the Judicial Council prior to taking either of these steps. If and when a decision is made to close or reduce the intake of new cases temporarily, the Conflict Case Administrator shall assign alternate counsel pursuant to RSA 604-A:2 II.

5. Staff Attorney Caseloads

Full-time attorneys providing general felony, misdemeanor, and juvenile delinquency representation shall maintain a caseload of not more than 70 open and active cases. Lawyers may be assigned caseloads of specific case types for efficiency purposes, but when attorney caseloads are a mixture of felony, misdemeanor, juvenile, and other cases, there will be acknowledged maximums in each of these categories fixed as follows:

(a) Felony Maximum - 35 cases
(b) Misdemeanor Maximum - 35 cases
(c) Juvenile Delinquency Maximum - 20 cases
(d) Other Cases - 15 cases

The mix of cases totaling 70 for each attorney shall be determined by the Public Defender Program Executive Director based upon the experience level of the staff attorney and the concentration of case types in the geographic area served by the office in which the attorney

Contractor's Initials: CJG
Date: 6/10/19

works.

6. Homicide Representation
The Public Defender Program shall assign two attorneys to represent individuals charged with homicide offenses (first-degree murder, second-degree murder, and manslaughter cases). At least one lawyer shall be assigned from among the senior NHPD lawyers who possess homicide case experience. Program attorneys carrying a mixed caseload will carry no more than two homicides at a time, and their caseloads shall be adjusted in accordance with the complexities and demands of the homicide case.

7. Capital Case Representation
In the event that NHPD is called upon to provide trial-level representation in a new capital case, the parties agree to amend the Price Limitation set forth in Block 1.8 of this Agreement, notwithstanding the provisions of Section 5.4. When NHPD assigns lawyers to provide representation in a capital case, NHPD will do so in a manner consistent with the American Bar Association's Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases.

8. Juvenile Representation
The Public Defender shall assign attorneys to provide representation in juvenile delinquency proceedings who through selection and training meet the eligibility requirements established by the Judicial Council under the provisions of RSA 604-A:2-e.

9. Appellate Representation
The Appellate Defender Office shall be staffed by no fewer than three attorneys. Appellate Defender attorneys shall maintain a caseload that requires them to research, write, and argue not more than 24 appeals in any year.

10. Civil Commitment of Sexually Violent Predator Representation
The Public Defender Program shall assign two attorneys to represent any individual sought to be committed as a sexually violent predator pursuant to RSA 135-E. Attorneys carrying a mixed caseload will carry no more than two open and active civil commitment cases at a time. The caseload of any attorney handling a civil commitment case shall be adjusted in accordance with the complexities and demands of the civil commitment case.

11. Amendment and Review
No change shall be made in this Plan except upon approval of both parties. Either party may propose amendments to this Plan whenever said amendments appear to be appropriate and necessary. In addition, the Judicial Council shall review the operations of the Public Defender Program and shall also review quarterly statistics of the Public Defender Program to ensure that representation of indigents by the Public Defender Program is consistent with this Plan and legislative mandates.

Contractor's Initials: CJG
Date: 6/10/19

EXHIBIT B
PAYMENT

1. It is agreed that the sums advanced above shall be expended by NHPD for the sole purpose of paying the expenses of administration of NHPD, including payment of salaries of personnel assigned to it, social security and payroll taxes or benefits computed on payroll, travel, insurance, rent, telephone, office supplies and equipment. All expenses incurred shall be reasonably related to and necessary for the operation of NHPD.

2. Notwithstanding Paragraph 1 of this Exhibit, NHPD is authorized to make training presentations and materials available to attorneys not employed by NHPD who provide indigent defense services funded by the State of New Hampshire.

3. In consideration of the satisfactory operation of NHPD from the effective date of this contract until the end of Fiscal Year 2020, the State of New Hampshire shall advance to NHPD in State Fiscal Year 2020:

$ 11,559,677 for the period July 1, 2019 through December 31, 2019, and,
$11,559,678 for the period January 1, 2020 through June 30, 2020.

5. In consideration of the satisfactory operation of NHPD from the effective date of this contract until the end of Fiscal Year 2021, the State of New Hampshire shall advance to NHPD in State Fiscal Year 2021:

$11,875,916 for the period July 1, 2020 through December 31, 2020, and,
$11,875,916 for the period January 1, 2021through June 30, 2021.

6. The amount, if any, by which the total semi-annual payments specified above for State Fiscal Year 2020 exceed the amount of total expenses associated with operation of the NHPD for that year shall be utilized by NHPD to help to defray expenses associated with operation of NHPD incurred during State Fiscal Year 2021.

7. Within 80 days following conclusion of State Fiscal Year 2021, NHPD shall return to the State the amount, if any, by which the total of the payments specified above for both fiscal years exceeds the total expenses incurred for operation of NHPD for the two fiscal years.

Contractor's Initials: CJG
Date: 6/10/19

EXHIBIT C
ADDITIONAL PROVISIONS

1. Conditional Nature of this Agreement

Paragraph 4 of Form P-37 is inapplicable and deleted.

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the continued appropriation of funds for the services provided herein, and in no event shall money promised to NHPD in this contract be transferred administratively or otherwise to the Contract Counsel or Assigned Counsel programs without the express written consent of the President of Public Defender Program's Board of Directors. If, however, it shall become necessary to reduce the monies paid to NHPD pursuant to this paragraph, there shall be a concomitant and pro rata reduction of the services which NHPD is obligated to perform hereunder.

2. Data/Access/Confidentiality

Paragraph 9 of Form P-37 is inapplicable and deleted.

The parties acknowledge that the Public Defender Program has obligations of confidentiality and loyalty to clients which cannot be abridged. NHPD must strictly prevent access by the State to information regarding all matters related to the representation of individual clients.

NHPD has reporting and access obligations to the State of New Hampshire as follows:

A. The Public Defender Program Executive Director shall personally report to the Judicial Council on the operation of the Public Defender Program as requested.

B. All records of NHPD regarding expenses of operation of NHPD shall be available for examination at any reasonable time to fiscal agents of the State or General Court, including the Judicial Council.

C. NHPD will keep time records for statistical purposes and for assessment of any repayment ordered in accordance with RSA 604-A:9.

D. NHPD shall furnish the Judicial Council such listing of personnel, job descriptions and salary levels as the Judicial Council shall from time to time request.

E. Within thirty (30) days following the conclusion of each quarterly period during the term of this Agreement, written progress reports shall be prepared by NHPD. The reports shall briefly describe the cases accepted during the quarterly period, the progress of such cases, and the final disposition of all cases, in sufficient detail to disclose type and degree of offenses, whether or not contested, and the approximate time spent on such cases. The reports shall include a statement of administration costs detailing the expenses incurred during the quarterly period in connection

with the operation of NHPD. One copy of each such report shall be submitted by NHPD to:

1. The New Hampshire Judicial Council,
2. The Governor,
3. Each member of the Executive Council,
4. The Attorney General, and,
5. Further copies shall be made available to such other offices, courts or agencies as the Judicial Council may from time to time specify.

F. Within sixty (60) days following the conclusion of State Fiscal Year 2020, NHPD shall provide the Judicial Council with a final statement of all expenses associated with operation of NHPD for that Fiscal Year.

G. Within sixty (60) days following the conclusion of State Fiscal Year 2021, NHPD shall provide the Judicial Council with a final statement of all expenses associated with operation of the NHPD for that Fiscal Year.

H. Within ninety (90) days of the end of State Fiscal Year 2020, NHPD shall also provide the Judicial Council with a copy of its annual audit by a certified public accountant.

I. Within ninety (90) days of the end of State Fiscal Year 2021, NHPD shall provide the Judicial Council with a copy of its annual audit by a certified public accountant.

J. Within ninety (90) days of the end of the 2020-2021 biennium, NHPD will provide an accounting of those item of equipment in which the State retains a reversionary interest. This accounting shall include a complete inventory list as well as a statement of the value of the assets listed.

3. Equipment

The State shall retain a reversionary interest in all equipment with a useful life of greater than two years, such as books, office equipment, telephones, desks and chairs, purchased by NHPD during the period of the Agreement with funds provided pursuant to this Agreement. The State shall not retain a reversionary interest in consumable supplies. In the event that NHPD ceases to operate, the Public Defender Program will return all items of said equipment within thirty (30) days of a request by the State.

4. Professional Liability Insurance

NHPD shall carry professional liability insurance covering all services to be performed pursuant to this Agreement, shall provide to the Judicial Council proof of such insurance upon the commencement of the term of this Agreement, and shall notify the Judicial Council immediately if such coverage is cancelled or expires for any reason.

5. Assignment/Delegation/Subcontracts

Paragraph 12 of Form P-37 is inapplicable and deleted.

NHPD shall have the option to sub-contract for attorney services as may be deemed necessary or appropriate to provide the representation specified under this Agreement. NHPD shall obtain pre-approval from the Judicial Council when the Program sub-contracts for attorney services.

6. Capital Case Representation

This Agreement is prepared in contemplation that the Public Defender Program will employ adequate staffing and support to provide representation in the on-going appeal of the Michael Addison capital case. If the Addison Petition for Post-Conviction Relief should result in a remedy that requires the Public Defender Program to provide any additional representation, the parties agree to amend the Price Limitation set forth in Block 1.8 of this Agreement, notwithstanding the provisions of Section 5.4.

In the event that the Public Defender Program is called upon to provide representation to any other defendant charged with capital murder, the parties agree to amend the Price Limitation set forth in Block 1.8 of this Agreement, notwithstanding the provisions of Section 5.4.

7. General Liability Insurance

NHPD may substitute comprehensive general liability insurance in the amount of $1,000,000 per occurrence and excess/umbrella liability insurance in the amount of $3,000,000 per occurrence for the $2,000,000 per occurrence identified in Paragraph 14.1.1 of the P-37.

Contractor's Initials: [illegible]
Date: 6/10/19

CERTIFICATE OF AUTHORITY

On May 28, 2019 the Board of Directors of the New Hampshire Public Defender, a private, non-profit corporation organized under the laws of New Hampshire with principal offices at 10 Ferry Street, Suite 434, Concord, NH 03301, voted unanimously to adopt the following resolutions:

RESOLVED: That the New Hampshire Public Defender enter into a contract with the State of New Hampshire and/or the New Hampshire Judicial Council, to operate a public defender program providing statewide indigent defense representation for the period July 1, 2019 through June 30, 2021.

RESOLVED: That Cathy Green, President of the New Hampshire Public defender Board of Directors, is given full authority to execute all documents necessary to enter into this contract with the State of New Hampshire and/or the New Hampshire Judicial Council.

I certify that these resolutions, having been duly adopted by vote of the Board of Directors of New Hampshire Public Defender, remain in full force and effect, and have not been revoked, modified, or rescinded.

I further certify that Cathy Green is the President of the New Hampshire Public Defender Board of Directors and is still qualified and serving in that capacity.

By: _____ 10 June 2019

Michael Iacopino, Acting Secretary — Date

State of New Hampshire

Merrimack County

This document was acknowledged before me on June 10, 2019

By: France Dolbec — 6-10-2019

Name and title of Notary/Justice of the peace — Date

FRANCE DOLBEC
Justice of the Peace - New Hampshire
My Commission Expires March 13, 2024

The Hanover Insurance Group

BUSINESSOWNERS DECLARATION

28

BUSINESSOWNERS AMENDED DECLARATIONS EFFECTIVE 07/01/2018 NUMBER 01

SUPERSEDES ANY PREVIOUS DECLARATIONS BEARING THE SAME NO. FOR THIS POLICY PERIOD
AMENDED COMPUTER EQUIPMENT DED.

Policy Number	Policy Period From	To	Coverage Is Provided in the	Agency Code
OHV-D299939-01	07/01/2018	07/01/2019	HANOVER INSURANCE COMPANY	320163500

Named Insured and Address
NEW HAMPSHIRE PUBLIC DEFENDER
10 FERRY STREET SUITE 434
CONCORD, NH 03301

Agent
413-543-3534
THE GAUDREAU GROUP
PO BOX 369
WILBRAHAM, MA 01095

Policy Period: Beginning and Ending at 12:01 a.m. Standard Time at the Location of the Described Premises.
Business Type: CORPORATION (SINGLE).
Mortgagee/Loss Payable:

Business of the Named Insured:
OFFICE.

In consideration of the premium, insurance is provided the Named Insured with respect to those premises described in the Schedule below and with respect to those coverages and kinds of property for which a specific Limit of Insurance is shown, subject to all of the terms of this policy including forms and endorsements made a part hereof:

LOCATION SCHEDULE

Described Premises:

NO. 001 001 10 FERRY STRRET SUITE 434, CONCORD, NH 03301
NO. 002 001 20 MERRIMACK STREET, MANCHESTER, NH 03101
NO. 003 001 1 WEST STREET, KEENE, NH 03431
(SEE FORM 391-1013 FOR ADDITIONAL PREMISES.)

SECTION I - PROPERTY	LIMITS OF INSURANCE					
	Loc No 001	Bldg No 001	Loc No 002	Bldg No 001	Loc No 003	Bldg No 001
Deductible Amount	$ 1,000		$ 1,000		$ 1,000	
Building Amount Valuation	NOT COVERED		NOT COVERED		NOT COVERED	
Business Personal Property Valuation	$ 20,000 RC		$ 79,500 RC		$ 45,000 RC	
Business Income	ACTUAL BUSINESS LOSS SUSTAINED NOT EXCEEDING 12 CONSECUTIVE MONTHS.					
Business Income Waiting Period	Excluded / None / 24 hours / 48 hours / 72 hours 48 HOURS					

SECTION II - LIABILITY	LIMITS OF INSURANCE

Liability and Medical Expenses Limits of Insurance:
Except for Damage to Premises Rented to You, each paid claim for the following coverages reduce the Amount of Insurance we provide during the applicable annual period. Please refer to SECTION II - LIABILITY, D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE, paragraph 4. of the Businessowners Coverage Form.

Liability and Medical Expenses Limit	$ 1,000,000	Per Occurrence	$ 2,000,000	Aggregate
Medical Expenses	$ 5,000	Each Person		
Damage to Premises Rented to You	$ 500,000	All Perils		

Date Issued: 08/08/2018 ORIGINAL/INSURED Payment Type: DIRECT BILL

RECEIVED
APR 02 2019
JUDICIAL COUNCIL

PROPOSAL TO PROVIDE STATEWIDE PUBLIC DEFENDER SERVICES PURSUANT TO RSA 604-B AND OTHER RELEVANT STATUTES INCLUDING REPRESENTATION IN APPEALS, CAPITAL MURDER CASES AND THE INVOLUNTARY CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS IN THE STATE OF NEW HAMPSHIRE THROUGH STATE FISCAL YEARS 2020 AND 2021

submitted to

THE NEW HAMPSHIRE JUDICIAL COUNCIL

by

THE NEW HAMPSHIRE PUBLIC DEFENDER

March 28, 2019

Contact:
Sarah Blodgett, Executive Director
New Hampshire Judicial Council
25 Capitol Street, Room 424
Concord, New Hampshire 03301
Voice: 603-271-3592
Facsimile: 603-271-1112
e-mail: Sarah.Blodgett@jc.nh.gov

Submitted by:
Randy Hawkes, Executive Director
New Hampshire Public Defender
10 Ferry Street, Suite 434
Concord, NH 03301
Voice: (603) 228-6110 x4161
Facsimile: 603-227-9367
e-mail: rhawkes@nhpd.org

New Hampshire Public Defender

10 FERRY STREET, SUITE 434, CONCORD, N.H. 03301 TEL: (603) 228-6110 FAX: (603) 227-9367 rhawkes@nhpd.org

March 28, 2019

The New Hampshire Judicial Council
25 Capitol Street, Room 424
Concord, NH 03301-6312

Dear Council Members and Executive Director Blodgett:

For over forty years, the New Hampshire Public Defender has dedicated itself to providing capable, reliable, and cost-effective indigent defense representation in our courts. New Hampshire Public Defender has worked continuously to earn the confidence placed in it by the Judicial Council to carry out its responsibilities with proficiency and efficiency. We respectfully submit this proposal with the hope and intention of securing the opportunity to continue this important work during the next two State Fiscal Years.

