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THE STATE OF NEW HAMPSHIRE  
JUDICIAL COUNCIL  
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Concord, New Hampshire 03301-6312

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April 27, 2017

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 contract in the amount of \$43,404,896, with Governor and Council approval, for the period effective July 1, 2017 through June 30, 2019, 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.

Funds will be available, pending budget approval for fiscal years 2018 and 2019, as follows:

	<b>FY 2018</b>	<b>FY 2019</b>
02-07-07-070010-1094-102 Public Defender Program	\$21,189,719	\$22,215,177

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, 2019 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 2016, 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 2018 and 2019. Using

His Excellency, Governor Christopher T. Sununu  
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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.

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

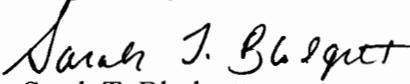
#### REQUEST FOR PROPOSALS AND REVIEW PROCESS

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), for three days in March of 2017. 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 in the Bar Association's fortnightly Bar News periodical.

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 fully 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  
Executive Director

Attachments

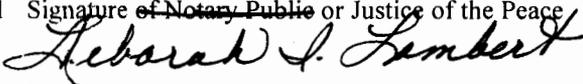
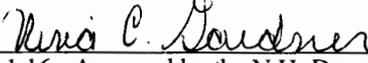
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name New Hampshire 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, 2019	1.8 Price Limitation \$43,404,896
1.9 Contracting Officer for State Agency Sarah Blodgett, Executive Direct		1.10 State Agency Telephone Number 602-271-3592	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Cathy Green, President, NHPD Board of Directors	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Hillsborough</u> On <u>Apr. 19, 2017</u> , 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 <del>Notary Public</del> or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace Deborah I. Lambert, Justice of the Peace			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Nina C. Gardner, Chair, 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: <u>4/21/2017</u>			
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

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 \$1,000,000 per 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.

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.

**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. During FY18, the Public Defender may also open an office in Carroll County. This will not impact the minimum number of total attorneys in Belknap and Carroll Counties as contemplated in paragraph 5 (G). 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 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.

7. 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.

8. 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 notify the Judicial Council when the Program sub-contracts for attorney services.

9. 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.

10. 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. 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.

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 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.

## 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      | (c) Juvenile Delinquency Maximum - 20 cases |
| (b) Misdemeanor Maximum - 35 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 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.

**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 2019, the State of New Hampshire shall advance to NHPD in State Fiscal Year 2018:

\$ 10,594,859 for the period July 1, 2017 through December 31, 2017, and,  
\$10,594,860 for the period January 1, 2018 through June 30, 2018.

5. In consideration of the satisfactory operation of NHPD from the effective date of this contract until the end of Fiscal Year 2019, the State of New Hampshire shall advance to NHPD in State Fiscal Year 2019:

\$11,107,588 for the period July 1, 2018 through December 31, 2018, and,  
\$11,107,589 for the period January 1, 2019 through June 30, 2019.

6. The amount, if any, by which the total semi-annual payments specified above for State Fiscal Year 2018 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 2019.

7. Within 80 days following conclusion of State Fiscal Year 2019, 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, except as noted in paragraph 8.

8. Within one-hundred twenty (120) days of the end of the 2018-2019 biennium, NHPD shall return to the State the amount, if any, by which cumulative monthly claim liability payments exceeded the amount of the total paid claims for healthcare costs. The surplus returned to the State shall be accounted for separately in any lapsed funds.

**EXHIBIT C  
ADDITIONAL PROVISIONS**

**1. Conditional Nature of this Agreement**

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

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 void.

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 2018, 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 2019, 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 2018, 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 2019, 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 2018-2019 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 void.

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 notify 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.

**CERTIFICATE OF AUTHORITY**

On April 7, 2017 the Board of Directors of the New Hampshire Public Defender, a private, nonprofit corporation organized under the laws of New Hampshire with principal offices at 10 Ferry Street, Suite 434, Concord, NH 03301, voted 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, 2017 through June 30, 2019.

**RESOLVED:** That Cathy Green, President of the New Hampshire Public Defender Board of Directors, is given full authority to execute any and 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 the New Hampshire Public Defender, remain in full force and effect, and have not been revoked, rescinded, or modified.

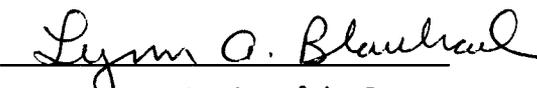
I further certify that Cathy Green is the President of the New Hampshire Public Defender and is still qualified and serving in that capacity.

By:   
Risa Evans, Secretary

4/19/17  
Date

State of New Hampshire  
Merrimack County

This document was acknowledged before me on 4-19, 2017.

By:   
, Justice of the Peace

4-19-17  
Date

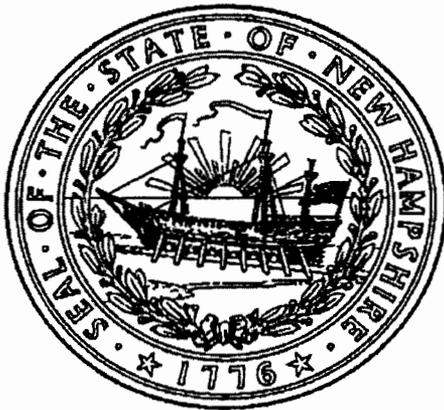
# State of New Hampshire

## 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



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 10th day of April A.D. 2017.

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

RENEWAL



EFFECTIVE DATE: 07/01/2016

Policy Number: CU 9081175	Prior Policy: 9081175
Billing Type: DIRECT BILL	
Coverage Is Provided In The PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured and Mailing Address: NEW HAMPSHIRE PUBLIC DEFENDER 10 FERRY STREET SUITE 425 CONCORD NH 03301	Agent: USI INSURANCE SERVICES LLC 75 JOHN ROBERTS RD BLDG C PORTLAND ME 04106-6964 ME 0410  Agent Code: 8110471      Agent Phone: (855)-874-0123

COMMERCIAL UMBRELLA LIABILITY COVERAGE PART DECLARATIONS

LIMITS OF INSURANCE

Each Occurrence Limit	\$ 3,000,000	Any One Occurrence or Offense Subject To The General Aggregate and Products/Completed Operations Aggregate Limits
Aggregate Limits	\$ 3,000,000	General Aggregate Limit
	\$ 3,000,000	Products/Completed Operations Aggregate Limit

SELF INSURED RETENTION

Self Insured Retention	\$ 10,000	Any One Occurrence Or Offense
------------------------	-----------	-------------------------------

UNDERLYING INSURANCE - Refer to Schedule of Underlying Insurance

PREMIUM

Minimum Premium	\$	100
Total Premium	\$	1,200

FORMS AND ENDORSEMENTS

Forms and Endorsements made a part of this policy:

Form Number	Description
14-114 - 0204	NEW HAMPSHIRE CHANGES
14-126 - 0204	AMENDMENT-LIQUOR LAW LIABILITY - FOLLOW FORM
14-140 - 0204	EXCL-ALL HAZARDS IN CONNECTION W/DESIGNATED PREMISES
14-148 - 1202	SCHEDULE OF UNDERLYING INSURANCE
14-155 - 0204	QUICK REFERENCE COMMERCIAL UMBRELLA LIAB COV PART
14-186 - 0204	EXCLUSION - FUNGI OR BACTERIA
14-203 - 0115	EXCLUSION OF CERTIFIED ACTS OF TERRORISM
14-210 - 0204	COMMERCIAL UMBRELLA LIABILITY COVERAGE FORM
14-242 - 0204	NUCLEAR ENERGY LIABILITY EXCLUSION
14-249 - 0204	EXCLUSION - SILICA
14-257 - 0509	EXCL-RECORDING & DISTRIBUTION OF MATERIAL VIOLATION
14-67 - 0204	DESIGNATED AUTO LIABILITY EXCLUSION
14-80 - 0204	EMPLOYEE BENEFITS LIABILITY - FOLLOW FORM
14-96 - 0204	EXCLUSION - PROFESSIONAL LIABILITY

14-211 (02/04)

INSURED COPY

RENEWAL



Forming a part of

Policy Number: CU 9081175	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: NEW HAMPSHIRE PUBLIC DEFENDER	Agent: USI INSURANCE SERVICES LLC
	Agent Code: 8110471      Agent Phone: (855)-874-0123

SCHEDULE OF UNDERLYING INSURANCE

Type of Insurance	Policy Number	Policy Period	Insurer
Businessowners Liability	BOP 9015132	07/01/2016 - 07/01/2017	LIBERTY MUTUAL
	Limits of Liability:		
	Each Occurrence and Each Person:		\$ 1,000,000
	Aggregate - Products/Completed Operations Hazard:		\$ 1,000,000
	Aggregate - Other Than Products/Completed Operations Hazard:		\$ 2,000,000

Includes Hired Auto/Nonowned Auto Liability

Type of Insurance	Policy Number	Policy Period	Insurer
Employers Liability	WC 9016635	07/01/2016 - 07/01/2017	LIBERTY MUTUAL
	Limits of Liability:		
	Bodily Injury Each Accident:		\$ 500,000
	Bodily Injury by Disease Policy Limit:		\$ 500,000
	Bodily Injury by Disease Each Employee:		\$ 500,000

Date Issued: 06/28/2016

RENEWAL



EFFECTIVE DATE: 07/01/2016

Policy Number: BOP9015132	Prior Policy: 9015132
Billing Type: DIRECT BILL	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured and Mailing Address: NEW HAMPSHIRE PUBLIC DEFENDER 10 FERRY STREET SUITE 425 CONCORD NH 03301	Agent: USI INSURANCE SERVICES LLC 75 JOHN ROBERTS RD BLDG C PORTLAND ME 04106-6964 ME 0410  Agent Code: 8110471    Agent Phone: (855)-874-0123

COMMERCIAL PROTECTOR COVERAGE FORM DECLARATIONS  
BUSINESSOWNERS COVERAGE FORM DECLARATIONS

In return for the payment of premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

POLICY PERIOD: From: 07/01/2016 To: 07/01/2017 at 12:01 AM Standard Time at your mailing address shown above.

