NAPD Policy Statement on
Proper Professional Space, Equipment, Confidential Communications with Clients, Supporting Services for Public Defense

Space, equipment, communication and supporting services for public defense must be professional for meaningful representation of clients

(approved by the NAPD Steering Committee on October 15, 2020)

Meaningful representation of public defense clients requires proper professional space, adequate supporting equipment, ability to conduct confidential communications, and adequate services. These factors directly affect the number of clients an attorney can ethically and competently represent and the effectiveness of the work that the attorney can do for the clients.

Public defense providers must have space that ensures the ability to have confidential communications in courthouses, jails, prisons, public defense offices and other places where clients must confer with counsel, and must be able to communicate confidentially with incarcerated clients.

Public defense office space should be professional, comparable to that of other justice authorities, and located in a place that advances efficient accessibility to courthouses and jails as long as clients can practically and economically visit the office but never in a location that conflates the public defense function with judicial, prosecution, probation, law enforcement or other entities which present conflicts of interest.

Public defense offices should have the equipment and supporting services necessary to provide meaningful representation of its clients, and, at least, comparable to those of the prosecution and of a private law firm of similar size, including electronic legal research, electronic data investigation, case management technology services, and communications systems. The information about the representation of clients must remain confidential and in control of the public defense program.

Support for staff expenses should be provided. The public defense providers should receive reimbursement for travel expenses required for performance of job duties.

Public Defense attorneys "must always provide their clients competent and diligent representation, as well as representation that is reasonably effective assistance pursuant to prevailing professional norms."[1] The essence of the Sixth Amendment right to counsel is the development of an attorney-client relationship. Such a relationship facilitates the ability to provide the guiding hand of counsel to a client as he or she moves their way through the criminal legal system. Confidentiality and professionalism are integral to a public defense program's ability to provide clients with the constitutionally and ethically required competent representation.

Public defense providers must have space that ensures the ability to have confidential communications in courthouses, jails, prisons, public defense offices and other places where clients must confer with counsel, and must be able to communicate confidentially with incarcerated clients.

The right to counsel has been interpreted to afford constitutional protection for the confidentiality of communications between client and attorney.[2] Affording persons who are incarcerated this confidentiality has been enforced through litigation.[3]

A lawyer waives confidentiality by engaging in conversations with clients in the presence of third parties in court, jail, prison, the office or any location. When the court or law enforcement does not provide a space for confidential communications, but the lawyer talks with his client anyway, the lawyer is waiving the client's claim to confidential communications without the client's permission to do so and is committing an ethical violation.

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[1] National Association for Public Defense, *Foundational Principles* (2017) Principle 9: The Duty of Public Defense Lawyers Is to Provide Clients Quality Legal Representation Consistent with Rules of Professional Conduct and Prevailing Professional Norms, found at: https://www.publicdefenders.us/files/NAPD%20Foundational%20Principles_FINAL_March%2016%202017(1).pdf

[2] The United States Supreme Court has held that prisoners are guaranteed meaningful access to the courts. *Bounds v. Smith*, 430 U.S. 817 (1977). "The opportunity to communicate privately with an attorney is an important part of that meaningful access. …a prisoner's right of access to the courts includes contact visitation with his counsel." *Ching v. Lewis*, 895 F.2d 608, 609-610 (9th Cir. 1990).

[3] 42 U.S.C. §1983 states "[e]very person who, under color of any statute…of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law…." A prison official who interferes with an inmate's right to confidential communications with an attorney's client can be found liable under 42 U.S.C. §1983 (see, *e.g.*, *Ching*, *supra*; see also *Kendrick v. Bland*, 541 F. Supp. 21 (W.D. Ky. 1981) concerning conditions of confinement. While supervisory personnel cannot be held liable in a §1983 action based only on their capacity as supervisors, individual liability can be imposed against a supervisor under §1983 for his own action or inaction in the training, supervision, or control of subordinates, or for conduct showing a reckless or callous indifference to the rights of others. "Where a supervisor sets in motion a series of acts by others, or knowingly refuses to terminate such acts, liability will lie." *Harris v. Maloughney*, 827 F.Supp. 1488, 1492 (D. Montana 1993). See also *Brown, et al. v. Plata, et al.*, 563 U.S. 493 (2011) (violations of the Cruel and Unusual Punishments Clause, a guarantee binding on the States by the Due Process Clause of the 14th Amendment; Prison Litigation Reform Act of 1995, 18 U.S.C. 3626).