The enclosed proposal is submitted in formal response to the Request for Proposals released by the Judicial Council on February 22, 2019. Should NHPD be awarded the contract, you have my promise that our employees will work to preserve and enhance the program's reputation for hard-work, dedication to our clients, and cost-effectiveness.

As the authorized contract signatory for the New Hampshire Public Defender and the person responsible for binding the organization to the provisions of the proposal, I accept the following stipulations of the RFP:

The bidder acknowledges that the bidder has read the N.H. Standard Form Contract, (Form P-37 1/2009), and all applicable exhibits and forms for a contract resulting from this RFP, understands them, agrees to all terms and conditions, (unless otherwise-mutually-agreed-upon terms supersede them), and if selected will provide all applicable exhibits and forms required to execute a contract with original signatures.

Thank you for your consideration of this proposal. Please do not hesitate to contact me if you require additional information.

Sincerely,

Randy Hawkes
Executive Director NHPD

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Executive Summary

When a New Hampshire Court appoints the New Hampshire Public Defender Program to represent a person accused of having committed an offense punishable by deprivation of liberty, NHPD's mission is to provide that individual with highly professional, effective representation. As a taxpayer-funded entity, NHPD is obliged to provide that service in an efficient and cost-effective manner.

The New Hampshire Public Defender is committed to providing the Courts and citizens of the State of New Hampshire with dependable and reliable appointed-counsel services in every eligible case arising in our criminal and juvenile justice systems. NHPD strives to accept every possible court assignment, and declines representation only when our participation is precluded by the Rules of Professional Responsibility. The program undertakes a conscientious review of those rules and scrupulously analyzes their applicability to individual cases to maximize the number of court-appointed cases accepted.

Upon the effective date of July 1, 2019 (or upon final approval from the Governor and Executive Council), the New Hampshire Public Defender will continue to remain obligated and able to provide ongoing representation in approximately 9500 open and active cases, and will be prepared to assume responsibility for the anticipated 29,000 new cases opened each fiscal year thereafter.

The Public Defender Program meets or exceeds all professional standards promulgated by national institutions, including the American Bar Association and the National Legal Aid and Defender Association. NHPD has earned a reputation for reliable, respectful and effective advocacy on behalf of the indigent accused for more than forty years. Program attorneys have carefully cultivated strong working relationships with the courts, prosecutors, and other components of New Hampshire's criminal justice system.

New Hampshire Public Defender will remain an active and responsive partner with the Judicial Council and the Courts in on-going efforts to lower the cost of indigent defense. Quality control, efficiency, and accountability continue to be high priorities for the Program. Periodic auditing of financial operations, vigorous monitoring of case intake and processing, and regular reporting to its Board of Directors and government officials will remain essential components of the New Hampshire Public Defender's systematic approach to oversight and supervision.

The Public Defender Program was founded to provide New Hampshire with a dependable, cost-effective means of meeting the constitutional mandate of providing counsel for the indigent accused. Throughout its history New Hampshire Public Defender has proudly fulfilled that role. In the coming biennium NHPD will continue to maintain its tradition of quality advocacy and will continue to work with other components of the criminal and juvenile justice systems to assure that all citizens receive equal treatment before the bar of justice.

Bidder Profile

The Public Defender Program is a private, non-profit corporation whose sole purpose is to provide legal representation to indigent criminal defendants, to civil commitment respondents, and to children in delinquency proceedings throughout New Hampshire. The corporation is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. NHPD carries professional liability insurance through CNA. Property and casualty insurance is provided through The Hanover Insurance Group.

The Public Defender Program's Articles of Incorporation state that the Board of Directors shall manage the business and affairs of the corporation. Up to six of the Board members are selected by the membership of the corporation. The three remaining positions on the Board are filled by action of the New Hampshire Bar Association's Board of Governors. The current membership of the Board of Directors is as follows:

	Cathy Green, Esq., President Shaheen & Gordon 107 Storrs Street, Concord, NH 03302
(NH Bar Appointee)	Michael Iacopino, Esq. Brennan, Lenehan, Iacopino & Hickey 85 Brook Street, Manchester, NH 03104
	Steven Gordon, Esq. Shaheen & Gordon 107 Storrs Street, Concord, NH 03302
	Richard Guerriero, Esq. Lothstein & Guerriero 39 Central Square, Suite 202 Keene, NH 03431
	Margaret O'Brien Devine-Millimet 111 Amherst Street, Manchester, NH 03101
(NH Bar Appointee)	Philip Waystack, Esq. Waystack Frizzell P.O. Box 137, Colebrook, NH 03576
	Risa Evans, Esq., Secretary University of New Hampshire School of Law 2 White Street, Concord, NH 03301
(NH Bar Appointee)	Kimberly Weibrecht, Esq. Weibrecht and Ecker 65 Main Street, Suite Two, Dover, NH 03820

The Board of Directors appoints an Executive Director who serves as the principal executive officer of the Corporation and, subject to the direction of the Board of Directors, supervises and controls the business and affairs of the Corporation.

The Program employs a total of 222 employees, 125 of whom are attorneys who provide direct representation in appointed cases. The balance of the staff consists of investigators, legal secretaries, office assistants, receptionists, information technology specialists, and one MSW. A small administrative team, located in Concord, provides managerial oversight to all program operations.

A complete roster of all current staff members of NHPD is attached as Appendix A.

An organization chart is attached as Appendix B.

Bidder's Financial Reports

New Hampshire Public Defender's Audited Financial Reports for the past two fiscal years are attached as Appendix C.

Subcontractor Profile

NHPD reserves its right pursuant to RSA 604-B:4 to subcontract work in the event that subcontracting becomes necessary. NHPD will notify the Judicial Council in advance if and when the Program plans to subcontract services. Subcontractors will be utilized primarily when an NHPD office is short-staffed and geography prohibits another NHPD office from providing relief. When NHPD attorneys are temporarily unavailable to take cases (e.g. Family/Medical Leave) or have left the Program through resignation or termination, and the attorneys in that office have reached caseload limits, subcontractors will be engaged to cover a specific case level or to take a mixed caseload. Cases will be assigned by the Managing Attorney of the affected office; and all subcontractors' performance will be monitored by NHPD's Deputy Directors. Subcontractors will be paid at the Contract Attorney rate established by the Judicial Council. A copy of the agreement used to retain subcontractors is attached as Appendix G.

Bidder Background and Experience

From its inception as a pilot project of New Hampshire Legal Assistance in 1972, through incorporation as a stand-alone institution in 1985 and more than three subsequent decades of growth, the New Hampshire Public Defender Program has worked diligently to earn its reputation for reliably providing effective representation to the indigent accused in a cost-effective manner. Each succeeding generation of Public Defenders inherits an inspiring and challenging legacy. We are always mindful that, as a taxpayer-funded institution, our performance is measured by efficiency as well as quality.

In 2008, in recognition of the quality of our work, the New Hampshire Civil Liberties Union presented the Public Defender Program with its Bill of Rights Award, noting that "Public Defenders provide exceptional legal representation to those New Hampshire residents who cannot afford an attorney in a criminal case. Without Public Defenders, consitutional protections that are taken for granted by most in society would not exist for the poor."

In 2013 the New Hampshire Bar Association also honored the Public Defender Program for its efforts on behalf of the indigent accused, stating "The New Hampshire Bar Association salutes true believers in justice – the men and women of the New Hampshire Public Defender Program – for forty years of skilled, professional and dedicated service to the citizens of New Hampshire and the rule of law. With their belief held true, they change the world, seeking justice one person at a time."

Through the years NHPD has extended its geographical coverage and steadily increased its share of the state's indigent defense caseload. Since 1997 the Public Defender Program has provided every New Hampshire Court with access to capable attorneys for the indigent accused. The Program currently handles approximately 29,000 matters per year, a figure that represents nearly 88% of New Hampshire's overall indigent criminal caseload.

NHPD provides representation in juvenile, misdemeanor, felony, and homicide-level cases. In addition, we represent clients in court-appointed post-conviction matters including parole violations, violations of probation, sentence related hearings, and appeals to the New Hampshire Supreme Court. NHPD also provides representation in civil commitment proceedings.

The Public Defender Program has a history of working with the courts and with other government agencies in efforts aimed at improving the delivery of indigent defense services and containing costs. Over the past several years, NHPD's administration has collaborated with the Administrative Judges of the New Hampshire Circuit and Superior Courts to bring greater efficiency to the appointment process for all assigned cases. In collaboration with the Judicial Council, NHPD maintains the Conflict Case Administrator Office to assure the prompt assignment of private counsel for clients whose cases present a conflict of interest for NHPD.

NHPD's administration and attorneys have been instrumental in the collaborative efforts that have led to the establishment of innovative, successful criminal justice programs such as drug courts, mental health courts, diversion programs, early case resolution systems, community corrections programs, and therapeutic communities in corrections facilities.

The Program is centrally administered by an executive director, two deputy directors, and a director of investigators and interns. The directors provide oversight of all aspects of the Program's operations. Branch offices are managed by experienced attorneys who also carry caseloads. This combination of a central administration and local office management enables the Program to maximize the efficiency of its operations by deploying resources where they are needed and ensures close supervision of attorney performance.

New Hampshire Public Defender meets or exceeds the standards established by the American Bar Association's Standing Committee on Legal Aid and Indigent Defense. Below are the "Ten Principles of an Indigent Defense Delivery System" and a brief description of how NHPD's operations conform to each Principle:

<u>1. The public defense function, including the selection, funding, and payment of defense counsel, is independent.</u>

NHPD is an independent, non-profit corporation. Public Defenders are recruited based on merit. Case assignment to attorneys is performed by NHPD's Managing Attorneys, not by the Courts. Funding derives through a contract with the State of New Hampshire, not through the Judiciary. The

Program's Executive Director answers to an independent Board of Directors, not to an Executive Branch Official.

2. Where the case load is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar.

NHPD supports the participation of the private bar in New Hampshire's indigent defense delivery system. As part of its contract with the Judicial Council, NHPD maintains the Conflict Case Administrator Office to ensure the prompt assignment of private counsel for clients who present a conflict of interest for NHPD. NHPD also provides training and legal resource materials to members of the private defense bar who accept court-appointed cases.

3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointments as soon as feasible after clients' arrest, detention, or request for counsel.

The Public Defender Program has worked in collaboration with the Administrative Judges of the New Hampshire Circuit and Superior Courts to speed up the appointment process for all assigned cases. Defendants can request counsel prior to arraignment. Bail bondsmen provide defendants with a financial affidavit/request for counsel form during the bail process. Court Clerks appoint NHPD for qualifying applicants immediately upon approval of a request for counsel; and the court sends appointment paperwork to NHPD within 24 hours of a request being approved.

4. Defense counsel is provided sufficient time and a confidential space to meet with the client.

Caseload controls and managerial supervision ensure that attorneys have sufficient time to meet with and effectively represent each client. NHPD provides its staff attorneys with accessible office space in every region of the State.

5. Defense counsel's workload is controlled to permit the rendering of quality representation.

ABA Standards and the Rules of Professional Responsibility oblige the Public Defender to impose caseload controls as a means of ensuring that attorneys have the time necessary to devote to their clients' cases. New Hampshire Public Defender continuously monitors the caseloads of its staff attorneys. The Program's Deputy Directors assure the even distribution of workload among the offices by adjusting staffing levels and court coverage as necessary. Managing Attorneys assure the even distribution of workload within an office by assigning the appropriate numbers and types of cases to individual attorneys. NHPD has the ability to stem the intake of new appointments if caseloads were to become unmanageable.

6. Defense Counsel's ability, training and experience match the complexity of the case.

NHPD employs experienced attorneys who have the expertise and training to handle the most complex and difficult cases in the criminal justice system. NHPD's Managing Attorneys take care to match an attorney's skill and experience with the appropriate level of case assignments. The Program regularly conducts trial skills training programs to gauge attorney performance and to prepare attorneys for more difficult cases.

7. The same attorney continuously represents the client until completion of the case.

NHPD attorneys represent clients from the time of appointment until final disposition of the

charges. Each attorney has complete responsibility for his or her assigned clients. This "vertical representation" model is designed to ensure that NHPD lawyers provide the highest quality representation.

8. There is parity between defense counsel and the prosecution with respect to resources, and defense counsel is included as an equal partner in the justice system.

While resource parity is a feature beyond the Program's control, we have worked to make certain that our litigation resources compare favorably to those of the prosecution. Likewise, we have been fortunate to be able to provide robust training opportunities for our staff attorneys.

We can gratefully assert that NHPD is treated as an equal partner in the criminal justice system. Our attorneys have a long history of making responsible and effective contributions to various projects, programs, councils, and associations. NHPD has been instrumental in the creation of drug courts, mental health courts, veterans' behavioral tracks, and early case resolution programs. Public Defenders have served on The Interbranch Criminal and Juvenile Justice Council, the Judicial Performance Evaluation Advisory Committee, the NH Supreme Court Professional Conduct Committee, the NH Supreme Court Access to Justice Commission, the NH Supreme Court Board of Bar Examiners, the NH Supreme Court Rules Committee, the NH Bar Association's Board of Governors, the NH Bar Association's Professionalism Committee, the NH Bar Association's Committee on Cooperation with the Courts, and the NH Bar Association's Continuing Legal Education Committee.

9. Defense counsel is provided with and required to attend continuous legal education.

The New Hampshire Public Defender makes the continued professional development of its staff an important priority through a variety of programs and opportunities throughout the year.

10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.

NHPD continually monitors the professional development of its attorneys. Comprehensive evaluations of all attorneys are conducted by Managing Attorneys pursuant to a pre-established schedule. More frequent and intense evaluation and feedback are provided to attorneys during their first year. A Deputy Director reviews each evaluation to ensure that all attorneys are meeting expectations.

What knowledge and experience does the bidder have specifically regarding providing indigent defense representation in all levels of case type and complexity?

NHPD possesses a vast reservoir of institutional knowledge regarding all aspects of indigent defense representation. Because the Program provides counsel in matters ranging from juvenile delinquencies and simple misdemeanors to felony sexual assaults and homicides, we strive to maintain the right balance of attorneys to handle cases of varying levels of complexity. As staff attorneys gain experience, they are called upon to handle increasingly more difficult and challenging cases. NHPD is fortunate to employ many attorneys who have attained a degree of proficiency that allows them to handle even the most complex criminal cases.

Investigation

In order to provide effective representation and to comply with criminal justice standards, attorneys are required to investigate allegations made against their clients. NHPD employs investigators to locate and interview witnesses, photograph and diagram crime scenes, prepare exhibits for trial, subpoena necessary witnesses and coordinate their appearance at trial. Investigators also help to obtain treatment for clients with substance abuse or mental health issues; and, at the request of the Court, they prepare social histories of clients to assist judges in determining appropriate sentences.