FORM OF BUSINESS: CORPORATION

BUSINESS DESCRIPTION: LAWYERS OFFICE -

DESCRIPTION OF PREMISES

Prem. No.	Bldg. No.	Location Occupancy, Construction/Fire Protection
001	001	10 FERRY STREET SUITE 434 CONCORD NH 03301 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY
002	001	20 MERRIMACK ST MANCHESTER NH 03101 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY
003	001	1 WEST STREET KEENE NH 03431 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY

44-98 (06/04)

RENEWAL

COMMERCIAL PROTECTOR COVERAGE FORM DECLARATIONS (Continued)  
BUSINESSOWNERS COVERAGE FORM DECLARATIONS

004	001	142 PORTSMOUTH AVE STRATHAM NH 03885 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY FRAME
005	001	44 FRANKLIN STREET NASHUA NH 03064 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY
006	001	134 MAIN ST LITTLETON NH 03561 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY MASONRY NON-COMBUSTIBLE
008	001	408 UNION AVE LACONIA NH 03246 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY
009	001	485 NH ROUTE 10 ORFORD NH 03777 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY FRAME
010	001	48 CENTRAL SQUARE STORAGE KEENE NH 03431 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY
011	001	10 FERRY STREET SUITE 202 CONCORD NH 03301 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY

44-98 (06/04)

RENEWAL

COMMERCIAL PROTECTOR COVERAGE FORM DECLARATIONS (Continued)  
 BUSINESSOWNERS COVERAGE FORM DECLARATIONS

012 001 15 FOURTH STREET  
 SUITE #3  
 DOVER NH 03820  
 LAWYERS OFFICE -  
 EXCLUDING PROFESSIONAL LIABILITY  
 JOISTED MASONRY

013 001 44 NORTH MAIN ST  
 NEWPORT NH 03773  
 LAWYERS OFFICE -  
 EXCLUDING PROFESSIONAL LIABILITY  
 JOISTED MASONRY

PROPERTY COVERAGE (Business Income is included as an Additional Coverage not subject to the limits below, please refer to your policy and endorsements for coverage details and limitations)

Prem. No.	Bldg. No.	Coverage	Limits of Insurance
001	001	BUSINESS PERSONAL PROPERTY	\$ 20,000
002	001	BUSINESS PERSONAL PROPERTY	\$ 79,500
003	001	BUSINESS PERSONAL PROPERTY	\$ 45,000
004	001	BUSINESS PERSONAL PROPERTY	\$ 64,000
005	001	BUSINESS PERSONAL PROPERTY	\$ 59,500
006	001	BUSINESS PERSONAL PROPERTY	\$ 15,500
008	001	BUSINESS PERSONAL PROPERTY	\$ 29,000
009	001	BUSINESS PERSONAL PROPERTY	\$ 20,000
011	001	BUSINESS PERSONAL PROPERTY	\$ 64,500
012	001	BUSINESS PERSONAL PROPERTY	\$ 37,000
013	001	BUSINESS PERSONAL PROPERTY	\$ 15,500
DEDUCTIBLE:		\$ 250 In Any One Occurrence	
		\$ 500 Optional Coverage Deductible (Section I, D. Deductibles 2.)	

AUTOMATIC INCREASE: Building Coverage Shall Be Increased Annually.  
 Personal Property Coverage Shall Be Increased Annually.

MORTGAGE HOLDERS: NONE

PROPERTY OPTIONAL COVERAGES

Coverage	Additional Limits of Insurance INCLUDED
COMMERCIAL PROTECTOR COVERAGE EXTENSION	

PROPERTY OPTIONAL COVERAGES - Location Level - These Limits of Insurance apply in addition to those found in the COMMERCIAL PROTECTOR

Prem. No.	Bldg. No.	Coverage	Additional Limits of Insurance
001	001	EMPLOYEE DISHONESTY	\$ 50,000
001	001	MONEY AND SECURITIES	
		INSIDE THE PREMISES	\$ 10,000
		OUTSIDE THE PREMISES	\$ 2,000

44-98 (06/04)

**RENEWAL**

**COMMERCIAL PROTECTOR COVERAGE FORM DECLARATIONS (Continued)  
BUSINESSOWNERS COVERAGE FORM DECLARATIONS**

**PROPERTY OPTIONAL COVERAGES – Location Level – These Limits of Insurance apply in addition to those found in the COMMERCIAL PROTECTOR**

Prem. No.	Bldg. No.	Coverage	Additional Limits of Insurance
001	001	VALUABLE PAPERS	\$ 60,000
002	001	EMPLOYEE DISHONESTY	\$ 50,000
002	001	VALUABLE PAPERS	\$ 5,000
003	001	EMPLOYEE DISHONESTY	\$ 50,000
003	001	VALUABLE PAPERS	\$ 5,000
004	001	EMPLOYEE DISHONESTY	\$ 50,000
004	001	VALUABLE PAPERS	\$ 10,000
005	001	EMPLOYEE DISHONESTY	\$ 50,000
005	001	VALUABLE PAPERS	\$ 15,000
006	001	EMPLOYEE DISHONESTY	\$ 50,000
006	001	VALUABLE PAPERS	\$ 5,000
008	001	EMPLOYEE DISHONESTY	\$ 50,000
008	001	VALUABLE PAPERS	\$ 5,000
009	001	EMPLOYEE DISHONESTY	\$ 50,000
009	001	VALUABLE PAPERS	\$ 5,000
010	001	VALUABLE PAPERS	\$ 5,000
011	001	EMPLOYEE DISHONESTY	\$ 50,000
011	001	VALUABLE PAPERS	\$ 10,000
012	001	EMPLOYEE DISHONESTY	\$ 50,000
012	001	VALUABLE PAPERS	\$ 5,000
013	001	EMPLOYEE DISHONESTY	\$ 50,000
013	001	VALUABLE PAPERS	\$ 5,000

**LIABILITY AND MEDICAL PAYMENTS COVERAGE**

Except for Fire Legal Liability, each paid claim for the following coverages reduces the amount of insurance we provide during the applicable annual period. Please refer to Paragraph D.4. of the Section II LIABILITY of the COMMERCIAL PROTECTOR COVERAGE FORM (BUSINESSOWNERS COVERAGE FORM).

Coverage	Limits of Insurance
LIABILITY AND MEDICAL EXPENSES	\$ 1,000,000 Per Occurrence
MEDICAL EXPENSES	\$ 5,000 Per Person
DAMAGE TO PREMISES RENTED TO YOU	\$ 500,000 Any One Fire or Explosion
<b>AGGREGATE LIMITS</b>	
BODILY INJURY OR PROPERTY DAMAGE UNDER PRODUCTS/COMPLETED OPERATIONS HAZARD	\$ 2,000,000
ALL OTHER INJURY OR DAMAGE (INCLUDING MEDICAL EXPENSES)	\$ 2,000,000

**LIABILITY OPTIONAL COVERAGES**

Coverage	Limits of Insurance
EMPLOYEE BENEFITS LIABILITY	
EACH EMPLOYEE	\$ 1,000,000
EMPLOYEE BENEFITS AGGREGATE LIMIT	\$ 3,000,000
RETROACTIVE DATE 07/11	
DEDUCTIBLE \$0 EACH EMPLOYEE	
HIRED AUTO LIABILITY	INCLUDED
NON-OWNED AUTO LIABILITY	INCLUDED

44-98 (06/04)

**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

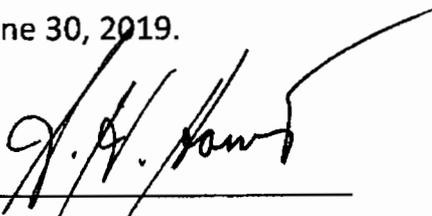
WHEREAS, the Public Defender Program has requested such approval from the New Hampshire Bar Association; and

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, 2017 through June 30, 2019.

7/20/17

Date



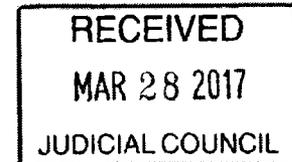
Scott Harris, President-Elect

# 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 30, 2017

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. Over the course of those years, New Hampshire Public Defender has worked continuously to earn the confidence placed in it by the Judicial Council to carry out our 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 15, 2017. Should NHPD be awarded the contract, you have my promise that we will work to preserve and enhance our 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,

A handwritten signature in black ink, appearing to read "Randy Hawkes". The signature is written in a cursive style with a long horizontal stroke at the end.

Randy Hawkes  
Executive Director

Enclosure

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 2018 AND 2019

submitted to

THE NEW HAMPSHIRE JUDICIAL COUNCIL

by

THE NEW HAMPSHIRE PUBLIC DEFENDER

March 30, 2017

**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@nh.gov](mailto:Sarah.Blodgett@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](mailto:rhawkes@nhpd.org)

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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 non-profit entity, our concomitant duty is 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. We undertake a conscientious review of those rules and scrupulously analyze their applicability to individual cases in order to maximize the number of court-appointed cases we can accept.

Upon the effective date of July 1, 2017 (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 9000 open and active cases, and will be prepared to assume responsibility for the anticipated 30,000 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 NHPD has proudly fulfilled that role. In recognition of New Hampshire Public Defender's forty years of service to the State and to the cause of justice, the New Hampshire Bar Association honored NHPD in 2013. The Program has never been content to rest on its laurels, however. In the coming biennium NHPD will continue to maintain its tradition of quality advocacy while extending its availability to even more citizens, 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 Columbia Casualty Company. Property and casualty insurance is provided through Peerless Insurance.

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 Green & Utter 764 Chestnut Street , Manchester, NH 03104
(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 Reis 100 Central Avenue, 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 all of the business and affairs of the Corporation.

The Program employs a total of 213 employees, 120 of whom are attorneys who provide direct representation in appointed cases. The balance of the staff consists of investigators, legal secretaries, receptionists, and information technology specialists. 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. FMLA) 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, constitutional 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 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 30,000 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, a director of administration and finance, 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:

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

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. Pursuant to NH Circuit Court – District Division Rules, defendants can request counsel prior to arraignment. District Division Clerks send appointment paperwork to NHPD within 24 hours of a request being approved. The Superior Court appoints NHPD for qualifying applicants immediately upon approval of a request for counsel.

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 expand state-wide, more NHPD lawyers will participate 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 almost all indigent criminal defendants facing homicide charges in New Hampshire Courts. 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.

### 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 2018 or 2019, 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 potential respondents in these proceedings.

### Appellate Representation

NHPD's Appellate Defender office employs three permanent, full-time appellate attorneys. One additional 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 particular 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 observes court appearances of all attorneys in the office, co-counsels 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.

The Public Defender Program offers a three-day, in-house trial skills training program to its attorneys at least twice per year. Each session is attended by up to eight public defender attorneys. The sessions are taught by senior attorneys and alumni of the Public Defender Program. These intensive programs are designed to ensure that our attorneys develop a mastery of the basic building blocks of skilled courtroom advocacy.