Confidential communications require dedicated courthouse, jail, prison, public defense office space. The American Bar Association Model Rules of Professional Conduct, Rule 1.6, Client-Lawyer Relationship, mandates that attorneys and clients are able to speak privately and confidentially.[4]

The assurance of confidentiality is a public value of supreme importance. Preserving the confidentiality of client information "contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter."[5]

But it is not enough that the client trusts the lawyer. The client must trust that he is in a place where he is not being overheard, recorded on video or audio, or even being subject to having his or his attorney's lips read. If the client thinks his legal mail is read, he will not write his attorney. If he thinks his phone conversation with his counsel is being recorded, he will not talk to his attorney. It does not matter how much he trusts his lawyer, if he does not trust the means and location where they are talking.

For the constitutional right to counsel to mean anything, there must be a sufficient guarantee of private communications with lawyers. Not surprisingly, the law does afford everyone, including incarcerated persons, the right to confidential communications with a lawyer. But confidentiality is not self-implementing.

Confidentiality requires appropriate space where conversations are private and not monitored other than by sight.[6] National standards[7] for public defense require suitable space to meet this paramount ethical duty: "Defense counsel is provided sufficient time and a confidential space within which to meet with the client.…Counsel should have confidential access to the client for the full exchange of legal, procedural, and factual information between counsel and client. To ensure confidential communications, private meeting space should be available in jails, prisons, courthouses, and other

[4] Rule 1.6 states "(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b)…. (c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client."

[5] Comment to Rule 1.6, Paragraph 2.

[6] A claim made by inmates that prison officials were monitoring their phone calls with their attorneys was not dismissed, but was allowed to proceed against the person who was alleged to be violating the inmate's right to confidential consultation with their attorneys. *Harris v. Maloughney*, 827 F.Supp. 1488, 1496 (D. Montana 1993).

[7] Principle 4, ABA *Ten Principles of a Public Defense System* (2002), "Defense counsel is provided sufficient time and a confidential space within which to meet with the client. Counsel should interview the client as soon as practicable before the preliminary examination or the trial date. Counsel should have confidential access to the client for the full exchange of legal, procedural, and factual information between counsel and client. To ensure confidential communications, private meeting space should be available in jails, prisons, courthouses, and other places where defendants must confer with counsel."

places where defendants must confer with counsel."[8] Talking on a phone through glass or leaning over to talk through a hole in a jail cell door is not adequate.[9]

"Defender offices should maintain interview and waiting rooms in the courthouse."[10] The availability of confidential space in courthouses is especially crucial when, as in many public defense practices, public defenders do not have an opportunity to meet with clients before the first appearance. In some jurisdictions, public defense providers and their clients are pressured to make decisions about their cases, including entering guilty pleas during clients' first appearances, without defenders having had the ability to have confidential conversations with clients prior to the client having to make his decision. This is a meet and plead practice which falls far short of minimally constitutional representation as a public defender must investigate, negotiate, and research the law before advising a client on a plea.

Speaking with clients in hallways, under stairwells, in "drunk tanks," in cells with other inmates, in rooms with court clerks, in rooms with other defendants, in rooms where breathalyzers are conducted, in court room pews with other inmates chained to your client, and behind glass and over the phone inhibits the development of an effective attorney-client relationship as well as undermines the confidentiality of the communications.

It is understood that jailers and wardens have to maintain security and safety of the jail and prison. It is reasonable for the jail generally to monitor inmate phone calls to the jail. Phones can be used to plan escapes, arrange for delivery of contraband, organize retaliation against a complaining witness. But a basic consequence to the right of access to the courts is an inmate's right to communicate with an attorney in confidence.

Client-counsel communication in a jail or a prison should not be monitored. Counsel should be permitted to bring a cell phone or computer into a jail or prison when meeting with a client in order to

[8] See also, ABA Criminal Justice Standards for the Defense Function (4th ed) Standard 4- 2.2, Confidential Defense Communication with Detained Persons:
"(a) Every jurisdiction should guarantee by statute or rule the right of a criminally-detained or confined person to prompt, confidential, affordable and effective communication with a defense lawyer throughout a criminal investigation, prosecution, appeal, or other quasi-criminal proceedings such as habeas corpus.
(b) All detention or imprisonment institutions should provide reasonable, affordable access to confidential and unmonitored telephonic and other communication facilities to allow effective confidential communication between defense counsel and their detained clients. This should include providing or allowing access to language translation or other communication services when necessary.
(c) All detention or imprisonment institutions should provide adequate facilities for private, unmonitored meetings between defense counsel and an accused. Private facilities should also be provided for the review of evidence and discovery materials by counsel together with their detained clients.
(d) Absent a credible threat of immediate danger or violence, or advance judicial authorization, persons working in detention or imprisonment institutions should be prohibited from examining, monitoring, recording, or interfering with confidential communications between defense counsel and their detained clients."
[9] When an inmate was forced to "yell through a hole in the glass" in order to talk with his attorney, his right to access to the courts was violated. *Ching v. Lewis*, 895 F.2d 608, 609-610 (9th Cir. 1990).
[10] National Study Commission on Defense Services, Summary of Recommendations (1976), 2.7.