Representation of Juveniles

NHPD attorneys understand that representing a child in a delinquency proceeding is different from representing an adult in a criminal proceeding. In addition to providing a defense against an allegation of unlawful behavior, the attorney must be a child advocate working to ensure that a juvenile receives appropriate services. While this dual role brings tremendous responsibility, it also provides an extraordinary opportunity to help chart the course of a child's future. NHPD provides specialized training and juvenile-dedicated case conferencing on an on-going basis.

Specialty Court Service and Alternative Sentencing Programs

Drug courts, mental health courts, pretrial diversion programs, early case resolution programs, and other novel criminal justice projects have proven successful in numerous jurisdictions around the state. Continued success and expansion of these programs require the participation of defense counsel who understand the objectives of the programs and who possess the specialized knowledge necessary to help achieve those objectives. Having been instrumental in the planning and design of many of these initiatives, NHPD has the requisite institutional knowledge to assure their success.

As drug court and mental health court programs have expanded state-wide, more NHPD lawyers are participating as members of the courts' teams without a mechanism for funding their involvement. The Indigent Defense Subcommittee of the Judicial Council has expressed support for these initiatives and has urged the Public Defender Program to accommodate the expansion of these programs. Accordingly, NHPD attorneys will continue to be involved in the creation and operation of these specialty courts across the state.

Jury Trial Experience

No group of attorneys tries more cases in New Hampshire than the Public Defender Program. In an average year, NHPD will try 120 cases to juries. Well more than half of those trials result in acquittals, dismissals, or convictions of less serious charges. No organization does more to influence and improve the quality of trial practice in New Hampshire's Superior Courts than NHPD through its training, mentoring, and supervision.

Homicide Case Representation

NHPD represents all indigent criminal defendants facing homicide charges in New Hampshire Courts other than those in which representation is precluded by the Rules of Profession Conduct. The Program provides court clerks with ready access to qualified attorneys who are able to appear

on short notice at the arraignment of someone arrested on a murder charge. In addition to identifying, recruiting, and preparing attorneys to serve as lead and co-counsel in homicide cases, the Program also conducts training and case conferencing for the attorneys with homicides on their caseloads, and provides ongoing support for the lawyers doing this difficult work. In FY19 one-third of all NHPD attorneys were providing representation in an open and active homicide.

Capital Murder Defense

The Public Defender Program employs attorneys with experience and expertise in providing death penalty defense representation. However, the magnitude of time and effort required to provide an adequate defense in a capital murder case is of an entirely different order when compared to other criminal cases, including other homicides. Because of the extraordinary expenses involved, if NHPD is called upon to provide representation in a capital case in State Fiscal Years 2020 or 2021, the price limitations of the Program's contract with the State will be amended by agreement.

Representation in Civil Commitment Proceedings

From the inception in 2006 of the law permitting the State to seek the involuntary civil commitment of people found to be dangerous sexual predators, the New Hampshire Public Defender has spearheaded the efforts to provide knowledgeable and competent defense representation to respondents in these cases. During the existence of this law, Public Defender attorneys have represented all but one of the respondents in these proceedings.

Appellate Representation

NHPD's Appellate Defender office employs three permanent, full-time appellate attorneys. One additional rotating appellate position is made available by application to staff attorneys who research, brief, and argue appeals during an eighteen-month term before returning to their regional offices. NHPD appellate attorneys provide representation to most of the indigent criminal appellants in the New Hampshire Supreme Court. The oversight and resources of the Appellate Defender Program make it a dependable and highly professional operation.

What knowledge and experience does the bidder have specifically regarding the training, on-going supervision and development of quality control for staff required to provide services within the scope of the RFP?

For over forty years the Public Defender Program has recruited, cultivated, and retained attorneys who are dedicated to providing quality representation for indigent juvenile respondents and criminal defendants. NHPD hires intelligent, committed law school graduates and fosters their development through formal training, mentoring, and supervised practical experience.

New Lawyer Training

When lawyers begin working at NHPD, they undergo five weeks of intensive, in-house training comprised of lectures, exercises, observation, and critiques. Areas of instruction include an overview of the NH Criminal Justice System, juvenile law and practice, common misdemeanors, DWI and other motor vehicle offenses, client relations, negotiations, bail, motions practice,

competency and other mental health issues, immigration, evidence, and ethics. The new lawyers also participate in a three-day trial skills training program prior to reporting to their respective offices.

Mentoring and Supervision

Individual mentors are assigned to new public defenders for a minimum of one year. The Program goes to great lengths to match trained mentors with less-experienced attorneys in effective pairings. The mentors are expected to closely supervise the new lawyers during their first year. The Program sets high expectations for the performance and accessibility of the mentors. Though a specific attorney may be assigned as a mentor, the mentor will not be the exclusive resource for a new lawyer. NHPD has a strong tradition of cooperation and collaboration among its attorneys; therefore, many colleagues will play some role in a new lawyer's professional development.

Managing Attorneys closely monitor caseloads to ensure that the complexity and size of each staff attorney's caseload is commensurate with the attorney's training and experience. The Managing Attorney (or Deputy MA in larger offices) observes court appearances of all attorneys in the office, arranges for experienced attorneys to co-counsel cases with less experienced practitioners, conducts weekly case conferences, and regularly consults with mentors regarding attorneys' professional development. On the 3-month anniversary of an attorney's hire date and again at the one-year anniversary, formal performance evaluations are mandatory. Evaluations of staff attorneys continue pursuant to a pre-established schedule throughout the attorneys' entire careers.

Litigation Support

Providing litigation support to fellow defense counsel is an important duty we owe to our clients, our colleagues, and the Program. The complexity of modern criminal practice and procedure obliges the conscientious practitioner to consult regularly with peers and to stay abreast of developments in the law. Because no one could reasonably be expected to have a mastery of all aspects of the work, the administration of the Public Defender Program works to find ways to help attorneys support one another effectively and efficiently.

NHPD expects experienced attorneys to share resources and skills that they have developed in particular practice areas. Program attorneys are encouraged to attend national CLE programs that feature respected authorities addressing relevant practice areas. Those attorneys are then expected to consult with other program attorneys working on the same issues, to conduct trainings (either for small groups or for the entire program), and to respond to electronic forum posts relating to the particular practice area. Materials and resources generated through these efforts are preserved on the Program's internal website and in the Program's Practice Guide.

On-going training is essential to our lawyers' professional development. NHPD conducts extensive in-house training, including mandatory full-day training programs in May and September. Throughout the year all senior attorneys are expected to mentor less experienced attorneys and to maintain an open-door policy for questions and discussions. Everyone is expected to engage in training, in large or small groups, as a teacher or as a student.

What knowledge and experience does the bidder have related to identifying and calculating the cost-effectiveness of indigent defense representation?

NHPD has decades of experience in preparing budgets and forecasting expenses related to the cost of providing indigent defense representation. Financial operations of the program are overseen by the Executive Director in conjunction with the program's Business Manager. Financial operations are monitored by the Finance Committee of the NHPD Board of Directors. Quarterly reports concerning the program's revenues and expenditures are delivered to the Judicial Council, the Attorney General, the Governor and the Executive Council.

NHPD is intensely aware and continually mindful of its role in maintaining the efficiency and cost-effectiveness of the overall indigent defense system in New Hampshire. To that end, the Program does everything in its power to assure that it accepts every possible appointment and remains in every case through disposition.

In 2018 NHPD handled approximately 88% of New Hampshire's indigent defense caseload, including 93% of the serious felonies, 81% of felonies, 90% of misdemeanors, 92% of juveniles, 90% of VOPs, 91% of parole violations, and 96% of sentence-related matters. In addition, NHPD fielded nearly 1400 calls from citizens seeking advice. The proportionate saving in costs to the indigent defense system gained by NHPD accepting every possible case assures that the public defender will remain the primary means of delivering indigent defense representation in New Hampshire.

The evolving efficiency (and resulting cost-effectiveness) of NHPD is best illustrated by looking at the changes in the composition of the average public defender's caseload when compared with the average caseload five years earlier. In FY13, 115 FTE NHPD staff attorneys handled 27,602 criminal and juvenile matters, an average of 240 cases per attorney. In FY18, 114 FTE NHPD staff attorneys handled 28,529 criminal and juvenile matters, an average of 250 cases per attorney. The number of felonies opened annually by NHPD increased by 29%, from 6,141 in FY13 to 7,916 in FY18. The ability of the program to absorb such an increase reflects the work ethic and efficiency of its staff.

NHPD continues to think about ways that we might wring greater efficiencies from our operations while remaining true to our mission of providing quality representation to the indigent accused. Though the work of representing individual clients in juvenile and criminal matters remains essentially unchanged from year to year, the Program is continuously engaged in reviewing the systemic means by which it delivers client services. The Program implements its own ideas for improvement; and is always open to initiatives proposed by others that may enhance the delivery of quality indigent defense services.

NHPD never stops thinking about ways to lower costs. By readjusting the configuration of office/court coverage, the program utilizes attorneys more efficiently and saves on travel expenses. The program harnesses technology to increase efficiency and save costs. NHPD contracts with the lowest-cost/best service internet and telephone providers, lowers its requisite number of servers through virtualization and consolidation, and leases tablets for its attorneys – all in the name of gaining efficiencies and saving money. By investing in technology in the current biennium, the program assures itself of savings in the coming biennium and for years to come.

NHPD identifies issues that will impact future costs. The program effectively responds to demands placed on its resources by initiatives instituted by other criminal justice stakeholders. The public defender adapts to change, including recent systemic transformations such as Felonies First and E-Notices, and anticipated innovations like E-filing and increased use of bodycam videos.

NHPD analyzes its salary structure to ensure that it falls within national parameters for indigent defense systems. A report produced by the National Association for Law Placement represents the most comprehensive data available comparing the wages of public defenders across the country. According to the latest report published by NALP, entitled "2018 Public Service Attorney Salary Survey Report", NHPD attorney salaries are considerably below the national median for public defenders. A benchmark comparison performed in 2018 revealed that NHPD attorney salaries fall below the median of their counterparts in New Hampshire county attorney offices.

NHPD operates with a minimal management structure. A Justice Department census performed in 2007 showed that the Public Defender Program employs a very low number of managing and supervising attorneys when compared to the administrative ranks at other public defender programs. While the DOJ has not published a new study since 2007, the number of senior administrators and managing attorneys at NHPD has not changed since 2007. Managing Attorneys represent a high number of clients in felony and misdemeanor cases, further advancing the lean efficiency of our operations.

Resumes of Key Personnel

The resumes of the following Directors are attached as Appendix D.

- Randy Hawkes, Executive Director
- David Rothstein, Deputy Director
- Tracy Scavarelli, Deputy Director
- Mary Hawkes, Director of Investigators and Interns

Detailed Response and Scope of Work

A.

The Public Defender Program is overseen by a Board of Directors. The Program's Articles of Incorporation empower the Board to manage the business and affairs of the corporation. The Board appoints an Executive Director to carry out the obligations associated with operating a large public-interest law firm. The Executive Director is responsible of all aspects of the Program's legal and administrative operations.

Three Director-level positions report to the Executive Director and are responsible for overseeing the day-to-day operations of the Public Defender Program. They include the following people and positions:

Deputy Directors, David Rothstein and Tracy Scavarelli

Both Deputy Directors have substantial experience in all facets of indigent defense, enabling them to share responsibility for the general supervision and professional development of all Program attorneys. They recruit and train the Program's new lawyers. They design, prepare and direct the

Program's bi-annual mandatory, full-day statewide trainings. They conduct special trainings throughout the year for attorneys and for support staff. Each Deputy Director is primarily responsible for oversight of the operations in half of the Program's offices, and regularly provides advice and guidance to individual attorneys regarding litigation, ethics, and any other matters related to client representation. They edit and update the Practice Guide and solicit contributions from attorneys who have developed expertise in certain areas of the law. They monitor and respond to questions on the program's Forum. They participate in case conferences in their respective offices. They assist staff attorneys in responding to IAC claims. In conjunction with Managing Attorneys, they monitor individual and office workloads and adjust staffing and court assignments according to need. David Rothstein is primarily responsible for updating litigation support resources including the Practice Guide and Expert Witness Directory. Tracy Scavarelli is primarily responsible for ensuring efficient administrative practices in all offices and oversight of the Office Administrators.

Director of Investigations and Interns, Mary Hawkes

The Director of Investigators and Interns recruits, hires, and supervises the Program's investigators. In conjunction with Managing Attorneys she monitors investigator caseloads, performance, and efficiency. She provides critical training, advice and guidance for the people working in the field to find and interview witnesses, deliver subpoenas, obtain statements, and uncover evidence. She also recruits, hires and trains the Program's undergraduate and graduate-student volunteers who serve as investigator interns or legal interns who assist our staff in providing effective representation to clients. This Director is responsible for recruiting, hiring, and overseeing the work of the Program's social worker and any interns working under the direction of the MSW. In addition to these responsibilities, the Investigations Director also manages the Program's conflict avoidance measures in homicide cases.

Business Manager, Cher Hart

NHPD's Business Manager oversees the program's financial accounts and bookkeeping operations. She assists the Executive Director in preparing the program's budget by creating and maintaining spreadsheets covering all personnel and non-personnel expenses, information that is used to estimate future expenditures and funding requirements. She prepares monthly, quarterly, and annual financial reports for NHPD's Board of Directors and the program's external financial overseers. She compiles data and prepares schedules for the annual audit of NHPD's finances and the audit of the program's retirement plan. She prepares and submits various census and compliance forms to state and federal agencies. The Business Manager reports to the Executive Director.

Coordinator of Administration and Human Resources, Jillian Mulrooney

The Coordinator, in conjunction with Deputy Director Tracy Scavarelli, oversees continuity of office services by recruiting and hiring support staff. She oversees NHPD's benefits programs, including medical/dental/vision, short-term and long-term disability, workers' compensation, flexible spending, and employee-assistance programs. She executes FMLA policy and recordkeeping requirements related to NHPD's sick leave, worker compensation, disability insurance and other employee benefits as appropriate. She ensures compliance with all state and federal labor and employment regulations, including ERISA, COBRA, and FMLA. She prepares government reports related to EEO compliance, safety programming, creditable health insurance coverage and other HR functions. This position reports to the Executive Director.