## 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 Director of Finance and Administration in conjunction with the Executive Director. 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 we accept every possible appointment and remain in every case through disposition.

In calendar 2016 NHPD handled approximately 88% of New Hampshire's indigent defense caseload, including 90% of the serious felonies, 83% of felonies, 89% of misdemeanors, 91% of juveniles, 93% of VOPs, 94% of parole violations, and 95% of sentence-related matters. In addition, NHPD fielded nearly 1600 calls from citizens seeking advice.

The following statistics document the growth in NHPD's caseload through the years.

<b>Year</b>	<b>Cases opened by NHPD</b>	<b>Number of FTE Attorneys on Staff</b>	<b>Cases Opened per Attorney per Year</b>
Calendar 1990	8,544	46.0	185
Calendar 2001	17,670	75.8	233
Calendar 2002	20,432	82.7	247
Calendar 2003	21,972	86.5	254
Calendar 2004	22,952	86.8	264
Calendar 2005	24,211	96.3	251
Calendar 2006	25,520	94.0	271
Calendar 2007	25,975	99.9	260
Calendar 2008	27,951	107.9	259
Calendar 2009	28,213	113.4	249
Calendar 2010	27,763	113.3	245
Calendar 2011	27,086	110.1	246
Calendar 2012	27,597	110.4	250
Calendar 2013	29,158	110.9	262
Calendar 2014	29,451	111.1	265
Calendar 2015	30,614	112.1	272
Calendar 2016	29,997	112.0	267

NHPD never stops thinking 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 has utilized attorneys more efficiently and saved on travel expenses. The Program 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, rather than purchasing code books. By investing in technology in the current biennium, the program assures itself of savings in the coming biennium and for years to come.

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 "2014 Public Sector & Public Interest Attorney Salary Report", NHPD attorney salaries comport with the national median and national average for public defenders.

A report prepared by the United States Department of Justice entitled "Census of Public Defender Offices, 2007" underscored the cost-effectiveness of the New Hampshire Public Defender Program's operations. The report confirmed that New Hampshire's public defender expenditures were below the national median when considered as a percentage of overall state judicial and legal expenditures in those jurisdictions with statewide public defender programs in place (13.1% vs. 14.5%).

NHPD operates with a minimal management structure. The Justice Department's census 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. 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
- Marie Dokoupil, Director of Finance and Administration
- David Rothstein, Deputy Director
- John Newman, 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.

Four 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 John Newman**

Both of the Deputy Directors have substantial experience in all facets of indigent defense, enabling them to share responsibility for the general 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.

#### **Director of Finance and Administration, Marie Dokoupil**

The Director of Finance and Administration oversees financial and bookkeeping operations, human-resource and personnel-related activities. The Director of Finance and Administration manages the administrative operations in our branch locations and directly supervises the Office Administrators who staff our separate statewide offices. She hires support staff, negotiates rents, works with the human resources manager to administer the program's health care plans, and ensures the Program's compliance with State and Federal employment and financial disclosure laws.

#### **Investigations and Intern Director, 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. In addition to these responsibilities, the Investigations Director also manages the Program's conflict avoidance measures in homicide cases.

#### **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 in a particular case 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 - Tracy Scavarelli, Managing Attorney, 2015 to present.  
Joined NHPD in 2000  
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 - Marcie Hornick, Managing Attorney, 2008 to present.  
Joined NHPD in 2003.  
University of Maine School of Law
  
- Nashua Office – Amanda Steehuis, Managing Attorney, 2016 to present.  
Joined NHPD in 2008.  
Cornell Law School
  
- Newport Office – Jennifer Cohen, Managing Attorney, 2015 to present.  
Joined NHPD in 2000.  
Fordham 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. 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:

<b>Office Location</b>	<b>Serving the Following Counties</b>	<b>Minimum Number of Attorneys</b>
Appellate Defender	Statewide	3
Concord	Merrimack	15
Dover	Strafford	10
Keene	Cheshire	7
Laconia*	Belknap, Carroll*	10
Littleton	Coos, Grafton	3
Manchester	Hillsborough	22
Nashua	Hillsborough	19
Newport	Sullivan	3
Orford	Grafton	5
Stratham	Rockingham	19
	<b>Total</b>	<b>116</b>

\*NHPD plans to open a new office, with at least two attorneys, in Carroll County in FY18.

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 secretary for every four 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 9000 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 1600 open cases in Rockingham County Courts
- Approximately 1300 open cases in Merrimack County Courts
- Approximately 500 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 400 open cases in Grafton County Courts
- Approximately 200 open cases in Coos County Courts
- Approximately 200 cases in Sullivan County Courts
- Approximately 100 open indigent appeals in The New Hampshire Supreme Court

NHPD attorneys who have previously been appointed to those cases will continue their efforts on their clients' behalf.

After July 1, 2017, the New Hampshire Public Defender will configure and maintain its staffing in order 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, Stratham, Dover, and Keene. The Program will continue to operate those offices in the next biennium. Additionally, the Program is currently seeking office space in Ossipee, where NHPD plans to open and operate a new office in FY18 to better serve the Courts and citizens of Carroll County.

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. At least twice per year the Program conducts an in-house, three-day, trial-skills program that is open to attorneys of all experience levels. Program attorneys are 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. In-office trainings contemplated for the coming biennium include supervisor training for managers, compassion-fatigue training for all staff, document processing and caseload management systems 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 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 the New Hampshire Reports and Revised Statutes Annotated. The office libraries also have 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 about 700 pages long, the Guide has over 50 chapters devoted to the various aspects of criminal practice in New Hampshire, from bail hearings, to evidence, to sentencing. The newly edited, updated and revised Practice Guide will be available in May 2017. The Guide is also provided, free of charge, to attorneys approved by the Judicial Council to provide indigent defense services on a contractual basis. It is available electronically.

NHPD continues to provide improved digital resources to attorneys while saving money at the same time. Historically, the program has 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 Rules Professional Responsibility. Because the Codes and Rules are available through Lexis, and because Wi-Fi is now accessible in all State Courts, 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 more powerful communication and research tool for lawyers at approximately one-third the price of 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 necessary to preparing an adequate defense.

NHPD also 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.

## **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 new 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 to minimize the number of cases in which withdrawal is necessary in a number of ways. 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.

## **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 will forward a copy to the Executive Director, along with including 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. The attorney reviews the complaint, identifies specific allegations of misconduct, and responds to each. The attorney's response letter conforms to a format consistent with a "sample response" letter that is provided to the attorney. When the attorney has prepared a draft response, a copy is provided to the Executive Director who will review 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 Edwin Kelly  
Chief Administrative Judge, New Hampshire Circuit Court  
45 Chenell Drive, Suite 2  
Concord, NH 03301  
603-271-6418

County Attorney Scott Murray  
Merrimack County Attorney  
32 Clinton Street  
Concord, NH 03301  
603-271-6407

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

### **Cost Proposal**

State Fiscal Year 2018:	July 1, 2017	\$10,594,859
	January 1, 2018	\$10,594,860
	Total:	\$21,189,719
State Fiscal Year 2019:	July 1, 2018	\$11,107,588
	January 1, 2019	\$11,107,589
	Total:	\$22,215,177

Notwithstanding RFP Term 3.2.2 which states that “...in no event shall the total of payments hereunder exceed the amounts appropriated by the State for Fiscal Years 2018 and 2019”, if the Judicial Council receives additional funds beyond its biennial operating budget to defray unanticipated defense costs related to increased funding for law enforcement (e.g. pending SB 131), NHPD’s FY18-19 appropriation can be augmented at the discretion of the Judicial Council and upon terms mutually agreed upon by NHPD and the Judicial Council.