conduct necessary legal work.[11] When defenders are permitted to take cell phones and laptops[12] into the jail, they are able to work more efficiently with clients by calling, e-mailing defender staff, prosecutors, and accessing electronic court information, risk assessments, bail information, and discovery. For the proper, efficient functioning of the criminal justice system, there should be an exception for attorney-client visits that allows cell phones and computers for access to necessary information electronically and confidentially by the attorney or the agent of the attorney. As recognized by the ABA *Criminal Justice Standards for the Defense Function* 4- 2.2(d), "Absent a credible threat of immediate danger or violence, or advance judicial authorization, persons working in detention or imprisonment institutions should be prohibited from examining, monitoring, recording, or interfering with confidential communications between defense counsel and their detained clients."

Communication with clients in jail or prison by phone should not cost the client or the public defense provider money to conduct. These conversations cannot be monitored other than by sight.

Mailings from an attorney or an attorney's assistant to an incarcerated client should not be read by jail or prison officials.[13]

Public defense office space should be professional, comparable to that of other justice authorities, and located in a place that advances efficient accessibility to courthouses and jails as long as clients can practically and economically visit the office but never in a location that conflates the public defense function with judicial, prosecution, probation, law

[11] Some jurisdictions have laws, regulations or practices that designate a cell phone as dangerous contraband when in a correctional facility. This means that attorneys and staff are prohibited from taking phones into the correctional institution and using them for work on behalf of a client. One example of statutory recognition of the right of lawyers to bring cell phones into a jail is Kentucky's KRS 441.111, Possession and use of cell phones by jailer, deputy jailers, attorneys, and non-lawyer assistants. It states, "Jailers in a county jail or regional jail shall create policies governing possession and use of cell phones within their jails by the jailer, deputy jailers, attorneys, and non-lawyer assistants as defined in KRS 31.100. These policies shall be clearly stated and posted in the entry of the jail and copies shall be made available to attorneys and non-lawyer assistants, upon request. These policies shall allow, but may provide reasonable conditions upon, attorneys to use cell phones in connection with their professional services in a detention facility."

[12] Many criminal justice systems are becoming paperless. Attorneys now receive dockets from circuit clerks sent through e-mail. Prosecutors are now scanning documents and sending defenders the discovery either through e-mail, or on DVD's or CD's. In addition to that, especially in drug cases where the police use undercover police officers or confidential informants to make buys, there can be video or audio discovery. Many police departments record encounters with "body cameras" or "dash cameras". The client has a right to view all of this. And clients have a right to view it under circumstances where their cellmates or jail staff cannot listen in on it. For these reasons, many attorneys take a laptop with them into visits with incarcerated clients. It saves copy costs, and in some cases there simply is no substitute way for the client to see the discovery. A laptop is also helpful for attorneys who use typing as their primary method of keeping notes.

[13] Inmates have a liberty interest in uncensored communication by letter and, as such, it is protected from arbitrary governmental invasion. *Procunier v. Martinez*, 416 U.S. 396, 418 (1974). "In light of the Sixth Amendment's guarantee of right to effective counsel, confidentiality of communications between client and attorney must also be considered within the scope of constitutional protection." *Id*. at 419. The United States Supreme Court has held that prison officials may open a prisoner's privileged mail, even that from attorneys, as long as the prisoner is present and the mail is not read. *Wolff v. McDonnell*, 418 U.S. 539, 577 (1974). But once the jail has determined that this is a legitimate letter from an attorney, no further inspecting should occur.

enforcement or other entities which present conflicts of interest.

The location of the office should ultimately be a client-centered location. "Every defender office should be located in a place convenient to the courts and be furnished in a manner appropriate to the dignity of the legal profession."[14] Proximity to the courthouse promotes efficiency and convenience for clients. Proximity to the jail is also necessary. However, if the courthouse is downtown and challenging for clients to travel to or to find affordable parking, the office should be located where clients can practically and economically visit. [15]

Location of a defender office in a courthouse or government building that houses other criminal justice professionals is problematic. "Where defender offices are located in court buildings, the identification of the program should make clear that it is not associated with the judiciary or law enforcement components of the criminal justice system. Indeed, it has been argued that the presence of defender offices in courthouses may contribute to defendants doubting whether the program is independent of the judiciary."[16] Plus, security in courthouses, metal detectors, video cameras monitoring who comes through the door are high deterrents for clients.