Managing Attorneys

The Managing Attorneys directly supervise the staff attorneys, investigators, and legal secretaries working in their respective offices. Managing Attorneys in the Program's small to mid-sized offices handle significant caseloads and appear in court daily on behalf of clients. Managers in larger offices handle reduced caseloads, but still appear regularly on behalf of clients. All Managing Attorneys conduct regular evaluations of attorney performance. They monitor staff attorney workloads and assign new cases on intake. Managing Attorneys have the primary responsibility for ensuring that the attorney assigned to represent a client has the requisite knowledge and skill to provide competent representation, as well as the time and resources necessary to render effective assistance to their clients. Accordingly, the Managing Attorneys play a critical role in ensuring the quality of the work performed by the Public Defender Program. The individual branch offices are overseen by the following attorneys:

Appellate Defender Office -	Chris Johnson, Chief Appellate Defender, 2001 to present. Joined the Appellate Defender in 2001. Harvard Law School
Concord Office -	Catherine Flinchbaugh, Managing Attorney, 2018 to present. Joined NHPD in 2007 UNH Law School
Dover Office -	David Betancourt, Managing Attorney, 2012 to present. Joined NHPD in 2002. University of Maine School of Law
Keene Office -	Alex Parsons, Managing Attorney, 2015 to present. Joined NHPD in 2005. Yale Law School
Laconia Office -	Jesse Friedman, Managing Attorney, 2007 to present. Joined NHPD in 2000. Vermont Law School
Littleton Office -	Melissa Davis, Managing Attorney, 2018 to present. Joined NHPD in 2005. American University Washington College of Law
Nashua Office –	Amanda Steehuis, Managing Attorney, 2016 to present. Joined NHPD in 2008. Cornell Law School
Newport Office –	Jay Buckey, Managing Attorney, 2018 to present. Joined NHPD in 2011. Vermont Law School

Manchester Office -	Sarah Rothman, Managing Attorney, 2016 to present. Joined NHPD in 2007. Northeastern Law School
Orford Office -	Jamie Brooks, Managing Attorney, 1994 to present. Joined NHPD in 2001. Vermont Law School
Stratham Office -	Deanna Campbell, Managing Attorney, 2009 to present. Joined NHPD in 1999. New England School of Law

New Lawyers

New Hampshire Public Defender receives hundreds of applications each year from third-year law school students seeking positions as staff attorneys. All applicants must be J.D. degree candidates attending an ABA approved law school. The Program conducts first-round interviews at job fairs in Boston and Washington, D.C.; telephonic interviews with viable candidates who file applications through the Program's website; and panel interviews at our administrative office for the most promising applicants. Members of the Program's hiring committee evaluate the finalists and make offers to those most likely to become effective public defenders. Newly hired Public Defenders must either be members of the New Hampshire Bar or pass the next available Bar examination. Prior to being admitted to the NH Bar, new hires qualify to practice under the provisions of N.H. Supreme Court Rule 36. They are at-will employees who will be expected to work full-time in one of the Program's regional offices. The performance of new lawyers is evaluated at three months, and annually for three years to assure that the attorney is meeting Program expectations.

B.

The New Hampshire Public Defender Program shall represent any eligible, indigent defendant in a criminal case in the Circuit, Superior, Probate or Supreme Courts at all stages of criminal proceedings, delinquency proceedings, and proceedings concerning the involuntary commitment of dangerous persons. The Public Defender Program will provide such other representation as is necessary and consistent with normal criminal defense as required by the provisions of the United States and New Hampshire Constitutions. Representation will be provided in accordance with the following:

NHPD shall not represent any individual when doing so would violate the New Hampshire Rules of Professional Responsibility.

A "case" is defined as:

- A single charge; or
- Multiple charges occurring at the same time or place which are to be tried as one case regardless of the number of complaints; or
- Multiple charges involving the same type of offense over a proximate period of time which will be tried as one case without regard to the number of complaints.

In determining caseload limitations for its attorneys, NHPD looks for guidance to standards promulgated by nationally recognized professional bar organizations. In 1973 the National Advisory Commission on Criminal Justice Standards and Goals recommended that public defender caseloads be set at no more than 150 felonies, or 400 misdemeanors, or 200 juveniles, or 25 appeals per attorney per year. Limitations would be applied proportionally to attorneys carrying a mixed caseload. Those limitations have been endorsed by the National Legal Aid and Defender Association and the National Association of Criminal Defense Attorneys.

NHPD subscribes to The American Bar Association's position that, while those "national guidelines" should never be exceeded, defense counsel's workload should be controlled in such a way as to permit the rendering of quality defense. (See ABA commentary to Principle 5 of the ABA's Ten Principles of a Public Defense Delivery System). The ABA suggests that the caseload standards are simply guides to what may be a reasonable caseload, on average, for public defender programs. (See generally, The American Bar Association's Standing Committee on Legal Aid and Indigent Defendants 2011 publication "Securing Reasonable Caseloads, Ethics and Law in Public Defense").

In addition to tracking the number of open and active cases carried by its attorneys, NHPD assigns weighted unit values to case types. A misdemeanor is assigned a nominal value of one. All other case types are assigned a proportional value greater or less than one, based upon the average amount of time required to dispose of the particular case type. Directors and Managing Attorneys monitor staff attorney case counts and caseload unit values. They monitor cases opened and closed by each attorney every month, quarter, and year. They consult regularly with staff attorneys to ensure that caseloads are manageable. They monitor cases that have no future events scheduled. Caseload controls and close supervision assure that NHPD attorneys have sufficient time to review discovery, investigate cases, consult with experts when necessary, file pretrial motions, explore diversion or treatment options, and prepare adequately for trial.

The following numeric caseload limitations shall be considered, but will not be the sole factor in determining whether an individual attorney's workload is excessive. The Program's Managing Attorneys and Directors shall consider additional factors such as attorney experience level, pace at which cases resolve in the jurisdiction, mix of case-types in an attorney's caseload, complexity of litigation in an attorney's cases, and any other factors affecting the ability to provide quality representation.

New Hampshire Public Defender Staff Attorneys.

Full-time attorneys providing general felony, misdemeanor, and juvenile delinquency representation shall maintain a caseload of not more than 70 open and active cases. This caseload shall be a mixture of felony, misdemeanor, juvenile, and other cases with maximums in each of these categories fixed as follows:

(a) Felony Maximum - 35 cases;

(b) Misdemeanor Maximum - 35 cases;

(c) Juvenile Delinquency Maximum - 20 cases;

(d) Other Cases - 15 cases.

In addition to considerations previously mentioned, the mix of cases for each attorney shall be

determined by the Program's Deputy Directors in conjunction with the Managing Attorneys based upon the concentration of the case types in the geographic area served by each office of the Program.

Homicide Representation: The Public Defender Program shall assign two attorneys to represent individuals charged with homicide offenses (first- and second-degree murder and manslaughter). At least one of the lawyers shall possess previous homicide-case experience.

Sexually Violent Predator Representation: The Public Defender Program shall assign two attorneys to represent individuals facing civil commitment as sexually violent predators pursuant to RSA 135-E.

Senior staff attorneys who carry a regular caseload shall carry not more than one open and active homicide or civil commitment case at any one time. The caseload of any attorney handling a homicide or civil commitment shall be adjusted in accordance with the complexity and demands of the homicide or civil commitment case.

New Hampshire Public Defender Appellate Attorneys

Attorneys in the Appellate Defender Office shall carry a caseload that permits the production of not more than two full appellate briefs every month.

If NHPD should ever contemplate temporarily reducing or closing intake of new cases because of excessive caseloads, the Program's Executive Director shall consult with the Executive Director of the Judicial Council prior to taking any action. Should the Program ever institute a temporary closing or reduction of intake, the Conflict Case Administrator shall assign alternate counsel pursuant to RSA 604-A:2 II.

NHPD will continue to meet or exceed prevailing standards for the provision of indigent defense services, especially, as indicated above, through the implementation of caseload controls.

C.

In carrying out this caseload plan, the Public Defender Program will employ no fewer than the following number of attorneys in each jurisdiction:

Office Location	Serving the Following Counties	Minimum Number of Attorneys
Appellate Defender	Statewide	3
Concord	Merrimack	17
Dover	Strafford	11
Keene	Cheshire	7
Laconia	Belknap, Carroll	12
Littleton	Coos, Grafton	3
Manchester	Hillsborough	24
Nashua	Hillsborough	18
Newport	Sullivan	3
Orford	Grafton	6
Stratham	Rockingham	20
	Total	124

NHPD will continue to employ adequate numbers of support staff and information technology specialists to assure the efficient operation of all NHPD offices throughout the state. The Program will employ a minimum of one legal assistant for every three attorneys. The Program will employ one IT manager and a minimum of two assistants.

NHPD will continue to employ adequate numbers of investigators to assist in case preparation, witness interviews, subpoena delivery, records recovery, evidence handling, treatment placement and other tasks to ensure the delivery of the effective assistance of counsel. See generally, American Bar Association Standards for Criminal Justice, Defense Function, Standard 4-4.1 Duty to Investigate. The Program will employ a minimum of one investigator for every five attorneys.

NHPD will maintain the Conflict Case Administrator office to seamlessly reassign cases that present a conflict of interest for NHPD. The program will employ a minimum of two conflict case administrators.

New Hampshire Public Defender will maintain operations sufficient to provide representation to clients in all 10 counties and will continue to provide office space to accommodate accessible and private meeting space in locations as convenient to the regions served as possible.

D.

On the effective date of the contract for services (July 1, 2017), the Public Defender Program will be perfectly able to provide continued representation for clients in the roughly 9400 cases carried forward from pre-existing court appointments. They are projected to be distributed as follows:

Approximately 3400 open cases in Hillsborough County Courts
Approximately 1500 open cases in Rockingham County Courts
Approximately 1400 open cases in Merrimack County Courts
Approximately 450 open cases in Cheshire County Courts
Approximately 800 open cases in Strafford County Courts
Approximately 800 open cases in Belknap and Carroll County Courts
Approximately 450 open cases in Grafton County Courts
Approximately 200 open cases in Coos County Courts
Approximately 300 open cases in Sullivan County Courts
Approximately 80 open indigent appeals in The New Hampshire Supreme Court

NHPD attorneys who are currently appointed to those cases will continue to represent their clients.

After July 1, 2019, the New Hampshire Public Defender will configure and maintain its staffing in a manner that will allow the program to accept the anticipated volume of cases under the statutory scheme of appointment. This scheme provides that the Public Defender shall be appointed in the first instance and, if the Public Defender is not available to accept the case, then the case shall go to the contract or assigned-counsel systems.

NHPD will also continue to ensure that case intake is handled efficiently and effectively by the individual program offices.

E.

Executive Director Randy Hawkes received his B.A. in Political Science from the University of Maine, graduating with Highest Honors in 1989. After receiving his J.D. from the University of Maine School of Law in 1992, he started his career as a staff attorney at NHPD. Over the course of the next twenty years, he represented thousands of clients in matters ranging from juvenile delinquency to homicide. Prior to becoming Executive Director he managed NHPD's office in Strafford County.

F.

NHPD currently maintains offices in Littleton, Orford, Laconia, Concord, Manchester, Nashua, Newport, Keene, Stratham, and Dover. The Program will continue to operate those offices in the next biennium.

NHPD considers on-going training essential to the professional development of its lawyers. As criminal practice and procedure become increasingly complicated, the Program assures that its attorneys keep abreast of developments in the law by providing trainings throughout the year. In the coming biennium the Program anticipates an annual training budget of approximately $75,000, the largest portion of which will go toward assuring compliance with the New Hampshire Supreme Court's Minimum Continuing Legal Education requirements. To that end, all staff attorneys attend the program's mandatory bi-annual, day-long trainings held each September and May. The May training is also made available at no cost to attorneys who contract with the Judicial Council pursuant to RSA 604-A:2-b. In addition to the two statewide trainings, the Program provides numerous smaller group sessions. Lawyers of all experience levels regularly attend and participate in trainings designed, developed and conducted by the program's Deputy Directors and presented by senior staff attorneys, alumni, and other respected authorities. New lawyers undergo five weeks of intensive, in-house training prior to appearing in court on behalf of clients. That training includes an in-house, three-day, trial-skills program presented by experienced trial attorneys. New lawyers practice all phases of trial from case theory/themes, opening statement, direct and cross examination, and closing argument. Occasionally the trial skills training is made available for groups of more experienced lawyers. Several times per year, the program presents special trainings on relevant subjects. In FY20, NHPD will put on a special training regarding all aspects of methamphetamine, a timely topic given the resurgence of methamphetamine in New Hampshire. The program will feature an expert from UCLA and will be open to contract attorneys. NHPD attorneys are also encouraged to attend national criminal defense CLE programs that focus on relevant topics and cover areas of special interest.

NHPD conducts annual training for support staff and investigators at its September training, and on an as-needed basis at individual offices during the year. Trainings contemplated for the coming biennium include supervisor training and sexual harassment training for managers, safety in the field training for investigators, document processing and caseload management systems training and "dealing with difficult clients" training for support staff, and trainings for all staff on dealing with clients afflicted with mental health problems.

NHPD commits substantial resources to supporting the work of attorneys, investigators and support staff. These resources include and will continue to include a program-wide case management system by which client information and case activity are tracked and conflicts of

interest are assessed and managed; an integrated document management system; a subscription for electronically enabled legal research; an intranet site providing access to other legal resources such as brief and motions banks, supreme court decision alerts and summaries, and a legal discussion forum; and a Practice Guide available electronically to NHPD staff attorneys and to contract attorneys.

Additionally, NHPD will continue to invest in securing and hardening its telecommunications and IT infrastructure to minimize business interruption whether due to accident or malfeasance and to assure quick disaster recovery whenever necessary. NHPD also will ensure that basic office systems (e.g., computers, copier/printers, telephones, Word processing and other essential business software) are available and kept up to date.

Each office has a library with sets of commonly-used reference texts on such areas as search and seizure, New Hampshire criminal practice, evidence, and driving offenses. The central administrative office in Concord has a lending library consisting of approximately fifty texts that are not typically available in the local office libraries. These books are generally more detailed treatises or reference books on forensic science, mental illness, homicide defense, or special topics in criminal law and procedure.

NHPD created, maintains and continuously improves an intranet with numerous electronic resources for its lawyers. Our internal website provides access to computerized legal research and includes a forum that allows attorneys to post information of interest or ask and respond to questions. Attorneys can now access this site remotely through a secure link that also allows them to get their email correspondence and documents in client files. This convenience is essential given our increasing reliance on smart phones and tablets and is often used by attorneys to work from home after-hours or while waiting in court. The program will continue in the next biennium to improve the web site; and, with in-house expertise, it can do so in a cost-effective manner.

Several years ago, the program created a Practice Guide. Now over 600 pages long, the Guide has over 50 chapters devoted to the various aspects of criminal practice in New Hampshire, from bail hearings to sentencing and everything in-between. The newly edited, updated and revised Practice Guide became available in January 2019. The Guide is also provided electronically, free of charge, to attorneys approved by the Judicial Council to provide indigent defense services on a contractual basis.

NHPD continues to provide improved digital resources to attorneys while saving money at the same time. Historically, the program paid thousands of dollars per year to get updated New Hampshire Criminal, Motor Vehicle and Juvenile Codes, as well as the New Hampshire Rules of Evidence and the Rules of Professional Responsibility. Because the Codes and Rules are available through Lexis, the Program leases tablets for its attorneys, rather than buying books. In addition to providing access to the law and rules, the tablets provide access to email, NHPD's website, and client files. The use of tablets provides a powerful communication and research tool for lawyers at a very cost-effective price compared to books.

The program has also improved attorneys' access to phones and voice mail from remote locations, as well as their capacity to securely send and share documents.

The Program supports investigators' increased efficiency by providing access to a specialized web-based search engine as a way to find cell numbers and addresses of potential witnesses and other case-related individuals on line. We provide investigators with other tools and training essential

to preparing an adequate defense.

NHPD will continue to provide the Conflict Case Administrator with access to NHPD's case management system, computers, telephones, internet access, and any other services necessary to assure the efficient reassignment of cases that constitute a conflict of interest for the Public Defender. In the coming biennium, NHPD will move the CCA from the case management system they currently employ to the defenderData system.

G.