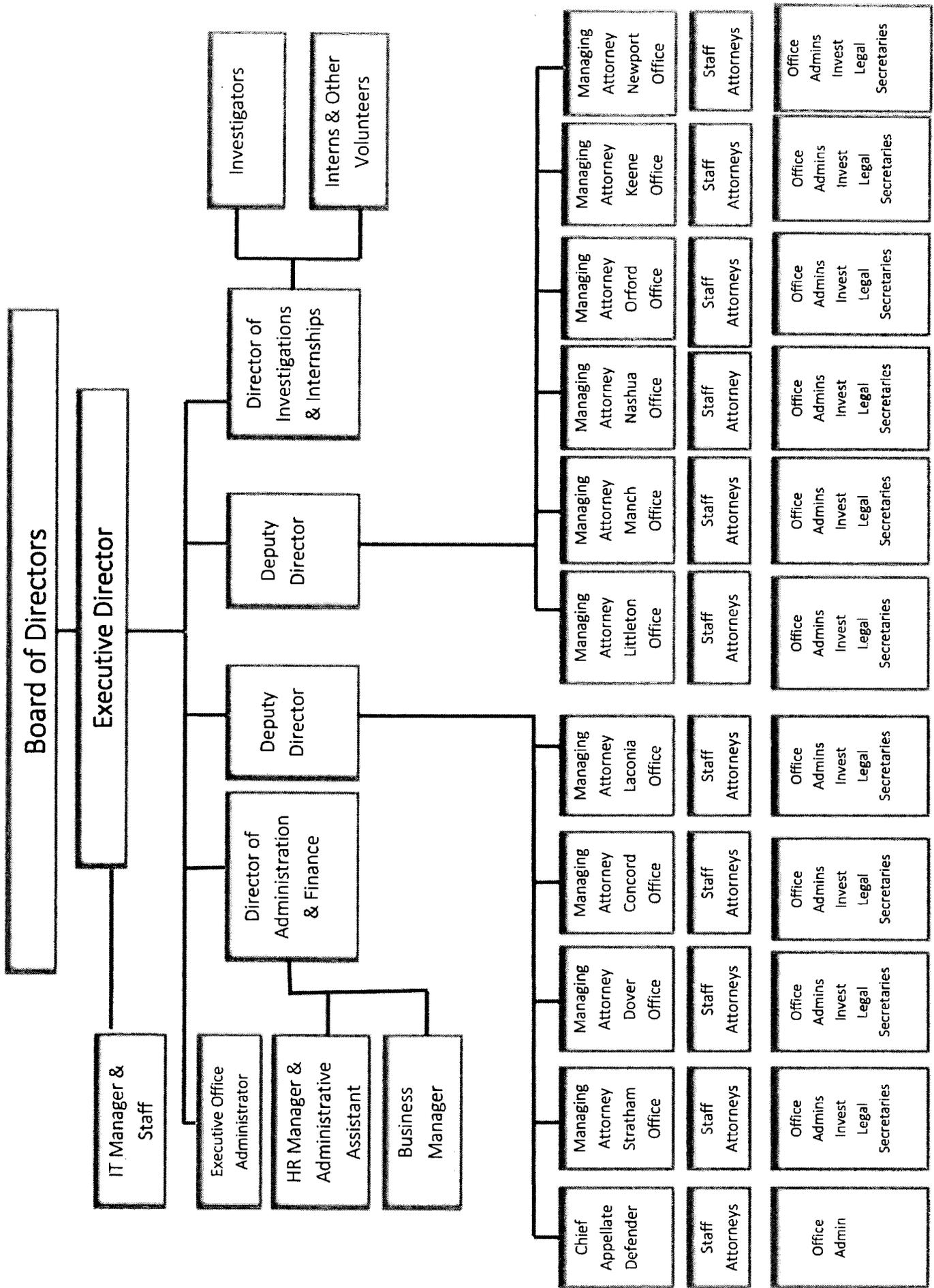
# Appendix A

<b>Last Name First Name</b>	<b>Title</b>	<b>Home Department</b>
Trimarchi, Cheryl	ACCTG ASST	Administration
Hart, Cheryl L.	ACCTG MGR	Administration
Lambert, Deborah	ADMIN ASST	Administration
Hawkes, Mary B	DEP DIR	Administration
Newman, John P	DEP DIR	Administration
Rothstein, David M	DEP DIR	Administration
Dokoupil, Marie	DFA	Administration
Hawkes, Blaine R	EX DIR	Administration
Mulrooney, Jillian	HR MGR	Administration
Beckwith, Devon C	IT	Administration
Berger, Christopher	IT	Administration
Robillard, Anthony	IT	Administration
Zalegowski, Christopher	IT MGR	Administration
Blair, Barbara L.	OA	Administration
Barnard, Thomas	ATTY	Appellate
Hausman, Stephanie	ATTY	Appellate
Johnson, Christopher	ATTY	Appellate
List, Christine	ATTY	Appellate
Dudley, Melissa	OA	Appellate
Pirkey, Andrea	OFFA	Appellate
Greenwaldt, Elizabeth A	OA	CCA
Michaud, Rebecca	OA	CCA
Clemans, Jeremy	ATTY	Concord
Cox Pelletier, Kathryn	ATTY	Concord
Davis, Robin A.	ATTY	Concord
De Vorse, Megan	ATTY	Concord
Flinchbaugh, Catherine J.	ATTY	Concord
Hendricks, David	ATTY	Concord
Kinne, Hanna K	ATTY	Concord
Newman, Margot Elenah	ATTY	Concord
O'Connell, Aileen	ATTY	Concord
Pothen, Julia	ATTY	Concord
Scavarelli, Tracy A	ATTY	Concord
Sisti, Emma	ATTY	Concord
Spottswood, Eleanor	ATTY	Concord
Swegart, Daniel	ATTY	Concord
Uhouse, Jennifer	ATTY	Concord
Vitale, Alexander	ATTY	Concord
Arsenault, J Thomas	INV	Concord
Bissonnette, Amanda J	INV	Concord
Mongeau, Daisy	INV	Concord
Shephard, Pamela	OA	Concord
Johnson, Doreene	OFFA	Concord
Barton, Nicole	SEC	Concord
Blackman, Wendy	SEC	Concord

Duguay, Jay	ATTY	Littleton
Hornick, Martha	ATTY	Littleton
Wellins, Chad	ATTY	Littleton
Boutin, Arthur	INV	Littleton
Whitcomb, Denise M	OA	Littleton
Humphreys, Christine M	SEC	Littleton
Ain, Andrew L.	ATTY	Manchester
Albert, Gregory	ATTY	Manchester
Bonito, Andrea M	ATTY	Manchester
Cessna, Matthew	ATTY	Manchester
Civale, Brian	ATTY	Manchester
Dominguez, Mariana	ATTY	Manchester
Hamman, Michael	ATTY	Manchester
Jefferson, Julian	ATTY	Manchester
Kossick, Kimberly A	ATTY	Manchester
Maynard, Callan	ATTY	Manchester
McCarthy, Delia	ATTY	Manchester
Mousseau, Cynthia	ATTY	Manchester
O'Donnell, Shelagh	ATTY	Manchester
Pisan, Robin	ATTY	Manchester
Raymond, Eric L	ATTY	Manchester
Rizzo, Jillian Leigh	ATTY	Manchester
Robidas, Kyle David	ATTY	Manchester
Rothman, Sarah	ATTY	Manchester
Russell, Todd R	ATTY	Manchester
Schultz, William J	ATTY	Manchester
Sheehan, Ashley	ATTY	Manchester
Swales, Robert	ATTY	Manchester
Baker, Ryan	INV	Manchester
Freyler, William C	INV	Manchester
Liamos, Jared	INV	Manchester
Porter, Michael	INV	Manchester
Yahnian, Christen	INV	Manchester
Minahan, Nanette	OA	Manchester
Genest, Donald L	OFFA	Manchester
Mathews, Charlene M	OFFA	Manchester
Bower, Laura	SEC	Manchester
Deboe, Trina	SEC	Manchester
Foote, Ann M	SEC	Manchester
Levesque, Darlene L	SEC	Manchester
Salvato, Cody	SEC	Manchester
Soares, Debra	SEC	Manchester
Amorin, Sarah	ATTY	Nashua
Borchardt, Paul	ATTY	Nashua
Davidow, Michael E	ATTY	Nashua
Donadio, Daniel	ATTY	Nashua

Clayman, Howard A	ATTY	Stratham
Dreher, Philip M	ATTY	Stratham
DuPont, Debra	ATTY	Stratham
Forciniti, Eliana	ATTY	Stratham
Guilmette, Kristen	ATTY	Stratham
Hanson, Sydney	ATTY	Stratham
Hurgin, Marta A	ATTY	Stratham
Kiers, Larissa	ATTY	Stratham
Loyal, Alexander	ATTY	Stratham
Malfitani, Joseph	ATTY	Stratham
McNicoll, Matthew	ATTY	Stratham
Newkirk, Brett	ATTY	Stratham
Nye, Julia M	ATTY	Stratham
O'Keefe, Kevin	ATTY	Stratham
Prusiner, Lauren	ATTY	Stratham
Purvin-Dunn, Caitlin	ATTY	Stratham
Reis, James	ATTY	Stratham
Witt, Tara L	ATTY	Stratham
Hanglin, Pamela W	INV	Stratham
Miller, Kathryn	INV	Stratham
Morgan, Sarah A	INV	Stratham
Rodriguez, Bonnie J	INV	Stratham
Comeau, Joan M	OA	Stratham
Beckwith, Tia	OFFA	Stratham
Caulmare, Dorothy	SEC	Stratham
Dutka, Keelie	SEC	Stratham
LeTarte, Janet M	SEC	Stratham
Marston, Lisa L	SEC	Stratham
Skiba, Natica	SEC	Stratham
Stanin, Katelyn	SEC	Stratham

# Appendix B



# Appendix C

**NEW HAMPSHIRE PUBLIC DEFENDER**  
**FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED JUNE 30, 2016 AND 2015**  
**TOGETHER WITH**  
**INDEPENDENT AUDITOR'S REPORT**

# Dugdale, Livolsi & Wood, P.C.

CERTIFIED • PUBLIC • ACCOUNTANTS

September 15, 2016

## 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, 2016 and 2015, 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.

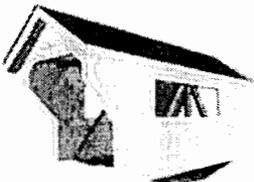
An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or 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, 2016 and 2015, 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.*



**NEW HAMPSHIRE PUBLIC DEFENDER**  
**STATEMENTS OF FINANCIAL POSITION**  
**JUNE 30, 2016 and 2015**

**Assets**

	<b><u>2016</u></b>	<b><u>2015</u></b>
<b><u>Assets</u></b>		
Cash	\$ 1,381,015	\$2,404,951
Government Contract Receivable	20,127,961	-
Deposits and Other Receivables	76,817	101,502
Prepaid Expenses	185,432	182,922
Equipment, Leasehold Improvements and Property Held Under Capital Leases, Net of Accumulated Depreciation	486,483	656,691
Law Library	64,523	68,243
<b>TOTAL ASSETS</b>	<b>\$22,322,231</b>	<b>\$3,414,309</b>

**Liabilities and Net Assets**

**Liabilities**

Accounts Payable – State of New Hampshire	\$ -	\$ 1,236,125
Accounts Payable	46,454	197,219
Obligations under Capital Lease	94,653	55,760
Salaries Payable	190,700	576,900
Payroll Taxes Payable	13,960	42,610
Other Accrued Expenses	57,110	56,886
Accrued Annual Leave	453,725	422,745
<b>Total Liabilities</b>	<b>\$ 856,602</b>	<b>2,588,245</b>

**Net Assets - Unrestricted**

	<b>786,662</b>	<b>101,130</b>
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**Temporarily Restricted Net Assets**

State of New Hampshire – Contract	20,127,961	-
State of New Hampshire – Property	551,006	724,934
<b>Total Temporarily Restricted</b>	<b>20,678,967</b>	<b>724,934</b>

**Total Net Assets**

	<b>21,465,629</b>	<b>826,064</b>
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**TOTAL LIABILITIES AND NET ASSETS**

	<b>\$22,322,231</b>	<b>\$3,414,309</b>
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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, 2016**

	Unrestricted			Temporarily	Total
	Services	Admin	Total	Restricted	
<b>Revenue</b>					
Government Contract	\$18,257,697	\$ 1,284,013	\$ 19,541,710	\$20,127,961	\$39,669,671
Interest Income	-	7,518	7,518	-	7,518
<b>Total Revenue</b>	<b>18,257,697</b>	<b>1,291,531</b>	<b>19,549,228</b>	<b>\$20,127,961</b>	<b>39,677,189</b>
<b>Expenses</b>					
Personal Services	11,729,233	887,436	12,616,669	-	12,616,669
Payroll Taxes	890,001	67,445	957,446	-	957,446
Fringe Benefits	2,313,504	173,050	2,486,554	-	2,486,554
Insurance – Worker’s Compensation	60,735	4,437	65,172	-	65,172
Rent and Storage	1,096,609	74,459	1,171,068	-	1,171,068
Telephone	248,161	18,679	266,840	-	266,840
Travel	277,328	14,596	291,924	-	291,924
Repairs & Maintenance	114,464	8,616	123,080	-	123,080
Insurance – Malpractice & General	36,289	1,122	37,411	-	37,411
Training	58,761	1,817	60,578	-	60,578
Office Supplies	56,713	4,269	60,982	-	60,982
Other Office Expenses	243,950	20,499	264,449	-	264,499
Library	33,825	1,362	35,187	-	35,187
Utilities	116,379	8,759	125,138	-	125,138
Dues & Licenses	67,254	2,660	69,914	-	69,914
Contract Services	56,834	-	56,834	-	56,834
Professional Services	84,757	2,325	87,082	-	87,082
Interest	2,280	-	2,280	-	2,280
Depreciation	255,314	-	255,314	-	255,314
<b>Total Expenses</b>	<b>17,742,391</b>	<b>1,291,531</b>	<b>19,033,922</b>	<b>-</b>	<b>19,033,922</b>
<b>Change in Net Assets</b>	<b>\$ 515,306</b>	<b>\$ -</b>	<b>515,306</b>	<b>20,127,961</b>	<b>20,643,267</b>
<b>Net Assets – Beginning</b>			<b>101,130</b>	<b>724,934</b>	<b>826,064</b>
Return to State of New Hampshire - Unused Grant			-	-	-
Depreciation			255,314	(255,314)	-
<b>Capital Expenditures</b>					
Equipment, Improvements and Law Library			(24,259)	20,557	(3,702)
Capital Leases			(60,829)	60,829	-
<b>Net Assets - Ending</b>			<b>\$ 786,662</b>	<b>\$20,678,967</b>	<b>\$21,465,629</b>

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, 2015**

	Unrestricted			Temporarily Restricted	Total
	Services	Admin	Total		
<b>Revenue</b>					
Government Contract	\$18,285,471	\$1,256,239	\$19,541,710	\$(19,541,710)	-
Interest Income	-	8,598	8,598	-	8,598
<b>Total Revenue</b>	<b>18,285,471</b>	<b>1,264,837</b>	<b>19,550,308</b>	<b>(19,541,710)</b>	<b>8,598</b>
<b>Expenses</b>					
Personal Services	11,893,467	883,188	12,776,655	-	12,776,655
Payroll Taxes	950,963	70,655	1,021,618	-	1,021,618
Fringe Benefits	1,873,800	146,193	2,019,993	-	2,019,993
Insurance – Worker’s Compensation	54,330	4,215	58,545	-	58,545
Malpractice and General	38,669	992	39,661	-	39,661
Contract Services	-	-	-	-	-
Rent and Storage	1,073,405	75,706	1,149,111	-	1,149,111
Telephone	218,840	16,900	235,740	-	235,740
Travel	312,669	13,028	325,697	-	325,697
Repairs & Maintenance	141,674	10,992	152,666	-	152,666
Training	41,333	1,722	43,055	-	43,055
Office Supplies	71,578	5,554	77,132	-	77,132
Other Office Expenses	332,001	20,499	352,500	-	352,500
Library	36,221	1,525	37,746	-	37,746
Utilities	138,281	8,768	147,049	-	147,049
Dues & Licenses	11,316	2,500	13,816	-	13,816
Professional Services	81,411	2,400	83,811	-	83,811
Depreciation	295,118	-	295,118	-	295,118
Interest	475	-	475	-	475
<b>Total Expenses</b>	<b>17,565,551</b>	<b>1,264,837</b>	<b>18,830,388</b>	<b>-</b>	<b>18,830,388</b>
<b>Change in Net Assets</b>	<b>\$ 719,920</b>	<b>\$ -</b>	<b>719,920</b>	<b>(19,541,710)</b>	<b>(18,821,790)</b>
<b>Net Assets – Beginning</b>			<b>529,033</b>	<b>20,354,946</b>	<b>20,883,979</b>
Return to State of New Hampshire - Unused Grant			(1,236,125)	-	(1,236,125)
Depreciation			295,118	(295,118)	-
<b>Capital Expenditures</b>					
Equipment, Leasehold Improvements and Law Library			(145,987)	145,987	-
Capital Leases			(60,829)	60,829	-
<b>Net Assets - Ending</b>			<b>101,130</b>	<b>724,934</b>	<b>826,064</b>

See Notes to Financial Statements.

**NEW HAMPSHIRE PUBLIC DEFENDER**  
**STATEMENTS OF CASH FLOWS**  
**FOR THE YEARS ENDED JUNE 30, 2016 and 2015**

	<u>2016</u>	<u>2015</u>
<b><u>Operating Activities</u></b>		
Change in Net Assets	\$20,643,267	\$(18,821,790)
<b>Adjustments to Reconcile Net Support to Net Cash Flows Provided by (Used In) Operating Activities</b>		
Depreciation	255,314	295,118
<b>Changes in Assets and Liabilities</b>		
(Increase) Decrease in: Government Contract Receivable	(20,127,961)	19,541,710
Deposits and Other Receivables	24,685	(58,906)
Prepaid Expenses	(2,510)	(32,097)
Increase (Decrease) in: Accounts Payables	(1,386,872)	(133,866)
Accruals	<u>(383,646)</u>	<u>647,724</u>
<b>Net Cash Flows Provided by (Used In) Operating Activities</b>	<u>(977,723)</u>	<u>410,177</u>
<b><u>Investing Activities</u></b>		
Cash (Used In) Purchase of Equipment and Leasehold Improvements	<u>(24,277)</u>	<u>(145,987)</u>
<b><u>Financing Activities</u></b>		
Cash (Used In) Repayment of Capital Lease Obligation	<u>(21,936)</u>	<u>(5,069)</u>
Increase (Decrease) in Cash	(1,023,936)	259,121
Cash at Beginning of Year	<u>2,404,951</u>	<u>2,145,830</u>
<b>Cash at End of Year</b>	<b><u>\$ 1,381,015</u></b>	<b><u>\$ 2,404,951</u></b>
<b><u>Supplemental Disclosures</u></b>		
Interest Paid	\$ 2,280	\$ 475
Non-Cash Investing and Financing Transactions:		
Capital Lease obligation incurred for the acquisition of Equipment	<u>\$ 60,829</u>	<u>\$ 60,829</u>

See Notes to Financial Statements.

**NEW HAMPSHIRE PUBLIC DEFENDER**  
**NOTES TO FINANCIAL STATEMENTS**  
**FOR ITS YEARS ENDED JUNE 30, 2016 and 2015**

**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.

**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.

**NEW HAMPSHIRE PUBLIC DEFENDER**  
**NOTES TO FINANCIAL STATEMENTS (CONTINUED)**  
**FOR ITS YEARS ENDED JUNE 30, 2016 and 2015**

**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 \$500 is capitalized and depreciated using the straight-line method over the assets estimated useful life as follows:

Computer and Office Equipment	3 Years
Property Held Under Capital Leases	3 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 and Leasehold Improvements:**

Computer and Office Equipment	\$ 995,760	\$ 976,228
Leasehold Improvements	1,035,432	1,030,687
Less Accumulated Depreciation	<u>(1,625,814)</u>	<u>(1,400,915)</u>
Net Equipment and Leasehold Improvements	<u>405,378</u>	<u>606,000</u>

**Capital Lease:**

Property Held Under Capital Lease	121,568	60,829
Less Accumulated Depreciation	<u>(40,553)</u>	<u>10,138</u>
Net Property Held Under Capital Lease	<u>81,015</u>	<u>50,691</u>
<b>Total</b>	<b><u>\$ 486,393</u></b>	<b><u>\$ 656,691</u></b>

Depreciation expense includes the depreciation of assets held under capital leases. Depreciation expense was \$255,314 and \$295,118 for its years ended June 30, 2016 and 2015.

**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.

**NEW HAMPSHIRE PUBLIC DEFENDER**  
**NOTES TO FINANCIAL STATEMENTS (CONTINUED)**  
**FOR ITS YEARS ENDED JUNE 30, 2016 and 2015**

<b>3. <u>Obligations Under Capital Lease</u></b>	<b><u>2016</u></b>	<b><u>2015</u></b>
Capital Lease Payable to Winthrop Resources Corporation Pursuant to a Master Lease for the acquisition of Omni Cubes.	\$ <u>94,653</u>	<u>\$55,760</u>

The Master Lease requires 60 monthly principle and interest payments of \$2,218 with interest imputed as 4.25%, secured by Omni Cubes.

In 2015, NHPD received approximately 50% of the equipment; accordingly the liability and asset represents 50% of the agreement. The remaining 50% was received in 2016.

Future Maturities of Capital Lease Obligations is as follows:

<u>As of June 30, 2016</u>	
2017	\$ 24,216
2018	24,216
2019	24,216
2020	24,216
2021	<u>7,627</u>
Total Gross Payments	104,491
Less amount representing interest	<u>9,838</u>
Total Principal	<u>\$ 94,653</u>

**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 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:

<u>Year Ending June 30, 2016</u>	<u>Total Estimated Annual Lease Commitments</u>
2017	\$991,531
2018	\$681,327
2019	\$431,589
2020	\$ 34,251

Rent expense, excluding storage, was \$1,170,308 and \$1,147,131 for its years ended 2016 and 2015, respectively.

**Equipment Leases** - The Company has several equipment lease agreements for its office equipment. The estimated future minimum lease payments are as follows:

<u>Year Ending June 30, 2016</u>	<u>Total Estimated Annual Lease Commitments</u>
2017	\$73,104
2018	\$71,972
2019	\$17,406

Equipment lease expense was \$99,059 and \$138,185 for its year ended 2016 and 2015, respectively.

**NEW HAMPSHIRE PUBLIC DEFENDER**  
**NOTES TO FINANCIAL STATEMENTS (CONTINUED)**  
**FOR ITS YEARS ENDED JUNE 30, 2016 and 2015**

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 \$453,725 and \$422,745 for its years ended June 30, 2016 and 2015.

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, 2016, 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, 2016 those years are 2013 through 2016.

7. **Concentrations:**

**Economic Dependency** - NHPD receives all its funding under a contract with the State of New Hampshire which expires on June 30, 2017. The future existence of NHPD is dependent upon the State renewing the contract. The contract has not yet been renewed.

**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, 2016 and 2015, the receivable is \$20,127,961 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 \$249,485 and \$248,515 for its years ended June 30, 2016 and 2015, respectively.