NHPD follows the New Hampshire Rules of Professional Conduct. The Rules that pertain to conflicts are Rules 1.7, 1.8, 1.9 and 1.10. The goal of our conflict policy is to accept court appointments and to continue representing the defendant in every eligible case while at the same time preserving the confidentiality of both current and former clients. The policy effectuates these goals by avoiding actual and potential conflicts of interest.

It is the responsibility of every NHPD attorney to be familiar with the New Hampshire Rules of Professional Conduct. Each attorney must properly identify and address conflicts of interest among clients. Each attorney must protect the confidential information of NHPD clients.

An actual conflict of interest is a situation where NHPD's loyalty is divided between two clients. In our practice, this situation most often occurs when we are appointed to represent codefendants in the same matter, or when we are appointed to represent individuals in the same or a substantially related matter. In these situations, and whenever we identify any other situation where our representation of one client would limit our responsibility to another, we will either decline an appointment or withdraw from a current case.

A potential conflict of interest is a situation where an attorney's loyalty to a former client might impact his representation to a current client. In our practice, this situation usually occurs when a witness in a current case was previously represented by NHPD. When this situation occurs, a "Neutral Attorney" advises the attorney in the current case to continue his representation and to have no contact with the lawyer who represented the witness in the closed case. This procedure was developed by NHPD to comply with Rule 1.9 of the New Hampshire Rules of Professional Conduct. The New Hampshire Superior Court has twice referenced NHPD's Rule 1.9 compliance policy with apparent approval. See State v. Gordon Perry, Nos. 97-S-777-780 (Merrimack County Superior Court (Nadeau, J.) April 10, 1998); State v. Eric Smalley, No. 01-S-1280 (Merrimack County Superior Court (McGuire, J.) January 29, 2002).

For conflict resolution purposes, NHPD maintains a database which contains every NHPD case since 2000. Within each case, defenderData (NHPD's case management system) identifies all witnesses, the attorney assigned to the case, all court dates, and the final disposition. This is a statewide database. Therefore, when the database is queried regarding a conflict, NHPD can be confident that the result will take into account all clients throughout the state.

In practice, the policy operates as follows: When a trial attorney receives a case, she compiles a list of witnesses, codefendants and cooperating individuals in that case. This list is delivered to the Office Administrator who checks the names listed on the form against the defenderData database. If any of the witnesses in the current case are identified in defenderData as current or former clients, the Office Administrator will forward the results to a "Neutral Attorney" who will resolve the conflict. The Neutral Attorney's decision may involve withdrawing from a case or directing

one or more attorneys not to communicate with each other regarding their respective current and former clients. The Neutral Attorney will often direct the Office Administrator to "seal" a client until the conclusion of the case in which that client is involved. This process ensures that NHPD does not take a case that would lead to an actual conflict. Also, when a case is sealed, that file cannot be reviewed or opened by any staff attorney during the pendency of the case with which it has a conflict, thereby preserving the confidentiality of that client. The record of the conflict resolution is kept in a separate file by the Office Administrator and can be reviewed if necessary.

NHPD strives in a number of ways to minimize the number of cases in which withdrawal is necessary. The Neutral Attorneys are trained by the Deputy Directors in significant detail regarding the legal framework of the conflict policy and the details of its implementation at the office level. Before they take the serious step of withdrawing from a case, the Neutral Attorneys are advised to confirm with the trial attorney that the witness that is causing the withdrawal is a true witness in the current case. Neutral Attorneys are also encouraged to have their decisions reviewed and confirmed by a Managing Attorney or by Administration. This occurs regularly throughout all ten offices in the state. Finally, NHPD Administration regularly conducts refresher trainings for all Neutral Attorneys and Office Administrators. An additional review of the conflict resolution may be conducted by the Conflict Case Administrator. If, based upon information available to them, the CCA believes that a case sent to them as a conflict should be looked at again, a neutral or MA may reverse the decision in light of specific information brought to their attention by the CCA.

NHPD will maintain the CCA office in the coming biennium to ensure the efficient and appropriate transfer of conflict cases to contract attorneys, ensuring rapid contact with the conflict client.

H.

Given the nature of indigent criminal defense practice, and the volume of cases handled by NHPD lawyers, client complaints are a not uncommon event. When a client files a grievance with the Attorney Discipline Office alleging a violation of the Rules of Professional Responsibility, the ADO sends a letter to the lawyer, inviting the lawyer to respond to the client's complaint. Upon receipt of an ADO letter, NHPD's lawyers follow an established protocol: The lawyer forwards a copy of the ADO letter to the Executive Director, along with a copy of the client's grievance. The Director opens a file which will contain all materials related to the matter going forward. The attorney is told to calendar the date the response is due. The Director provides specific instructions regarding the tone, style and content of the response and provides the attorney with a "sample response" letter that is to be used as a template. The attorney reviews the complaint, identifies specific allegations of misconduct, and responds to each, conforming to the sample. When the attorney has prepared a draft response, a copy is provided to the Executive Director who reviews it with the attorney prior to its being filed. Upon receipt of the decision from the ADO, a copy is sent to the Director who keeps the decision in the case file.

I.

Certificates of Insurance for general and professional liability are attached as Appendix E.

Letters of Reference

Letters of reference prepared by the following people on behalf of the Public Defender Program appear as Attachment F:

The Honorable David King
Chief Administrative Judge, New Hampshire Circuit Court
Administrative Office of the Court
1 Granite Place; N400
Concord, NH 03301
603-271-2521

County Attorney Tom Velardi
Office of the Strafford County Attorney
259 County Farm Road
Dover, NH 03820
603-749-2808

Mary Barton, Clerk of Court
9th Circuit Court – Manchester
35 Amherst Street
Manchester, NH 03101
(855) 212-1234

Cost Proposal

State Fiscal Year 2020:	July 1, 2019	$11,559,677
	January 1, 2020	$11,559,678
	Total:	$23,119,355
State Fiscal Year 2019:	July 1, 2020	$11,875,916
	January 1, 2021	$11,875,916
	Total:	$23,751,832

Notwithstanding RFP Term 2.4.2 which states that "...in no event shall the total of payments hereunder exceed the amounts appropriated by the State for Fiscal Years 2020 and 2021", if the Judicial Council receives additional funds beyond its biennial operating budget to defray unanticipated defense costs related to increased funding for law enforcement, NHPD's FY20-21 appropriation can be augmented at the discretion of the Judicial Council and upon terms mutually agreed upon by NHPD and the Judicial Council.

APPENDIX A

Roster of Current NHPD Staff

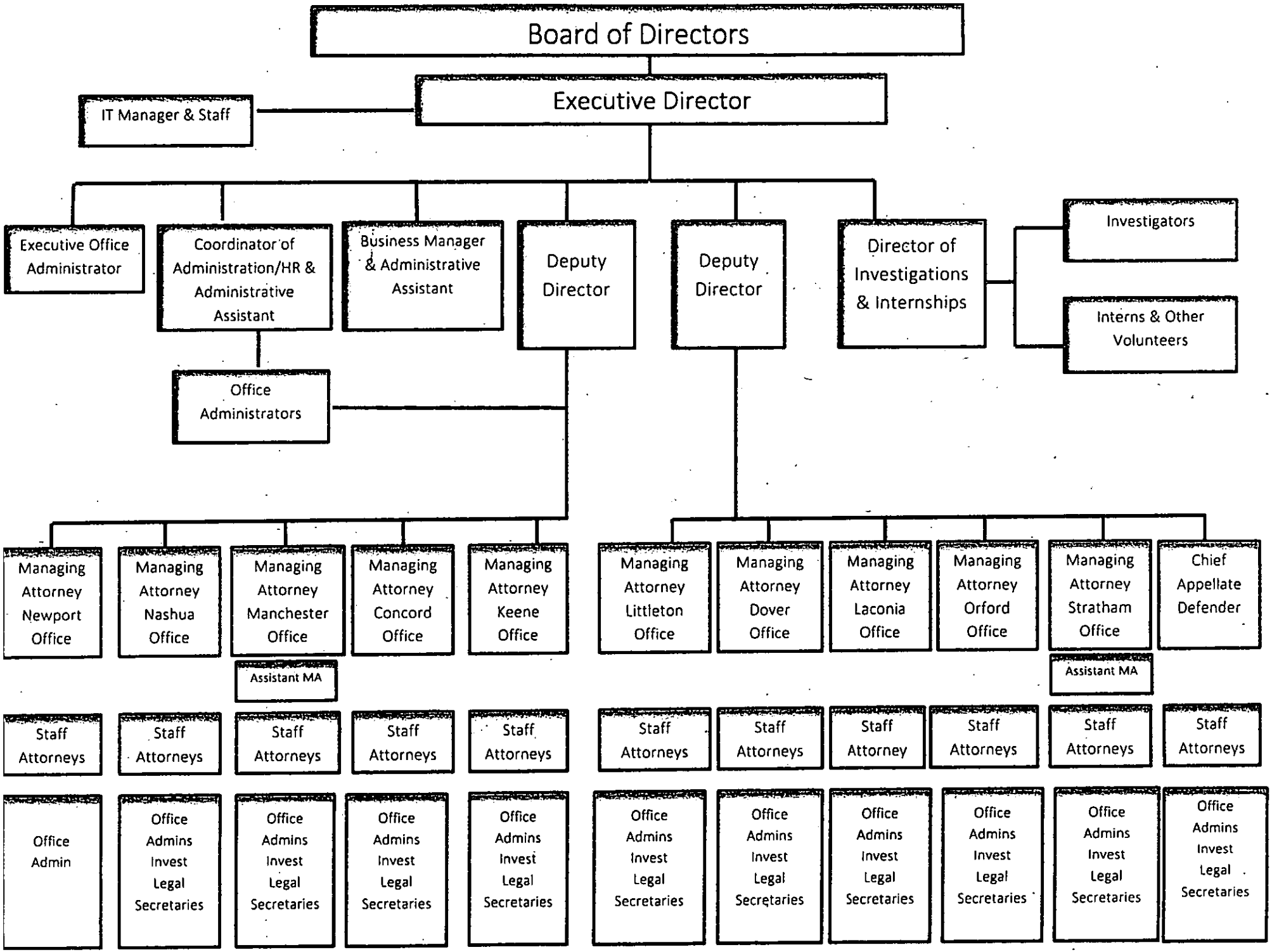
NHPD on Staff March 2019

Administrative Attorneys: R. Hawkes, Rothstein, M. Hawkes, Scavarelli

1 Abaid, Kimberly
2 Accornero, Pamela
3 Ackerman, Hannah
4 Alden, Karen
5 Amorin, Sarah
6 Arani, Stephanie
7 Armillay (Sweat), Amanda
8 Ash Murray, Tracy
9 Ashworth, Amy
10 Ayer, Devon
11 Baker, Ashley
12 Ball, Shannon
13 Barnard, Thomas
14 Barton, Nicole
15 Beaton, Amy
16 Beckwith, Devon
17 Beckwith, Tia
18 Berger, Christopher
19 Betancourt, David
20 Bissonnette, Amanda
21 Blackman, Wendy
22 Blair, Barbara
23 Bonito, Andrea
24 Borchardt, Paul
25 Boutin, Arthur
26 Bower, Laura
27 Breda, Lauren
28 Bresaw, John
29 Britton, Allison
30 Brooks, James
31 Buckey, Jay
32 Burrington, Stella
33 Campbell, Deanna
34 Canny, Katherine
35 Cessna, Matthew
36 Chase, Katie
37 Chenu, Jennifer
38 Cherry, Sarah Morgan
39 Civale, Brian
40 Clayman, Howard
41 Clemans, Jeremy
42 Cohen, Jennifer
43 Colby, Heather
44 Comeau, Joannnie
45 Cowen, Joanna
46 Cox Pelletier, Katie
47 Crouser, Leah
48 Curreri, Kimberly
49 Currier, Kristen
50 Cushing, Elizabeth
51 Davidow, Michael
52 Davis, Melissa
53 Deboe, Trina
54 Dishong, Tina
55 DiTullio, Monique
56 Dominguez, Maya
57 Donadio, Daniel
58 Donadio, Trisha
59 Doyle, Sindy
60 Dreher, Philip
61 Dudley, Melissa
62 Duffy, Courtney
63 Duguay, Jay
64 Duncan, Jaye
65 Duval, Ryan
66 Flinchbaugh, Catie
67 Fontone, Courtney
68 Foote, Ann
69 Forciniti, Eliana
70 Frankel, Joseph
71 Friedman, Elliot
72 Friedman, Jesse
73 Gelinas, Vanessa
74 Genest, Donald
75 Gouthro, Marc
76 Greenwaldt, Lisa
77 Grinavic, Amy
78 Guilmette, Kristen
79 Guptill, Ryan
80 Hamman, Michael
81 Hanson, Sydney
82 Hart, Cher
83 Hasey, Samantha
84 Haslam, Cindy
85 Hausman, Stephanie
86 Henderson, Amanda
87 Hepler, Teresa
88 Hescock, Adam
89 Hopping, Lucy
90 Hurgin, Marta
91 Hutchins, Tony
92 Jarvis, Kyle
93 Jefferson, Julian
94 Jessep, Emily
95 Johnson, Christopher
96 Johnson, Doreene
97 ~~Jones, Pamela~~
98 Keans, Eleftheria
99 Ketteridge, Suzanne
100 Kettles, Margaret
101 Kiers, Larissa
102 Kinne, Hanna
103 Klementowicz, Kelsey
104 Kondry, Michelle
105 Kossick, Kimberly
106 Lacer, Samantha
107 Lafond, Laureen
108 Landres, Sarah
109 Lawrence, Susan
110 Ledoux, Bethellen
111 Lempke, Elaine
112 LeTarte, Janet
113 Levesque, Darlene
114 Lieder, Jeannie
115 Lipke, Kristy
116 Littlefield, Justin
117 Loyal, Alexander
118 Lucius, Allison
119 Lugo, Meredith
120 MacKenna, Peter
121 Mackey Brown, Rebecca
122 Maher, Sue-Ellen
123 Maistrosky, Laura
124 Malfitani, Joseph
125 Marston, Lisa
126 Matthews, Yvonne
127 McAnney, Carolyn
128 McCann, Lauren
129 McCarthy, Delia
130 McCarthy, Laurie
131 McCown, Cindy
132 McNicoll, Matthew
133 Medina, Joyce
134 Michaud, Rebecca
135 Miller, Kathryn
136 Minahan, Nanette
137 Mirkin, Steve
138 Montague, Sheryl
139 Mooney, Laura
140 Moscardini, Helen
141 Mulrooney, Jillian
142 Naro, Anthony
143 Newhall, Jeremiah
144 Newkirk, Brett
145 Novak, Jason
146 Nye, Julia
147 O'Connell, Aileen
148 Odland, Jeffrey
149 O'Donnell, Shelagh
150 O'Keefe, Kevin
151 O'Neill, Edward
152 Otero, Margarita
153 Parsons, Alexander
154 Perez-Fondeur, Odette
155 Piascik, Samantha
156 Pirkey, Andrea
157 Pisan, Robin
158 Pitman, Lucia
159 Plaisted, Amy
160 Pothen, Julia
161 Prusiner, Lauren
162 Purvin-Dunn, Caitlin
163 Raymond, Eric
164 Reis, James
165 Resnick, Paige
166 Rheaume, Katelyn
167 Riley, Denise
168 Ringuette, Ashley
169 Rizzo, Jillian
170 Roberts, Emily
171 Robidas, Kyle
172 Robidas-Adams, Claire
173 Robillard, Anthony
174 Robinson, Charlotte
175 Robinson, Cynthia
176 Rodriguez, Bonnie
177 Rosecan, Stephen
178 Rothman, Sarah
179 Russell, Scott
180 Russell, Todd
181 Sahdan, Lejla
182 Sargent, Renee
183 Saxon, Erin
184 Scandalis, Laura
185 Schiffelbein, Benjamin
186 Schroeder, Alexandra
187 Schultz, William
188 Schwartz, Allison
189 Sennett, Shea
190 Sheehan, Ashley
191 Sibley, Amy
192 Simard, Kara
193 Sisti, Emma
194 Skiba, Natica
195 Slamon, Linda
196 Smith, Caroline
197 Soares, Deb
198 Speidel, Allison
199 Spillars, Jessica
200 Srikanthan, Amaresh
201 Srimouksavanh, Andrea
202 St. Pierre, Benjamin
203 Stanin, Katelyn
204 Steenhuis, Amanda
205 Stonitsch, Thomas
206 Strand, Sandy
207 Strube, Lorraine
208 Swales, Robert
209 Swenson, Carl
210 Taggart-Hampton, M.
211 Theodosopoulos, C.
212 Trimarchi, Cheryl
213 Tufts, Kayleigh
214 Uhouse, Jennifer
215 Vitale, Alexander
216 Wellins, Chad
217 Whitcomb, Denise
218 Witt, Tara
219 Wolpin, Eric
220 Wrobel, Hannah
221 Yahnian, Christen
222 Zalegowski, Chris

APPENDIX B

NHPD Organizational Chart



NEW HAMPSHIRE PUBLIC DEFENDER – ORGANIZATIONAL CHART updated 12/2018

APPENDIX C

NHPD Audited Financial Statements

NEW HAMPSHIRE PUBLIC DEFENDER

FINANCIAL STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2018 and 2017
TOGETHER WITH
INDEPENDENT AUDITORS REPORT

Dugdale, Livolsi & Wood, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

September 12, 2018

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors,
New Hampshire Public Defender:

We have audited the accompanying financial statements of New Hampshire Public Defender (a non-profit organization) which comprise the statements of financial position as of June 30, 2018 and 2017, and the related statements of activities and functional expenses and changes in net assets and statements of cash flows for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of New Hampshire Public Defender as of June 30, 2018 and 2017, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Dugdale, Livolsi & Wood, P.C

137 Middle Street • Manchester, NH • 03101-1905
Telephone 603-669-3454 • Facsimile 603-647-4500 • www.dugdalecpa.com

NEW HAMPSHIRE PUBLIC DEFENDER
STATEMENTS OF FINANCIAL POSITION
JUNE 30, 2018 AND 2017

Assets

	2018	2017
Assets		
Cash	$ 1,312,735	$ 1,182,198
Government Contract Receivable	22,215,177	-
Deposits and Other Receivables	52,881	67,144
Prepaid Expenses	224,909	219,986
Equipment, Leasehold Improvements and Property Held Under Capital Leases, Net of Accumulated Depreciation	602,251	478,818
Law Library	64,523	64,523
TOTAL ASSETS	**$ 24,472,476**	**$ 2,012,669**

Liabilities and Net Assets

Liabilities		
Accounts Payable – State of New Hampshire	$ -	$ 490,947
Accounts Payable	51,082	80,662
Obligations under Capital Lease	227,157	70,317
Salaries Payable	257,400	239,000
Payroll Taxes Payable	18,910	17,500
Other Accrued Expenses	76,351	62,978
Accrued Annual Leave	481,357	449,784
Total Liabilities	**$ 1,112,257**	**$ 1,411,188**
Net Assets - Unrestricted	**$ 478,268**	**$ 58,140**
Temporarily Restricted Net Assets		
State of New Hampshire – Contract	22,215,177	-
State of New Hampshire – Property	666,774	543,341
Total Temporarily Restricted	**$ 22,881,951**	**$ 543,341**
Total Net Assets	**$ 23,360,219**	**$ 601,481**
TOTAL LIABILITIES AND NET ASSETS	**$ 24,472,476**	**$ 2,012,669**

SEE NOTES TO FINANCIAL STATEMENTS

NEW HAMPSHIRE PUBLIC DEFENDER
STATEMENT OF ACTIVITIES AND FUNCTIONAL EXPENSES AND CHANGES IN NET ASSETS
FOR THE YEAR ENDED JUNE 30,2018

	Unrestricted			Temporarily	
	Services	Admin	Total	Restricted	Total
Revenue					
Government Contract	$ 19,810,170	$ 1,379,549	$ 21,189,719	$ 22,215,177	$ 43,404,896
Interest Income	-	21,076	21,076		21,076
Total Revenue	$ 19,810,170	$ 1,400,625	$ 21,210,795	$ 22,215,177	$ 43,425,972
Expenses					
Personal Services	$ 12,175,971	$ 949,892	$ 13,125,863	$ -	$ 13,125,863
Payroll Taxes	925,107	72,192	997,299	-	997,299
Fringe Benefits	3,378,498	256,471	3,634,969	-	3,634,969
Insurance –Workers Comensation	41,264	2,850	44,114	-	44,114
Rent and Storage	1,160,372	48,202	1,208,574	-	1,208,574
Telephone	198,496	15,269	213,765	-	213,765
Travel	283,584	12,974	296,558	-	296,558
Repairs & Maintenance	166,322	355	166,677	-	166,677
Insurance -Malpractice/General	30,218	737	30,955	-	30,955
Training	81,296	1,366	82,662	-	82,662
Office Supplies	61,453	4,727	66,180	-	66,180
Other office Expense	238,629	22,519	261,148	-	261,148
Library	42,897	1,021	43,918	-	43,918
Utilities	105,957	8,135	114,092	-	114,092
Dues and Licenses	67,729	2,230	69,959	-	69,959
Contract Services	59,156		59,156	-	59,156
Professional Services	71,130	1,685	72,815	-	72,815
Interest	4,680	-	4,680	-	4,680
Depreciation	173,850	-	173,850	-	173,850
Total Expenses	$ 19,266,609	$ 1,400,625	$ 20,667,234	$ -	$ 20,667,234
Change in Net Assets	$ 543,561	$ -	543,561	22,215,177	22,758,738
Net Assets – Beginning			58,140	543,341	601,481
Return to State of New Hampshire - Unused Grant			-	-	-
Depreciation			173,850	(173,850)	-
Capital Expenditures					
Equipment, Leasehold Improvements and Capital Leases			(297,283)	297,283	-
Net Assets - Ending			$ 478,268	$ 22,881,951	$ 23,360,219

See Notes to Financial Statements

NEW HAMPSHIRE PUBLIC DEFENDER
STATEMENT OF ACTIVITIES AND FUNCTIONAL EXPENSES AND CHANGES IN NET ASSETS
FOR THE YEAR ENDED JUNE 30,2017

	Unrestricted			Temporarily	
	Services	Admin	Total	Restricted	Total
Revenue					
Government Contract	$ 18,811,897	$ 1,316,064	$ 20,127,961	$ (20,127,961)	$ -
Interest Income	-	10,303	10,303	-	10,303
Total Revenue	$ 18,811,897	$ 1,326,367	$ 20,138,264	$ (20,127,961)	$ 10,303
Expenses					
Personal Services	$ 11,975,018	$ 900,155	$ 12,875,173	$ -	$ 12,875,173
Payroll Taxes	913,043	68,412	981,455	-	981,455
Fringe Benefits	2,988,612	192,111	3,180,723	-	3,180,723
Insurance –Workers Comensation	54,812	4,730	59,542	-	59,542
Rent and Storage	1,075,505	81,469	1,156,974	-	1,156,974
Telephone	213,443	15,635	229,078	-	229,078
Travel	293,588	15,452	309,040	-	309,040
Repairs & Maintenance	156,643	3,780	160,423	-	160,423
Insurance -Malpractice/General	37,603	652	38,255	-	38,255
Training	91,771	1,366	93,137	-	93,137
Office Supplies	96,361	7,253	103,614	-	103,614
Other office Expense	522,334	21,110	543,444	-	543,444
Library	29,395	951	30,346	-	30,346
Utilities	116,876	8,707	125,583	-	125,583
Dues and Licenses	71,778	2,660	74,438	-	74,438
Contract Services	94,563	-	94,563	-	94,563
Professional Services	93,542	1,924	95,466	-	95,466
Interest	2,280	-	2,280	-	2,280
Depreciation	229,970	-	229,970	-	229,970
Total Expenses	$ 19,057,137	$ 1,326,367	$ 20,383,504	$ -	$ 20,383,504
Change in Net Assets	$ (245,240)	$ -	(245,240)	(20,127,961)	(20,373,201)
Net Assets – Beginning			786,662	20,678,967	21,465,629
Return to State of New Hampshire - Unused Grant			(490,947)	-	(490,947)
Depreciation			229,970	(229,970)	-
Capital Expenditures					
Equipment, Leasehold Improvements and Capital Leases			(222,305)	222,305	-
Net Assets - Ending			$ 58,140	$ 543,341	$ 601,481

See Notes to Financial Statements

NEW HAMPSHIRE PUBLIC DEFENDER
STATEMENT OF CASH FLOWS
FOR THE YEARS ENDED JUNE 30, 2018 AND 2017

		2018	2017
Operating Activities			
Change in Net Assets		$ 22,758,738	$ (20,373,201)
Adjustments to Reconcile Net Support to Net Cash Flows Provided by (Used In) Operating Activities			
Depreciation		173,850	229,970
Changes in Assets and Liabilities			
(Increase) Decrease in:	Government Contract Receivable	(22,215,177)	20,127,961
	Deposits and Other Receivables	14,263	9,673
	Prepaid Expenses	(4,923)	(34,554)
Increase (Decrease) in:	Accounts Payable	(520,527)	34,208
	Accrued Expenses	64,756	53,767
Net Cash Provided by (Used In) Operating Activities		270,980	47,824
Investing Activities			
Cash (Used) to Purchase Equipment and Leasehold Improvements		(86,887)	(222,305)
Financing Activities			
Repayment of Capital Lease Obligation		(53,556)	(24,336)
Increase (Decrease) in Cash		130,537	(198,817)
Cash at Beginning of Year		1,182,198	1,381,015
Cash at End of Year		$ 1,312,735	$ 1,182,198
Supplemental Disclosures			
Interest Paid		$ 4,680	$ 2,280
Non-Cash Investing and Financing Transactions: Capital Lease obligations incurred for the acquisition of equipment		$ 210,396	$ -

SEE NOTES TO FINANCIAL STATEMENTS

NEW HAMPSHIRE PUBLIC DEFENDER
NOTES TO FINANCIAL STATEMENTS
FOR ITS YEARS ENDED JUNE 30, 2018 and 2017

1. **Nature of Operations**

New Hampshire Public Defender (NHPD) is a non–profit corporation organized for the purpose of providing constitutionally required legal representation for indigent individuals in the criminal justice system in the State of New Hampshire. NHPD receives its funding from the New Hampshire Judicial Council which is an executive branch agency of the State of New Hampshire.

2. **Summary of Significant Accounting Policies**

Basis of Accounting

The financial statements of NHPD have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America.

Basis of Reporting

The statement of financial position reports net assets which are classified as unrestricted, temporarily restricted or permanently restricted.

Unrestricted net assets result from normal operating activities; revenues on which the donor has placed no restriction; and, unless donor imposed restrictions or state laws preclude, gains and losses on permanently restricted net assets.

Temporarily restricted net assets result from revenues subject to restrictions that expire with the passage of time or are fulfilled when specific actions are performed.

Permanently restricted net assets result from revenues with external donor stipulations requiring that those assets be permanently maintained and invested to provide future income.

Accounting Principles

Contract revenues received are recorded as unrestricted, temporarily restricted or permanently restricted support, depending on the existence and/or nature of any grantor restrictions. Any contract revenues reported as temporarily (or permanently) restricted are reclassified to unrestricted net assets upon expiration of the restriction.

Use of Estimates

The presentation of financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported revenues and expenses during the reporting period. Actual results could differ from these estimates.

Statement of Cash Flows

Statement of Cash Flows shows cash and cash equivalents provided for and used by operating, investing and financing activities. The Company considers all highly liquid debt instruments purchased with a maturity of three months or less to be cash equivalents.

2. Summary of Significant Accounting Policies (Continued):

Equipment and Leasehold Improvements

Equipment and leasehold improvements are recorded at cost. Assets acquired through capital lease agreements are recorded in accordance with accounting principles generally accepted in the United States of America, which require capitalization at their fair market value as of the date of the lease inception.

Property acquired in excess of $1000 is capitalized and depreciated using the straight-line method over the assets estimated useful life as follows:

Computer and Office Equipment	3-5 Years
Property Held Under Capital Leases	5 Years
Leasehold Improvements	5–15 Years

All property has been acquired with funds from the State of New Hampshire which holds a reversionary interest in these assets.

Expenditures for repairs and maintenance are expensed when incurred. Assets sold or otherwise disposed of are removed from the accounts, along with the related depreciation allowance, and any gain or loss is recognized.

A summary of equipment and leasehold improvements is as follows:

Equipment, Leasehold Improvements and Capital Lease	2018	2017
Equipment and Leasehold Improvements:		
Computer and Office Equipment	$ 733,042	$ 785,537
Leasehold Improvements	1,109,395	1,101,311
Less Accumulated Depreciation	(1,445,762)	(1,448,582)
Net Equipment and Leasehold Improvements	396,675	438,266
Capital Lease:		
Property Held Under Capital Lease	332,054	121,658
Less Accumulated Depreciation	(126,478)	(81,106)
Net Property Held Under Capital Lease	205,576	40,552
Total	$ 602,251	$ 478,818

Depreciation expense includes the depreciation of assets held under capital leases. Depreciation expense was $173,850 and $229,970 for its years ended June 30, 2018 and 2017.

Law Library

NHPD capitalizes the cost of books and multiple volume sets of law books and estimates the salvage value to be approximately the same as the original cost, therefore, depreciation expense is not recorded. Supplemental costs to update loose leaf and other continuously updated volumes are expensed.

The law library has been acquired with funds from the State of New Hampshire which holds a reversionary interest in these assets.

3. Obligations Under Capital Lease

	2018	2017
Capital Leases Payable to Winthrop Resources Corporation		
The first lease requires 60 monthly principle and interest payments of $2,218 with interest imputed at 4.25%, secured by Omni Cubes.	$ 45,981	$ 70,317
The second lease requires 36 monthly principle and interest payments of $6,234 with interest imputed at 5.5%, secured by computer equipment.	181,176	-
	$ 227,157	$70,317

Future Maturities of Capital Lease Obligations is as follows:

As of June 30, 2018	
2019	$ 100,224
2020	100,224
2021	52,380
Total Gross Payments	252,828
Less amount representing interest	25,671
Total Principal	$ 227,157

4. Lease Commitments:

NHPD has entered into various operating lease agreements for its facilities and office equipment.

Facilities - All lease commitments for office and storage space, except the Laconia location, are subject to termination by NHPD if funding contingencies set forth in the leases are not met. The estimated future minimum lease payments are as follows:

Year Ending June 30, 2018	Total Estimated Annual Lease Commitments
2019	$1,016,245
2020	$ 756,030
2021	$ 728,411
2022	$ 706,072
2023	$ 680,395

Laconia Facility – Its future minimum lease payments from July 1, 2019 through June 30, 2023 is $268,981.