9. **Subsequent Events:**

Management has evaluated subsequent events through September 15, 2016, 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

# RANDY HAWKES

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## Professional Profile

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Career Public Defender. Twenty-five 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

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University of Maine School of Law  
J.D. 1992

University of Maine  
Bachelor of Arts Political Science 1989  
*Summa Cum Laude*  
*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
- Positively communicated NHPD's ethos 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

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2009 NH Bar Association's inaugural 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**



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 five Public Defender offices.
- Organize and conduct training for new and experienced attorneys.
- Develop and update litigation support resources.
- 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 and Director of Finance and Administration 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 of 100 pages each 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.

### **Representative Trainings and Presentations**

- Moderator, "Perspectives on Mooting," American Academy of Appellate Lawyers Spring 2017 Meeting.
- Panelist, "The Exchange," New Hampshire Public Radio, 2017.
- Developed and organized training on death-resulting drug prosecutions for state and federal defense attorneys.
- 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 topics such as Evidence, Trial Advocacy, Ethics, Appellate Advocacy, Constitutional Criminal Procedure, and Recent Supreme Court Cases.

### **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**

**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

## JOHN P. NEWMAN

### EDUCATION

J.D., University of Connecticut, Hartford, CT, *magna cum laude*, 1991  
B.A., Engineering, Harvard University, Cambridge, MA, 1984

### ADMITTED

State of New Hampshire  
United States District Court for the District of New Hampshire  
State of New York (resigned)  
Commonwealth of Massachusetts (resigned)  
District of Columbia (resigned)

### EXPERIENCE

12/13-Present *Deputy Director*  
**New Hampshire Public Defender, Concord, NH**

One of two Deputy Directors of the New Hampshire Public Defender Program: Oversee ten public defender offices throughout the state. Provide the managing attorneys with support on personnel, attorney supervision, conflict of interest, legal issues and court relations matters. In conjunction with the Executive Director, monitor staffing levels throughout the state and hire new attorneys on an annual basis. Represent attorneys as witnesses in the event an ineffective assistance of counsel claim is made. Oversee all homicide and sexually violent predator case defense teams. Prepare two statewide legal education trainings per year. Direct and oversee training of all new attorneys each fall and continuing on throughout the attorney's first year. Provide litigation support on ethics issues, and oversee litigation support teams in a number of other areas.

2/10-12/13 *Managing Attorney*  
**New Hampshire Public Defender, Manchester, NH**

Managed an office comprised of approximately twenty lawyers, six investigators and six support staff. Responsibilities included ensuring that every case the office receives is assigned to the appropriate lawyer, depending on the nature of the case and the experience level of the attorney. The office had a caseload of more than 1100 cases. My duties also included monitoring each lawyer to ensure that his or her representation met the high standards set by our organization. This included working with attorneys to resolve ethical, legal and trial practice issues. I also met with the district and superior court judges and clerks as

10/97-2/98 *Legal Assistant*  
**Greater Upstate Law Project, Albany, NY**

Researched and wrote memoranda on legal issues involving constitutional challenges to new welfare reform statutes. Gathered information from potential plaintiffs and drafted affidavits for use in a class action lawsuit.

12/96-9/97 *Assistant Appellate Defender*  
**Franklin Pierce Law Center, Concord, NH**

Researched, briefed, and argued criminal appeals to the New Hampshire Supreme Court for indigent defendants. Prepared and litigated habeas corpus petitions alleging ineffective assistance of trial counsel. Wrote memos and gave lectures to public defender trial attorneys regarding new developments in the law. Instructed law students in legal writing, research and appellate advocacy.

9/91-12/96 *Staff Attorney/Assistant Manager*  
**New Hampshire Public Defender, Manchester and Stratham**

Represented indigent criminal defendants at the state court level, including pretrial litigation, trial (jury and bench), sentencing, *habeas corpus*, and appeal. Conducted and supervised legal research, writing, investigation and litigation. Tried more than 25 cases to verdict before a jury. Duties as Assistant Manager in Stratham (from 1996 – 1997) included caseload review of all attorneys in office as well as supervision, training and evaluation of staff lawyers and law student interns. Presented at CLE seminars.

## **COMMUNITY SERVICE**

3/09-3/12 *Elected Representative*  
**Contoocook Valley School Board, Peterborough, NH**  
Vice Chair, 3/2011 – 3/2012  
Member, Negotiation Subcommittee, 3/2011 – 3/2012  
Chair, Budget and Property Committee, 8/2009 – 3/2011  
Member, Energy Committee 8/2009 - 3/2011

## **REFERENCES**

Furnished upon request.

## Resume of

**MARIE DOKOUPIL**

### PROFESSIONAL EXPERIENCE

**NEW HAMPSHIRE PUBLIC DEFENDER, Concord, NH • October 2016 – present**

*Director of Finance and Administration*

Oversee administrative and financial systems including finance, accounting, human resources, and physical infrastructure. Direct management responsibility includes accounting manager, human resource manager, and office administrators in eleven offices throughout the state.

**NEW ENGLAND HOMES FOR THE DEAF, Danvers, MA • April 2007 – September 2016**

Skilled Nursing Facility, Residential Care Facility and Independent Living (HUD)

*Director of Finance and Administration*

Responsible for full financial administration of the facility, including reimbursement and accounts receivable, accounts payable, payroll, budgeting, Internal and external reporting, oversee staff of five. Report to the Executive Director and the Finance Committee directly.

**MANCHESTER'S COMMUNITY COLLEGE, Manchester, NH • January 2005 - May 2008**

*Adjunct Faculty*

Courses (including online) taught: Capstone Research, Accounting II, Macroeconomics, Microeconomics, Fundamentals of Business Finance, and Business Law.

**D'YOUVILLE SENIOR CARE, Lowell, MA • August 2001- December 2003**

Non-profit continuum-of-care campus

*Accounting Manager/Business Office Manager*

Full management of the facility's accounting functions, reimbursement by all payors, accounts payable, accounts receivable, payroll. Oversaw staff of five.

**CONCORD CONSORTIUM, Concord, MA • July 1998 – March 2001**

Non-profit educational R&D organization

*Comptroller & Finance Associate*

All day-to-day accounting functions, including monthly close, federal and state contract cost monitoring; cost proposals to and contract reimbursement by funding agencies; cash-flow management; advisory role in foreign employment issues.

### FORMAL EDUCATION

*Master of Business Administration*, Southern New Hampshire University, Manchester, NH

*Master of Arts in Linguistics*, Brown University, Providence, RI

### PERSONAL

Monadnock Peer Support Group – Treasurer

# Appendix E

# The State of New Hampshire Circuit Court



Edwin W. Kelly  
*Administrative Judge*

David D. King  
*Deputy Administrative Judge*

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

March 22, 2017

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 Director Blodgett:

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. 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 regularly.

The Public Defender Program has a long history of providing reliable representation to indigent defendants and juveniles in delinquency cases. The program maintains high standards for the performance of its attorneys. The program actively monitors caseloads and ensures that their attorneys have the time and resources necessary to provide good-quality representation to clients. The attorneys fight hard for their clients' interests, but balance their zealous advocacy with a high degree of professionalism. When a public defender approaches the defense table with a client, the trial judge can rely on the attorney being well trained, knowledgeable, ethical, and prepared. In the rare instances when that has not been the case, the Public Defender Program's leadership has been responsive and swift in addressing our concerns.

From an administrative standpoint, the Courts benefit by having a public defender program that can provide the large majority of the representation needed by those charged with crimes who cannot afford to pay for their own attorney. In the past 12 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.

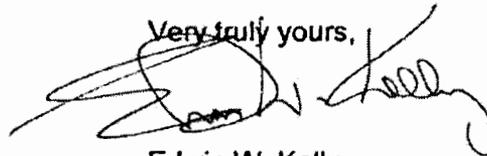
Support of the Public Defender Program  
Proposal to Provide Indigent Defense Services  
March 22, 2017

Page Two

All in all, the Public Defender has proved itself to be a responsible and credible partner in the criminal and juvenile justice systems in our State, and is worthy of the continued support of the Judicial Council in the process of selection of a service provider in the next two-year period.

If I can provide any additional information, please don't hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Edwin W. Kelly". The signature is written in a cursive style with a large, sweeping initial "E".

Edwin W. Kelly  
Administrative Judge

EWK:lc

c: Randy Hawkes

# OFFICE OF THE MERRIMACK COUNTY ATTORNEY

## ASSISTANT COUNTY ATTORNEYS

George A. Stewart  
David S. Rotman  
Susan N. Larrabee  
George B. Waldron  
Susan M. Venus  
John B. Weld  
Ashlie L. Hooper  
Marianne P. Ouellet  
Wayne P. Coull  
Cristina E. Brooks  
Joseph A. Cherniske  
Kristin I. Vartanian  
Meghan C. Hagaman  
Carley M. Ahern



## Scott W. Murray County Attorney

Four Court Street  
Concord, New Hampshire 03301-4336  
Telephone: (603) 228-0529 Fax: (603) 226-4447  
countyattorney@mcao.net

March 24, 2017

**Catherine J. Ruffe**  
DEPUTY COUNTY ATTORNEY

**OFFICE ADMINISTRATOR**  
Donna Barnett

**VICTIM/WITNESS PROGRAM**  
Karen J. Sotile  
Sarah L. Heath  
Jessica L. Clarke  
Jacqueline L. Lawrie

**INVESTIGATORS**  
Jen Adams  
Michael A. Russell

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

### RE:NH PUBLIC DEFENDER PROPOSAL TO PROVIDE INDIGENT DEFENSE SERVICES

Dear Director Blodgett:

I am writing in support of the proposal advanced by the New Hampshire Public Defender Program, that they continue to provide legal representation to indigent defendants. Executive Director Randy Hawkes has indicated that he intends to request approval from the Judicial Council. Accordingly, he has asked me to provide a letter of support for this effort. Because I believe that the public defenders do a very good job, I was delighted to accede to his request.

I have been a prosecutor in New Hampshire since January 1983. I currently serve as Merrimack County Attorney and was employed as Concord City Prosecutor prior to that. Over the years, I have had the opportunity to work with the Public Defender Office in a variety of settings. These interactions have included arraignments, probable cause hearings, pleas, jury and bench trials and negotiations with staff attorneys. They have also included discussions with managing attorneys relating to administrative concerns, court and office policies and legal issues.

Despite the inherently adversarial nature of our criminal justice system, my relationship with Public Defenders has been uniformly congenial and collegial. While staff attorneys strive zealously to advance the interest of their clients, they routinely comport themselves in a professional manner.

When concerns have been raised about a specific defense tactic or practice, I have found managing attorneys to be responsive to inquiries and always willing to engage in meaningful discussion.