Rent expense, excluding storage, was $1,206,594 and $1,154,994 for its years ended 2018 and 2017, respectively.

Equipment Leases - The Company has several equipment lease agreements for its office equipment.

Equipment lease expense was $73,934 and $ 282,686 for its year ended 2018 and 2017, respectively.

5. **Annual Leave**
All unused vacation time, in accordance with a formula, will be paid upon the termination of an employee. NHPD estimates this unused and accrued vacation pay to be $481,357 and $449,784 for its years ended June 30, 2018 and 2017.

6. **Income Taxes**
NHPD is exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code. NHPD is also exempt from New Hampshire income taxes and, therefore, has made no provision for Federal or State income taxes.

NHPD evaluates all significant tax positions. As of June 30, 2018, NHPD does not believe that it has taken any positions that would require the recording of any additional tax liability nor does it believe that there are any unrealized tax benefits that would either increase or decrease within the next year.

Penalties and interest assessed by income taxing authorities would be included in operating expenses.

Federal and State tax returns are generally available for examination by the taxing authorities for three years from the date of filing. As of June 30, 2018 those years are 2015 through 2018.

7. **Concentrations:**

Economic Dependency - NHPD receives all its funding under a contract with the State of New Hampshire which expires on June 30, 2019. The future existence of NHPD is solely dependent upon the State renewing the contract.

Cash - NHPD maintains its bank accounts at one financial institution. The accounts are insured by the Federal Deposit Insurance Corporation up to $250,000. Excess funds are secured by Letters of Credit.

Grant Receivable - Represents the second year of a two year state contract. As of June 30, 2018 and 2017, the receivable is $ 22,215,177 and $0 respectively.

8. **Retirement Plan:**
NHPD sponsors a defined contribution retirement plan pursuant to Internal Revenue Code Section 403(b) for all qualifying employees.

The Plan requires NHPD to match 50% of each participating employee's contribution, not to exceed 5% of their wages. NHPD contributed $241,008 and $239,810 for its years ended June 30, 2018 and 2017, respectively.

9. **Contract with the State of New Hampshire**
Although the contract ends June 30, 2019, the NHPD has received communications dated September 7, 2018 from the NH Judicial Council (an executive branch agency within the State of New Hampshire) indicating that their (NHJC) intention is to continue to contract with NHPD for the next biennial period ending June 30, 2021. Accordingly, management believes it can continue as a going concern.

10. **Subsequent Events:**
Management has evaluated subsequent events through September 12, 2018, the date on which the financial statements were available to be issued. There were no subsequent events that require recognition or additional disclosure in these financial statements.

APPENDIX D

NHPD Senior Staff Resumes

RANDY HAWKES

PHONE [redacted] · E-MAIL [redacted]

Professional Profile

Career Public Defender. Over twenty years of conscientious client representation covering the spectrum of the criminal justice system, from juvenile delinquency to homicide. Proven leadership, management, and relationship-building skills.

Education

University of Maine School of Law
J.D. 1992

University of Maine
Bachelor of Arts Political Science 1989
Highest Honors
Phi Beta Kappa
Alexis de Tocqueville Book Award

Relevant Work Experience

1992 – 1995 Staff Attorney New Hampshire Public Defender

1996 – 2012 Managing Attorney, New Hampshire Public Defender (Dover Office)

- Zealously represented clients in over two thousand criminal matters while managing an office of ten attorneys
- Developed and enhanced relationships with city, county, and state agencies whose roles in the criminal justice system impact NHPD's clients
- Instrumental in the creation of innovative alternative sentencing programs
- Communicated NHPD's purpose and value to external constituencies
- Member of NH Legislature's Commission to Study the Death Penalty

2012-Present Executive Director New Hampshire Public Defender

- Member of the Interbranch Criminal and Juvenile Justice Council
- Member of Committee on Cooperation with the Courts
- Member of Supreme Court's Judicial Performance Advisory Committee
- Member of Citizens Advisory Board for NH Women's Correctional Facility

Recognition

2009 NH Bar Association's award for Outstanding Service in Public Interest Law
2010 Inducted as a Fellow of the American College of Trial Lawyers
2012 New Hampshire Association of Criminal Defense Lawyers "Champion of Justice" Award

DAVID M. ROTHSTEIN

[redacted]
[redacted] (cell)
[redacted] (home)
[redacted]

Admitted to Practice in New Hampshire, the First Circuit Court of Appeals, and the United States Supreme Court.

Present Employment

Deputy Director, New Hampshire Public Defender, 2013-Present.

- Supervise and support Managing Attorneys and Staff Attorneys in a statewide Public Defender Program.
- Plan and conduct training, including a five-week training for new lawyers.
- Develop and update litigation support resources, including a 600-page Practice Guide and a database of over 300 expert witnesses.
- Assist in creating and designing web-based resources.
- Recruit and hire new attorneys.
- Handle ethical issues, personnel matters, and claims of ineffective assistance of counsel.
- Advise the Executive Director on policy issues.

Previous Employment

Lead Appellate Counsel, State v. Addison (Capital Murder), 2008-2016.

- Represented New Hampshire's only death row inmate on the appeal of his capital murder conviction to the New Hampshire Supreme Court.
- Wrote and edited a 600-page merits brief, two briefs on proportionality review, three briefs dealing with Addison's felony convictions, and memoranda on capital appellate procedure and judicial recusal.
- Conducted more than three hours of oral argument before the New Hampshire Supreme Court.
- Challenged lethal injection procedures.
- Filed petitions for writs of certiorari in the United States Supreme Court.

Deputy Chief Appellate Defender and Interim Chief Appellate Defender, New Hampshire Appellate Defender Program/New Hampshire Public Defender, 2001-2013.

- Briefed and orally argued more than 150 cases in the New Hampshire Supreme Court.
- Pursued federal habeas claims and filed writs seeking certiorari review by the United States Supreme Court in appropriate cases.
- Briefed and argued two cases in the First Circuit and co-counseled a case argued in the United States Supreme Court.
- Served as co-counsel in the *State v. Addison* capital murder trial.
- Tried four homicide cases, two aggravated rape cases, and two other serious felony cases.
- Trained attorneys on criminal law, criminal procedure, evidence, trial practice and appellate practice.

Adjunct Professor, University of New Hampshire School of Law, 2001-Present.

- Taught Trial Advocacy in 2013 and 2014.
- Headed the Appellate Defender Clinic for four semesters, which culminated in having law students argue for the first time before the New Hampshire Supreme Court.
- As Faculty Supervisor for Annual Survey of New Hampshire Law in 2006 and 2007, assisted students in publishing case notes for the New Hampshire Bar Journal.
- Co-developed Advanced Appellate Advocacy and taught it for seven semesters (2001-2004).

New Hampshire Public Defender, 1989-2001. Staff Attorney (1989-1992, 1996-2001), Managing Attorney (1992-93), Major Crimes Attorney (1993-94), Assistant Appellate Defender (1994-96).

- Tried over thirty cases to juries, from homicides to minor offenses.
- Supervised and mentored attorneys.
- Briefed and argued numerous appeals.

New Hampshire Superior Court, Judicial Law Clerk, 1988-89.

- Conducted research and drafted orders for superior court judges.

Representative Trainings and Presentations

- "Opioid Prosecutions," Boston University School of Medicine Forensic Science Symposium, June 2018.
- Moderator, "Perspectives on Mooting," American Academy of Appellate Lawyers, Spring 2017 Meeting.
- Panelist, "The Exchange," New Hampshire Public Radio, 2017.
- Developed and organized trainings on death-resulting drug sale prosecutions, the insanity defense, crime scene analysis, and digital forensic evidence.
- Panelist, Death Penalty Symposium, University of New Hampshire School of Law.
- Moderator, Discussion of Perry v. New Hampshire, University of New Hampshire School of Law.
- Numerous presentations on Evidence, Trial Advocacy, Ethics, Appellate Advocacy and Legal Writing, and Criminal Procedure.

Recent Boards and Committees

- Member, Justice and Media Committee, 2015-Present.
- Chair, New Hampshire Supreme Court Professional Conduct Committee, January 2013-Present.
- Member, New Hampshire Supreme Court Board of Bar Examiners, 2008-Present.
- Member, New Hampshire Supreme Court Professional Conduct Complaint Screening Committee, 2004-2013.

Honors and Awards

- New Hampshire Bar Association, President's Award for Service to the Profession, 2017.
- Fellow, New Hampshire Bar Foundation, 2016.
- Champion of Justice, New Hampshire Association of Criminal Defense Attorneys, 2009.
- Fellow, American Academy of Appellate Lawyers, 2008.

Education

- Villanova University School of Law, J.D., 1988.
- University of Rochester, B.A. in Biology and English with Distinction in English, 1985.

Mary B. Hawkes
[redacted]

Bar Memberships: New Hampshire Bar and Maine Bar, both September, 1992

Education:

University of Maine School of Law, Portland, Maine- JD May 1992
Student Attorney, Cumberland Legal Aid Clinic, Portland, Maine: clinic work focused on criminal defense, family law, civil matters and mediation. Hired for three semesters: work-study for summer 1990, full-time employment for summer 1991, course credit for fall 1991

University of Vermont, Burlington, Vermont- BA Modern European History, May 1989
Editor, University of Vermont History Review
Phi Alpha Theta, National History Honors Society
University of Vermont Teaching Assistant, United States Race Relations
Keynote Speaker & Workshop Leader, University of Vermont's Presidential Colloquium on cultural diversity and race relations on campus

Legal Experience:

Investigations Director & Intern Director, New Hampshire Public Defender, Concord, NH
September 1998-present
Interview, hire, train, supervise and evaluate staff investigators statewide (currently numbering twenty-three). Craft all policies and procedures for NHPD investigations program. Maintain investigator section of NHPD's home page. Track NH legislation regarding investigations (testifying when necessary). Appear in court regarding conflict issues or when investigators need to testify. Monitor investigators' caseloads, hours and performances. Make homicide, SDO and other special case assignments. Handle all other investigator related issues (in the past, this included investigator union issues, contract negotiations, and representation of NHPD at National Labor Board and during federal audit).
Interview, hire, train, supervise and evaluate law students, investigator interns, and graduate students for NHPD statewide.
Other responsibilities include hiring committee member for attorneys, and conflict neutral on almost all of NHPD's homicides. In the past, started NHPD's social work pilot project, crafted policies, and supervised the project and MSW position for the four years that it was in operation.

Staff Attorney, Department for Children, Youth and Families, Portsmouth, NH
December 1994-September 1998
Represented DCYF in child abuse and neglect cases and parental rights termination cases

Certified Guardian Ad Litem 1995-1998
Assigned by Rockingham, NH Probate Court to adoption cases as a Guardian Ad Litem

Staff Attorney, New Hampshire Public Defender, Manchester and Stratham, NH offices
September 1992-December 1994,
Represented indigent clients facing juvenile, misdemeanor and felony charges

Tracy A. Scavarelli

[redacted]

PROFESSIONAL EXPERIENCE:

2/2008 – present

New Hampshire Public Defender
Deputy Director
Primary supervision of MAs; secondary supervision of all attorneys; conflicts, neutral training and oversight; homicide assignments; addresses client complaints & oversight of all Ineffective Assistance of Counsel claims; attorney hiring, office assignments & evaluation oversight; and case load management. Organizes all staff trainings including new attorney & intern/law clerk training, in-house practice skills & advanced trial skills; outside programming; and legal ethics.
Supervision of administrative services and support - secondary supervision of OAs.

2/20015 – 2/2018

Managing Attorney – Merrimack County - Concord, NH
Primary supervision of staff attorneys, OA, investigators and support staff; assigned and supervised mentors; completed attorney evaluations; addressed client complaints; assigned cases; case load management; liaison to local courts and others in the criminal justice system; Drug Court Team member; Mental Health Court Team member. Maintained all Staff Attorney responsibilities.

8/2000 – 2/2015

Staff Attorney
Represented indigent criminal clients throughout all stages of litigation to include Motion hearings, trials (jury and bench), sentencing and post conviction matters. Representation provided on juvenile, misdemeanor, and felony offenses, to include sexual assaults and homicides. Instructs at training seminars. Mentored new attorneys and summer legal interns. Acts as a neutral for conflict resolutions statewide.

6/1999 – 5/2000

Swope and Nicolosi, PLLC - Concord, NH
Legal Intern
Represented clients in criminal and civil matters. Drafted Motions, pleadings and Memorandums of Law.

7-1998 - 5/2000

Concord District Court - Small Claims Division - Concord, NH
Mediator
Presided over alternative dispute resolution hearings to assist parties in resolving civil matters.

9/1998 – 5/1999

New Hampshire Attorney General's Office
Environmental Protection Bureau - Concord, NH
Legal Intern
Appeared on behalf of the State at administrative hearing at the NH DES. Researched issues to draft AG Opinion Letters, Motions and Memorandums of Law.

EDUCATION:

5/2000 — Juris Doctor, Franklin Pierce Law Center - Concord, NH

6/1996 — Bachelor of Science, Northeastern University - Boston, MA

BAR ADMISSION:

10/2000	New Hampshire State Courts United States District Court, District of NH

AFFILIATIONS:

New Hampshire Association of Criminal Defense Lawyers
New Hampshire Women's Bar Association
Concord Coalition to End Homelessness (Former Board Member)
Merrimack County Drug Court Steering Committee

APPENDIX E

NHPD Letters of Reference

The State of New Hampshire
Circuit Court

David D. King
Administrative Judge

Senior Administrator
Gina Belmont, Esq.

Administrators
Kate E. Geraci, Esq.
Paula Hurley, Esq.
Patrick W. Ryan, Esq.
Brigette Siff Holmes, Esq

March 22, 2019

RECEIVED
MAR 25 2019
JUDICIAL COUNCIL

Sarah Blodgett, Executive Director
New Hampshire Judicial Council
25 Capitol St., Room 424
Concord, NH 03301-6312

Re: Support of the Public Defender Program
Proposal to Provide Indigent Defense Services

Dear Sarah:

I understand that the Public Defender Program is submitting a proposal to provide statewide indigent defense services in the next biennium. I write in support of the organization's proposal. For over thirty five (35) years I have had the opportunity to be familiar with the Public Defender Program, first as an intern for two years beginning in the early 80's and many years later as a member of their Board of Directors. In my current role as the Administrative Judge of the Circuit Courts in New Hampshire, I have had occasion to work with the Public Defender Program's leadership and to observe the performance of their attorneys on a regular basis.

The Public Defender Program has a long history of providing quality representation to indigent defendants and juveniles in delinquency cases. The program maintains high standards for the performance of its attorneys. While the attorneys fight hard for their clients' interests, they also balance their zealous advocacy with a high degree of professionalism.

From an administrative standpoint, the Courts benefit by having a public defender program that can provide representation for the vast majority of those charged with crimes who cannot afford to pay for their own attorney. For many years, the Public Defender Program has remained fully open to case intake from the Courts and has declined appointments only when the representation would create a conflict of interest under the Rules of Professional Conduct.

1 Granite Place, Suite N400, Concord, New Hampshire 03301
(603) 271-6418

OFFICE OF THE
STRAFFORD COUNTY ATTORNEY

Justice & Administration Building
259 County Farm Road, Suite 201
Dover, New Hampshire 03820

COUNTY ATTORNEY
Thomas P. Velardi

VICTIM ASSISTANCE
Nancy L. Harris

March 21, 2019

Sarah Blodgett
New Hampshire Judicial Council
25 Capitol Street, Room 424
Concord, NH 03301-6312

RE: **New Hampshire Public Defender Proposal to provide Indigent Defense Services**

Director Blodgett:

Please accept this letter as strong endorsement of the New Hampshire Public Defender (NHPD), and the proposal it advances to continue to provide legal representation to indigent defendants.

I have worked with lawyers from NHPD since June of 1999 through my years as a prosecutor at the Strafford County Attorney's Office. We have faced each other as adversarial litigants primarily in the Superior Court, but also in the circuit courts. I have also developed a collaborative relationship with managing members of the NHPD, as new criminal justice programs have been developed.

In my capacity as a prosecuting attorney and as a managing attorney of my own office, I have found the NHPD to be an adversary well equipped to represent the interests of its clients. It is quite evident that the training program used by NHPD readies its attorneys for the courtroom, with a string emphasis on ethical practices. I have compared notes with prosecutors in other states at trainings and there really is no comparison to an NHPD attorney and other states' public defenders. The fact of the matter is that indigent clients in this state are afforded superior legal services to those available to non-indigent clients in most instances.

In my capacity as a member of collaborative teams, I have greatly enjoyed working with the NHPD on committees creating the New Hampshire Rules of Criminal Procedure, a committee to review the New Hampshire Rules of Evidence, and several committees involved in the felonies first initiative. And twice a year, I team up with a colleague from the NHPD to welcome new members of the bar. In all of these collaborative experiences, the NHPD has offered important input, critique, and dialog to help create the fairest criminal justice playing field for all users of the system.

For all of these reasons, I would urge the Judicial Council to accept the NHPD's proposal to provide indigent defense services to the people of the State of New Hampshire

If you need any further information, please do not hesitate to contact me.

Very truly yours,

Thomas P. Velardi
Strafford County Attorney

The State of New Hampshire
9th Circuit Court - Manchester
35 Amherst Street
Manchester, NH 03101
Telephone: (855) 212-1234
TDD Access: Relay NH (800) 735-2964
www.courts.state.nh.us

WILLIAM H. LYONS
Judge
SUSAN B. CARBON
Judge
MARY A. BARTON
Clerk of Court

March 25, 2019

Sarah Blodgett, Executive Director
NH Judicial Council
25 Capitol St., Room 424
Concord, NH 03301-6312

RE: Letter in Support of the NH Public Defender Program

Dear Ms. Blodgett,

I understand that the New Hampshire Public Defender Program is submitting their application to provide Public Defender representation pursuant to RSA 604-B. I am writing today in support of their program.

As you know, the Manchester District and Family Divisions are amongst the busiest court locations in the state. We receive many applications for court appointed counsel and we assign a high volume of cases to the Public Defender program each week. Since this Court operates several courtrooms each day, we have multiple Public Defenders here literally all the time. Over the last 32 years, I have had regular contact with the managing attorneys, staff attorneys, and support staff of the local Public Defender office. I have personally observed their work in the courtrooms and I have had many occasions to view the pleadings they file. The Public Defender program obviously has a strong training program and a particularly keen eye towards hiring attorneys who are truly committed to their work. It has always been my experience that they provide quality representation to the clients they serve. I have never hesitated to advise a defendant to apply for a Public Defender and I have always felt that indigent defendants and juveniles are very well served by the Public Defender program offered in this location.

Please contact me if you have any questions or require any additional information.

Very truly yours,

Mary A. Barton
Clerk of Court

APPENDIX F

NHPD Certificates of Insurance

The Hanover Insurance Group

BUSINESSOWNERS DECLARATION

BUSINESSOWNERS AMENDED DECLARATIONS EFFECTIVE 07/01/2018 NUMBER 01

28

SUPERSEDES ANY PREVIOUS DECLARATIONS BEARING THE SAME NO. FOR THIS POLICY PERIOD
AMENDED COMPUTER EQUIPMENT DED.

Policy Number	Policy Period From	To	Coverage is Provided in the	Agency Code
OHV-D299939-01	07/01/2018	07/01/2019	HANOVER INSURANCE COMPANY	320163500

Named Insured and Address
NEW HAMPSHIRE PUBLIC DEFENDER
10 FERRY STREET SUITE 434
CONCORD, NH 03301

Agent
413-543-3534
THE GAUDREAU GROUP
PO BOX 369
WILBRAHAM, MA 01095

Policy Period: Beginning and Ending at 12:01 a.m. Standard Time at the Location of the Described Premises.
Business Type: CORPORATION (SINGLE).
Mortgagee/Loss Payable:

Business of the Named Insured:
OFFICE.

In consideration of the premium, insurance is provided the Named Insured with respect to those premises described in the Schedule below and with respect to those coverages and kinds of property for which a specific Limit of Insurance is shown, subject to all of the terms of this policy including forms and endorsements made a part hereof:

LOCATION SCHEDULE

Described Premises:
NO. 001 001 10 FERRY STRRET SUITE 434, CONCORD, NH 03301
NO. 002 001 20 MERRIMACK STREET, MANCHESTER, NH 03101
NO. 003 001 1 WEST STREET, KEENE, NH 03431
(SEE FORM 391-1013 FOR ADDITIONAL PREMISES.)

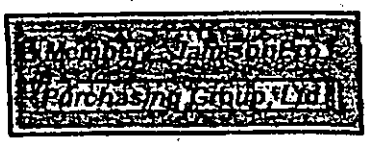
SECTION I - PROPERTY	LIMITS OF INSURANCE					
	Loc No 001	Bldg No 001	Loc No 002	Bldg No 001	Loc No 003	Bldg No 001
Deductible Amount	$ 1,000		$ 1,000		$ 1,000	
Building Amount Valuation	NOT COVERED		NOT COVERED		NOT COVERED	
Business Personal Property Valuation	$ 20,000 RC		$ 79,500 RC		$ 45,000 RC	
Business Income	ACTUAL BUSINESS LOSS SUSTAINED NOT EXCEEDING 12 CONSECUTIVE MONTHS					
Business Income Waiting Period	Excluded / None / 24 hours / 48 hours / 72 hours 48 HOURS					

SECTION II - LIABILITY	LIMITS OF INSURANCE			
Liability and Medical Expenses Limits of Insurance: Except for Damage to Premises Rented to You, each paid claim for the following coverages reduce the Amount of Insurance we provide during the applicable annual period. Please refer to **SECTION II - LIABILITY, D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE**, paragraph 4. of the Businessowners Coverage Form.				
Liability and Medical Expenses Limit	$ 1,000,000	Per Occurrence	$ 2,000,000	Aggregate
Medical Expenses	$ 5,000	Each Person		
Damage to Premises Rented to You	$ 500,000	All Perils		

Date Issued: 08/08/2018 ORIGINAL/INSURED Payment Type: DIRECT BILL

CNA

Policy No: LAS 596604369



Columbia Casualty Company
151 North Franklin Street Chicago, IL -60606
Lawyers Professional Liability Policy

NOTICE: THIS IS A CLAIMS MADE AND REPORTED POLICY. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES AS DEFINED HEREIN. AMOUNTS INCURRED FOR CLAIMS EXPENSES SHALL BE APPLIED AGAINST THE DEDUCTIBLE AMOUNT.

DECLARATIONS

Item 1. Named Insured New Hampshire Public Defender

Item 2. Mailing Address 10 Ferry Street, Suite 434
Concord, NH 03301

Item 3. Policy Period 12:01am 08/01/2018 to 12:01am 08/01/2019

Coverage Summary

This Policy includes only those Coverages designated with a "Yes" as "Included" in the Coverage Summary set forth below. If neither "Yes" nor "No" is designated for a listed Coverage, such Coverage is "Not Included".

(Item 4.) Coverage/Limit of Liability		(Item 5.) Deductible	
Lawyers Professional Liability			
$ 2,000,000	each claim and	$ 5,000	Annual Aggregate
$ 2,000,000	in the aggregate	(Does not apply to Defense Costs)	
Retroactive Date: Full P/A			
Management Liability Errors & Omissions Endorsement			
$ 2,000,000	each claim and		
$ 2,000,000	in the aggregate	$ 5,000	Annual Aggregate
Retroactive Date: Full P/A		(Does not apply to Defense Costs)	
Employment Practices Coverage Endorsement			
$	each claim and		
$	in the aggregate	$	Annual Aggregate
Retroactive Date:		(Does not apply to Defense Costs)	
First Dollar Defense Endorsement			
Criminal Defense Endorsement			
$ 50,000	each claim and		
$ 50,000	in the aggregate		
Retroactive Date: Full P/A			
Punitive Damages Endorsement			
$ 50,000	each claim and		
$ 50,000	in the aggregate		
Retroactive Date: Full P/A			

APPENDIX G

NHPD Subcontractor Model Agreement

AGREEMENT

This agreement is made and entered into by the New Hampshire Public Defender, (hereinafter "NHPD"), and _____, (hereinafter "Contractor").

WHEREAS, the New Hampshire General Court, has enacted RSA Chapter 604-B to provide for a statewide Public Defender Program; and,

WHEREAS, NHPD has contracted with the Judicial Council of the State of New Hampshire to operate the Public Defender Program; and,

WHEREAS, the contract between the New Hampshire Judicial Council and NHPD permits NHPD to subcontract for attorney services to provide representation in Public Defender cases;

NOW THEREFORE, the parties agree as follows:

1. NHPD and Contractor agree that Contractor will provide representation to clients of the Public Defender program on a contract basis for the period _____through _____.

2. The parties understand and agree that in all respects Contractor performs the obligations under this agreement as an independent contractor, not as an employee or agent of NHPD.

3. None of the services called for in this agreement may be sub-contracted outside of contractor's firm. All cases assigned to contractor will be handled directly by contractor, or will be supervised by contractor.

4. When Contractor represents a client under this agreement, the Contractor may not accept any fee or expense for the representation except as provided under this agreement.

5. Contractor will communicate with NHPD Deputy Director _____regarding case assignments.

6. Contractor may utilize certain NHPD resources in representing clients pursuant

to this agreement for discrete tasks, such as the preparation of the initial case file. All routine case preparation and client representation work shall be the responsibility of the Contractor. Access to expert professional services shall be through the process provided for by RSA 604-A:6.

7. Contractor will provide representation consistent with the Rules of Professional Conduct, paying particular regard to the obligations under Rule 1.6 regarding confidentiality and under Rules 1.7 and 1.9 regarding conflicts of interest. In cases handled under this agreement, Contractor will not represent clients who could not be represented by NHPD, either because of the requirements of Rules 1.7 and 1.9 or by the imputed disqualifications requirements of Rule 1.10.

8. In consideration of the services provided by the contractor, NHPD agrees to pay Contractor on a per-unit basis and shall be compensated according to the Contract Attorney Fee Schedule as established by the New Hampshire Judicial Council. The current rate is $300 per unit; and the current dollar value of a Felony case is $825.

9. The parties agree that contractor shall receive _____units per month. This total may be adjusted by agreement of the parties during the course of the agreement, subject to the requirements of paragraph 12.

10. The parties agree that the contractor shall be assigned (numbers and case type) cases originating in the District and Superior Courts of Rockingham County.

11. At $300 per unit, ___units per month, for __ months, this agreement envisions payments to the Contractor, if performance under the contract meets expectations of __ units per month and is not terminated sooner than agreed, of approximately $_____. NHPD shall make equal monthly payments of $____ beginning _____and thereafter on the 30th day of

every month through_____. If necessary, any monthly payment will be reduced or increased by the amount necessary to account for actual unit intake, extraordinary case credit awarded, and other factors affecting unit value calculation.

12. Contractor shall provide representation to each client through final disposition of the client's case or cases. Contractor will not withdraw from the representation of a client unless prior notification is given to Deputy Director_____. Contractor will receive full credit for all representation undertaken on behalf of clients, even when the representation cannot be conducted through final disposition, except in those instances in which withdrawal from a case occurs without the performance of substantive work on behalf of the client. Any determination regarding this provision shall be made by NHPD Deputy Director _____.

13. Following final disposition in each case, Contractor shall submit to the _____ office administrator a closed cased card. Contractor shall send each client a closing letter explaining the outcome of his or her case. Contractor shall maintain all case files until the conclusion of this agreement or until final disposition of any case handled under this agreement, whichever is later, at which time the files shall be turned over to NHPD for storage.

14. When Contractor determines that the demands of a particular case required exceptional time and energy, Contractor may apply to NHPD Deputy Director _____ for the award of extraordinary case credit. The criteria and procedures shall be the same as those described in the Judicial Council's Extraordinary Case Credit Guidelines.

15. Contractor shall carry professional liability insurance in the amount of $100,000/$300,000 at his own expense.

16. This agreement may be terminated for cause immediately by NHPD through oral or written notice to the contractor. This agreement may be terminated without cause by

either party upon thirty days prior notice in writing.

17. This agreement may be extended on the same terms on a month-to-month basis if NHPD and the Contractor agree to do so.

IN WITNESS HEREOF, we have subscribed our hands, as representatives of the parties hereto, on this ____ day of _____, 2019.

FOR CONTRACTOR:

_____

FOR NH PUBLIC DEFENDER:

_____
Randy Hawkes
Executive Director

NEW HAMPSHIRE BAR ASSOCIATION

BOARD OF GOVERNORS

RESOLUTION

WHEREAS, the New Hampshire Constitution provides a right to counsel for those facing a loss of liberty; and

WHEREAS, New Hampshire RSA 604-B establishes the plan for appointment of counsel in indigent criminal cases and other circumstances; and

WHEREAS, the above statute in subsection 604-B:4 authorizes the State, by and through the Judicial Council, (and with the approval of the Governor and Executive Council), to contract with an organization or group of attorneys to provide a Public Defender Program for the State of New Hampshire, so long as the organization or group meets with the approval of the New Hampshire Bar Association as a provider of indigent defense services; and

WHEREAS, the Public Defender Program has requested such approval from the New Hampshire Bar Association; and

WHEREAS, the Board of Governors of the New Hampshire Bar Association has considered this request of the Public Defender Program;

NOW THEREFORE, it is hereby resolved that the Board of Governors of the New Hampshire Bar Association gives its formal approval of the New Hampshire Public Defender Program as an organization created and operated to provide defense representation to indigent defendants in criminal cases, to indigent respondents against sexually violent predator petitions, to indigent defendants in capital murder cases, and to indigent juveniles in delinquency proceedings, in the State of New Hampshire, for the period July 1, 2019 through June 30, 2021.

4/1/19

Date

David W. McGrath, President

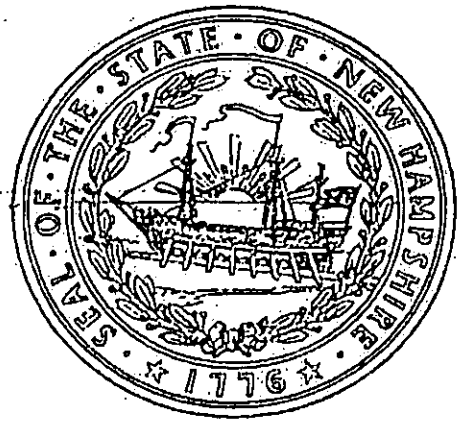
State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that NEW HAMPSHIRE PUBLIC DEFENDER is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on May 06, 1985. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 83694

Certificate Number : 0004460359



IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 18th day of March A.D. 2019.

William M. Gardner
Secretary of State