I have had the opportunity on many occasions to compare Public Defender performance with that of privately retained attorneys. Based on these observations, I can report that the Public Defenders are often better able to identify relevant legal issues, realistically evaluate and assess cases, and craft pleadings which are clearly superior in both content and structure.

I should note that my support for the Public Defender Program is not totally without self interest. The reality is that we cannot have effective prosecution of criminal cases without the participation of competent defense attorneys, and the Public Defenders have a well established history of competence. Efficiency in the administration of court hearings is enhanced when opposing counsel are well informed and conscientious in preparation. This principle applies *a fortiori*, with the advent of the Felonies First initiative which has increased the burdens of Superior Court criminal practice. The processing of heavy criminal dockets is much smoother when both the prosecution and the defense are experienced and comfortable in addressing issues. In the end, the integrity of any criminal conviction is directly dependent upon defense counsel providing representation which is deemed legally effective.

For all of the foregoing reasons, I would urge the Judicial Council to support the Public Defender Program's bid to continue providing indigent defense services for the State of New Hampshire.

Please feel free to call me if I can provide any additional input.

Very Truly Yours.

A handwritten signature in black ink, appearing to read "Scott W. Murray". The signature is fluid and cursive, with a large initial "S" and "M".

Scott W. Murray  
Merrimack County Attorney

CC: Director Randy Hawkes



# 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 24, 2017

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

RE: Letter in Support of the 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 29 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,

A handwritten signature in cursive script that reads "Mary A. Barton".

Mary A. Barton  
Clerk of Court

# Appendix F

RENEWAL



EFFECTIVE DATE: 07/01/2016

Policy Number: CU 9081175	Prior Policy: 9081175
Billing Type: DIRECT BILL	
Coverage Is Provided In The PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured and Mailing Address: NEW HAMPSHIRE PUBLIC DEFENDER 10 FERRY STREET SUITE 425 CONCORD NH 03301	Agent: USI INSURANCE SERVICES LLC 75 JOHN ROBERTS RD BLDG C PORTLAND ME 04106-6964 ME 0410  Agent Code: 8110471      Agent Phone: (855)-874-0123

COMMERCIAL UMBRELLA LIABILITY COVERAGE PART DECLARATIONS

LIMITS OF INSURANCE

Each Occurrence Limit	\$ 3,000,000	Any One Occurrence or Offense Subject To The General Aggregate and Products/Completed Operations Aggregate Limits
Aggregate Limits	\$ 3,000,000	General Aggregate Limit
	\$ 3,000,000	Products/Completed Operations Aggregate Limit

SELF INSURED RETENTION

Self Insured Retention	\$ 10,000	Any One Occurrence Or Offense
------------------------	-----------	-------------------------------

UNDERLYING INSURANCE – Refer to Schedule of Underlying Insurance

PREMIUM

Minimum Premium	\$	100
Total Premium	\$	1,200

FORMS AND ENDORSEMENTS

Forms and Endorsements made a part of this policy:

Form Number	Description
14-114 - 0204	NEW HAMPSHIRE CHANGES
14-126 - 0204	AMENDMENT-LIQUOR LAW LIABILITY - FOLLOW FORM
14-140 - 0204	EXCL-ALL HAZARDS IN CONNECTION W/DESIGNATED PREMISES
14-148 - 1202	SCHEDULE OF UNDERLYING INSURANCE
14-155 - 0204	QUICK REFERENCE COMMERCIAL UMBRELLA LIAB COV PART
14-186 - 0204	EXCLUSION - FUNGI OR BACTERIA
14-203 - 0115	EXCLUSION OF CERTIFIED ACTS OF TERRORISM
14-210 - 0204	COMMERCIAL UMBRELLA LIABILITY COVERAGE FORM
14-242 - 0204	NUCLEAR ENERGY LIABILITY EXCLUSION
14-249 - 0204	EXCLUSION - SILICA
14-257 - 0509	EXCL-RECORDING & DISTRIBUTION OF MATERIAL VIOLATION
14-67 - 0204	DESIGNATED AUTO LIABILITY EXCLUSION
14-80 - 0204	EMPLOYEE BENEFITS LIABILITY - FOLLOW FORM
14-96 - 0204	EXCLUSION - PROFESSIONAL LIABILITY

14-211 (02/04)

INSURED COPY

RENEWAL



Forming a part of

Policy Number: CU 9081175	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: NEW HAMPSHIRE PUBLIC DEFENDER	Agent: USI INSURANCE SERVICES LLC
	Agent Code: 8110471      Agent Phone: (855)-874-0123

SCHEDULE OF UNDERLYING INSURANCE

Type of Insurance	Policy Number	Policy Period	Insurer
Businessowners Liability	BOP 9015132	07/01/2016 - 07/01/2017	LIBERTY MUTUAL
Limits of Liability:			
Each Occurrence and Each Person:			\$ 1,000,000
Aggregate - Products/Completed Operations Hazard:			\$ 1,000,000
Aggregate - Other Than Products/Completed Operations Hazard:			\$ 2,000,000

Includes Hired Auto/Nonowned Auto Liability

Type of Insurance	Policy Number	Policy Period	Insurer
Employers Liability	WC 9016635	07/01/2016 - 07/01/2017	LIBERTY MUTUAL
Limits of Liability:			
Bodily Injury Each Accident:			\$ 500,000
Bodily Injury by Disease Policy Limit:			\$ 500,000
Bodily Injury by Disease Each Employee:			\$ 500,000

Date Issued: 06/28/2016

RENEWAL



EFFECTIVE DATE: 07/01/2016

Policy Number: BOP9015132	Prior Policy: 9015132
Billing Type: DIRECT BILL	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured and Mailing Address: NEW HAMPSHIRE PUBLIC DEFENDER 10 FERRY STREET SUITE 425 CONCORD NH 03301	Agent: USI INSURANCE SERVICES LLC 75 JOHN ROBERTS RD BLDG C PORTLAND ME 04106-6964 ME 0410  Agent Code: 8110471      Agent Phone: (855)-874-0123

COMMERCIAL PROTECTOR COVERAGE FORM DECLARATIONS  
BUSINESSOWNERS COVERAGE FORM DECLARATIONS

In return for the payment of premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

POLICY PERIOD: From: 07/01/2016 To: 07/01/2017 at 12:01 AM Standard Time at your mailing address shown above.

FORM OF BUSINESS: CORPORATION

BUSINESS DESCRIPTION: LAWYERS OFFICE -

DESCRIPTION OF PREMISES

Prem. No.	Bldg. No.	Location Occupancy, Construction/Fire Protection
001	001	10 FERRY STREET SUITE 434 CONCORD NH 03301 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY
002	001	20 MERRIMACK ST MANCHESTER NH 03101 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY
003	001	1 WEST STREET KEENE NH 03431 LAWYERS OFFICE - EXCLUDING PROFESSIONAL LIABILITY JOISTED MASONRY

44-98 (06/04)

**RENEWAL**

**COMMERCIAL PROTECTOR COVERAGE FORM DECLARATIONS (Continued)  
BUSINESSOWNERS COVERAGE FORM DECLARATIONS**

**004 001 142 PORTSMOUTH AVE  
STRATHAM NH 03885  
LAWYERS OFFICE -  
EXCLUDING PROFESSIONAL LIABILITY  
FRAME**

**005 001 44 FRANKLIN STREET  
NASHUA NH 03064  
LAWYERS OFFICE -  
EXCLUDING PROFESSIONAL LIABILITY  
JOISTED MASONRY**

**006 001 134 MAIN ST  
LITTLETON NH 03561  
LAWYERS OFFICE -  
EXCLUDING PROFESSIONAL LIABILITY  
MASONRY NON-COMBUSTIBLE**

**008 001 408 UNION AVE  
LACONIA NH 03246  
LAWYERS OFFICE -  
EXCLUDING PROFESSIONAL LIABILITY  
JOISTED MASONRY**

**009 001 485 NH ROUTE 10  
ORFORD NH 03777  
LAWYERS OFFICE -  
EXCLUDING PROFESSIONAL LIABILITY  
FRAME**

**010 001 48 CENTRAL SQUARE  
STORAGE  
KEENE NH 03431  
LAWYERS OFFICE -  
EXCLUDING PROFESSIONAL LIABILITY  
JOISTED MASONRY**

**011 001 10 FERRY STREET  
SUITE 202  
CONCORD NH 03301  
LAWYERS OFFICE -  
EXCLUDING PROFESSIONAL LIABILITY  
JOISTED MASONRY**

**44-98 (06/04)**

RENEWAL

COMMERCIAL PROTECTOR COVERAGE FORM DECLARATIONS (Continued)  
 BUSINESSOWNERS COVERAGE FORM DECLARATIONS

012 001 15 FOURTH STREET  
 SUITE #3  
 DOVER NH 03820  
 LAWYERS OFFICE -  
 EXCLUDING PROFESSIONAL LIABILITY  
 JOISTED MASONRY

013 001 44 NORTH MAIN ST  
 NEWPORT NH 03773  
 LAWYERS OFFICE -  
 EXCLUDING PROFESSIONAL LIABILITY  
 JOISTED MASONRY

PROPERTY COVERAGE (Business Income is included as an Additional Coverage not subject to the limits below, please refer to your policy and endorsements for coverage details and limitations)

Prem. No.	Bldg. No.	Coverage	Limits of Insurance
001	001	BUSINESS PERSONAL PROPERTY	\$ 20,000
002	001	BUSINESS PERSONAL PROPERTY	\$ 79,500
003	001	BUSINESS PERSONAL PROPERTY	\$ 45,000
004	001	BUSINESS PERSONAL PROPERTY	\$ 64,000
005	001	BUSINESS PERSONAL PROPERTY	\$ 59,500
006	001	BUSINESS PERSONAL PROPERTY	\$ 15,500
008	001	BUSINESS PERSONAL PROPERTY	\$ 29,000
009	001	BUSINESS PERSONAL PROPERTY	\$ 20,000
011	001	BUSINESS PERSONAL PROPERTY	\$ 64,500
012	001	BUSINESS PERSONAL PROPERTY	\$ 37,000
013	001	BUSINESS PERSONAL PROPERTY	\$ 15,500
DEDUCTIBLE:		\$ 250 In Any One Occurrence	
		\$ 500 Optional Coverage Deductible (Section I, D. Deductibles 2.)	

AUTOMATIC INCREASE: Building Coverage Shall Be Increased Annually.  
 Personal Property Coverage Shall Be Increased Annually.

MORTGAGE HOLDERS: NONE

PROPERTY OPTIONAL COVERAGES

Coverage	Additional Limits of Insurance INCLUDED
COMMERCIAL PROTECTOR COVERAGE EXTENSION	

PROPERTY OPTIONAL COVERAGES - Location Level - These Limits of Insurance apply in addition to those found in the COMMERCIAL PROTECTOR

Prem. No.	Bldg. No.	Coverage	Additional Limits of Insurance
001	001	EMPLOYEE DISHONESTY	\$ 50,000
001	001	MONEY AND SECURITIES	
		INSIDE THE PREMISES	\$ 10,000
		OUTSIDE THE PREMISES	\$ 2,000

44-98 (06/04)

RENEWAL

COMMERCIAL PROTECTOR COVERAGE FORM DECLARATIONS (Continued)  
 BUSINESSOWNERS COVERAGE FORM DECLARATIONS

PROPERTY OPTIONAL COVERAGES – Location Level – These Limits of Insurance apply in addition to those found in the COMMERCIAL PROTECTOR

Prem. No.	Bldg. No.	Coverage	Additional Limits of Insurance
001	001	VALUABLE PAPERS	\$ 60,000
002	001	EMPLOYEE DISHONESTY	\$ 50,000
002	001	VALUABLE PAPERS	\$ 5,000
003	001	EMPLOYEE DISHONESTY	\$ 50,000
003	001	VALUABLE PAPERS	\$ 5,000
004	001	EMPLOYEE DISHONESTY	\$ 50,000
004	001	VALUABLE PAPERS	\$ 10,000
005	001	EMPLOYEE DISHONESTY	\$ 50,000
005	001	VALUABLE PAPERS	\$ 15,000
006	001	EMPLOYEE DISHONESTY	\$ 50,000
006	001	VALUABLE PAPERS	\$ 5,000
008	001	EMPLOYEE DISHONESTY	\$ 50,000
008	001	VALUABLE PAPERS	\$ 5,000
009	001	EMPLOYEE DISHONESTY	\$ 50,000
009	001	VALUABLE PAPERS	\$ 5,000
010	001	VALUABLE PAPERS	\$ 5,000
011	001	EMPLOYEE DISHONESTY	\$ 50,000
011	001	VALUABLE PAPERS	\$ 10,000
012	001	EMPLOYEE DISHONESTY	\$ 50,000
012	001	VALUABLE PAPERS	\$ 5,000
013	001	EMPLOYEE DISHONESTY	\$ 50,000
013	001	VALUABLE PAPERS	\$ 5,000

LIABILITY AND MEDICAL PAYMENTS COVERAGE

Except for Fire Legal Liability, each paid claim for the following coverages reduces the amount of insurance we provide during the applicable annual period. Please refer to Paragraph D.4. of the Section II LIABILITY of the COMMERCIAL PROTECTOR COVERAGE FORM (BUSINESSOWNERS COVERAGE FORM).

Coverage	Limits of Insurance
LIABILITY AND MEDICAL EXPENSES	\$ 1,000,000 Per Occurrence
MEDICAL EXPENSES	\$ 5,000 Per Person
DAMAGE TO PREMISES RENTED TO YOU	\$ 500,000 Any One Fire or Explosion
<b>AGGREGATE LIMITS</b>	
BODILY INJURY OR PROPERTY DAMAGE UNDER PRODUCTS/COMPLETED OPERATIONS HAZARD	\$ 2,000,000
ALL OTHER INJURY OR DAMAGE (INCLUDING MEDICAL EXPENSES)	\$ 2,000,000

LIABILITY OPTIONAL COVERAGES

Coverage	Limits of Insurance
EMPLOYEE BENEFITS LIABILITY	
EACH EMPLOYEE	\$ 1,000,000
EMPLOYEE BENEFITS AGGREGATE LIMIT	\$ 3,000,000
RETROACTIVE DATE 07/11	
DEDUCTIBLE \$0 EACH EMPLOYEE	
HIRED AUTO LIABILITY	INCLUDED
NON-OWNED AUTO LIABILITY	INCLUDED

44-98 (06/04)

# Appendix G

## **AGREEMENT**

This agreement is made and entered into by the New Hampshire Public Defender, (hereinafter "NHPD"), and A.C., (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 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 \$275 per unit; and the current dollar value of a Felony case is \$756.25.

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 \$275 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 30<sup>th</sup> 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 case 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 \_\_\_\_\_, 2017.

FOR CONTRACTOR:

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FOR NH PUBLIC DEFENDER:

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Randy Hawkes  
Executive Director

# The State of New Hampshire Circuit Court



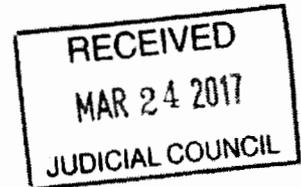
Edwin W. Kelly  
*Administrative Judge*

David D. King  
*Deputy Administrative Judge*

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

March 22, 2017

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 Director Blodgett:

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. 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 regularly.

The Public Defender Program has a long history of providing reliable representation to indigent defendants and juveniles in delinquency cases. The program maintains high standards for the performance of its attorneys. The program actively monitors caseloads and ensures that their attorneys have the time and resources necessary to provide good-quality representation to clients. The attorneys fight hard for their clients' interests, but balance their zealous advocacy with a high degree of professionalism. When a public defender approaches the defense table with a client, the trial judge can rely on the attorney being well trained, knowledgeable, ethical, and prepared. In the rare instances when that has not been the case, the Public Defender Program's leadership has been responsive and swift in addressing our concerns.

From an administrative standpoint, the Courts benefit by having a public defender program that can provide the large majority of the representation needed by those charged with crimes who cannot afford to pay for their own attorney. In the past 12 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.

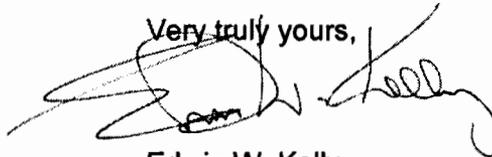
Support of the Public Defender Program  
Proposal to Provide Indigent Defense Services  
March 22, 2017

Page Two

All in all, the Public Defender has proved itself to be a responsible and credible partner in the criminal and juvenile justice systems in our State, and is worthy of the continued support of the Judicial Council in the process of selection of a service provider in the next two-year period.

If I can provide any additional information, please don't hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Edwin W. Kelly", written over a circular stamp or seal.

Edwin W. Kelly  
Administrative Judge

EWK:lc

c: Randy Hawkes



# 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](http://www.courts.state.nh.us)

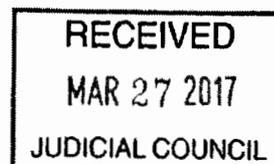
WILLIAM H. LYONS  
Judge

SUSAN B. CARBON  
Judge

MARY A. BARTON  
Clerk of Court

March 24, 2017

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



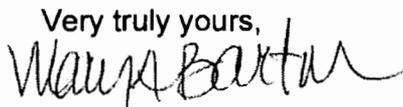
RE: Letter in Support of the Public Defender Program

Dear Ms. Blodgett,

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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 29 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

# OFFICE OF THE MERRIMACK COUNTY ATTORNEY

## ASSISTANT COUNTY ATTORNEYS

George A. Stewart  
David S. Rotman  
Susan N. Larrabec  
George B. Waldron  
Susan M. Venus  
John B. Weld  
Ashlie L. Hooper  
Marianne P. Ouellet  
Wayne P. Coull  
Cristina E. Brooks  
Joseph A. Cherniske  
Kristin I. Vartanian  
Meghan C. Hagaman  
Carley M. Ahern



## Scott W. Murray County Attorney

Four Court Street  
Concord, New Hampshire 03301-4336  
Telephone: (603) 228-0529 Fax: (603) 226-4447  
countyattorney@mcao.net

March 24, 2017

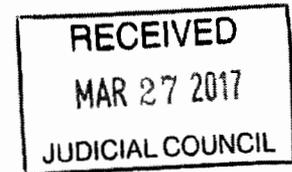
**Catherine J. Ruffle**  
DEPUTY COUNTY ATTORNEY

**OFFICE ADMINISTRATOR**  
Donna Barnett

**VICTIM/WITNESS PROGRAM**  
Karen J. Sotile  
Sarah L. Heath  
Jessica L. Clarke  
Jacqueline L. Lawrie

**INVESTIGATORS**  
Jen Adams  
Michael A. Russell

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



## **RE:NH PUBLIC DEFENDER PROPOSAL TO PROVIDE INDIGENT DEFENSE SERVICES**

Dear Director Blodgett:

I am writing in support of the proposal advanced by the New Hampshire Public Defender Program, that they continue to provide legal representation to indigent defendants. Executive Director Randy Hawkes has indicated that he intends to request approval from the Judicial Council. Accordingly, he has asked me to provide a letter of support for this effort. Because I believe that the public defenders do a very good job, I was delighted to accede to his request.

I have been a prosecutor in New Hampshire since January 1983. I currently serve as Merrimack County Attorney and was employed as Concord City Prosecutor prior to that. Over the years, I have had the opportunity to work with the Public Defender Office in a variety of settings. These interactions have included arraignments, probable cause hearings, pleas, jury and bench trials and negotiations with staff attorneys. They have also included discussions with managing attorneys relating to administrative concerns, court and office policies and legal issues.

Despite the inherently adversarial nature of our criminal justice system, my relationship with Public Defenders has been uniformly congenial and collegial. While staff attorneys strive zealously to advance the interest of their clients, they routinely comport themselves in a professional manner.

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I have had the opportunity on many occasions to compare Public Defender performance with that of privately retained attorneys. Based on these observations, I can report that the Public Defenders are often better able to identify relevant legal issues, realistically evaluate and assess cases, and craft pleadings which are clearly superior in both content and structure.

I should note that my support for the Public Defender Program is not totally without self interest. The reality is that we cannot have effective prosecution of criminal cases without the participation of competent defense attorneys, and the Public Defenders have a well established history of competence. Efficiency in the administration of court hearings is enhanced when opposing counsel are well informed and conscientious in preparation. This principle applies *a fortiori*, with the advent of the Felonies First initiative which has increased the burdens of Superior Court criminal practice. The processing of heavy criminal dockets is much smoother when both the prosecution and the defense are experienced and comfortable in addressing issues. In the end, the integrity of any criminal conviction is directly dependent upon defense counsel providing representation which is deemed legally effective.

For all of the foregoing reasons, I would urge the Judicial Council to support the Public Defender Program's bid to continue providing indigent defense services for the State of New Hampshire.

Please feel free to call me if I can provide any additional input.

Very Truly Yours.



Scott W. Murray  
Merrimack County Attorney

CC: Director Randy Hawkes