The professional nature of a defender office is central to the meaningful representation of clients. "Without offices and facilities befitting the nature of a lawyer's professional calling, the accused may very well lack confidence in the defender and, ultimately, in the system of justice itself. Appropriate facilities are also necessary to attract and retain career personnel."[17]

Every defender and defender professional support staff whose work requires confidential and sensitive communications should have an individual office to ensure the regular ability to conduct confidential communications and to promote efficient, uninterrupted work space without distractions of other staff conversations.[18]

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[14] The American Bar Association Standards for Criminal Justice *Providing Defense Services* (3d ed. 1992), Standard 5-4.3 Facilities; library.

[15] For some practitioners, it may be practical to have an office near the courthouse and also a shared space for lawyers to meet clients confidentially in another part of the community. See, *e.g.*, Washington CrR 3.1 STDS, Standard 5.2 (A): "Public defense attorneys shall have (1) access to an office that accommodates confidential meetings with clients and (2) a postal address, and adequate telephone services to ensure prompt response to client contact."

[16] Commentary, ABA Standards for Criminal Justice *Providing Defense Services* (3d ed. 1992), Standard 5-4.3.

[17] *Id.* See also, National Study Commission on Defense Services, Summary of Recommendations (1976), 2.7 Location of Defender Offices. "In a state level defender system, the principal office should ordinarily be located in the state capital, and other offices should be located with reference to population and caseload factors and access to trial and appellate courts and penal institutions. Local defender offices should be located near the appropriate courthouses, but never in such proximity that the defender offices become identified with the judicial and law enforcement components of the criminal justice system. Defender offices should maintain interview and waiting rooms in the courthouse."

[18] National Advisory Commission on Criminal Justice Standards and Goals, The Defense (1973), Standard 13.14 Supporting Personnel and Facilities. "Each defender lawyer should have his own office that will assure absolute privacy for consultation with clients." The Commentary to that Standard explains, "Separate office space not only is essential to effective communication between attorney and client, but it also is a valuable means of bolstering the confidence of the client in his attorney. Lack of such confidence can have undesirable repercussions for the entire criminal legal system.

Defender offices should have rooms for group conferences to conduct such matters as staff meetings, case reviews, meetings with other justice professionals. There should be a room dedicated to training and education of defender staff sufficiently large for all staff to assemble. It should have "space for confidential records, equipment and petty cash, and reasonable allocations of ancillary space related to staff size for reception and client waiting areas, conference rooms and library, mailroom and reproduction, supplies and storage."[19]

"Facing uncertainty and ambiguity, people create symbols to resolve confusion, find direction, and anchor hope and faith."[20] The appearance of the public defense office is a symbolic manifestation of its culture.[21] The symbolic frame "centers on complexity and ambiguity and emphasizes the idea that

[19] National Study Commission on Defense Services, Summary of Recommendations (1976), 3.4 Nonpersonnel Needs in Defender Offices. File storage should be readily accessible by staff and in a location that is adequate in size and ensures confidentiality. Files staked up in an office of the halls is not adequate.

[20] Lee G. Bolman, Terrence E. Deal, *Reframing Organizations: Artistry, Choice, and Leadership* (4th ed. 2008), p. 252.

[21] *Jonathan A. Rapping*, *Directing the Winds of Change: Using Organizational Culture to Reform Indigent Defense*, 9 Loyola Journal of Public Interest Law 177, 218 (2009) "Scholars of organizational development understand the centrality the concept of culture plays in defining an organization and its members' perceptions, thoughts, feelings, and behavior about the world in which they operate. Leaders who share this understanding can transform culture and reform institutions." Public Defender physical facilities should reflect the importance of the Public Defender in the criminal justice system and the community. Examples of freestanding public defender buildings which were designed by architects and built by builders with tremendous input from the public defender exist in Knoxville, Tennessee, and Augusta, Georgia. Each of these buildings are impressive in scale and provide fine examples of how the architecture of public defender buildings transmits the values of the community served by those offices. Each of these buildings is also designed internally to provide for appropriate professional lobby space for clients and families. The foyer at the Knox County Tennessee Public Defender's Community Law Office includes a large, prominent tile mosaic with a Pope John Paul VI quote, "if you wish for peace, work for justice." In addition, free bottled water and light snacks are on a table with a sign "help yourself." A children's area, including chalk table tops and a bookcase with children's books and a sign that says "feel free to take a book home." Every table in the lobby are mobile phone charging stations and multiple posters are displayed advertising that the Office offers a social services division that would be glad to assist clients with driver's license, mental health, employment, addiction, housing, …etc. issues. Finally, there are posters and invitations to sign children up for the Office's Tuesday/Thursday children programs." The Law Office of the Public Defender in Augusta has unique client meeting rooms and a training room in addition to conference rooms and offices for all attorneys. It has a mock courtroom and is near the courthouse, across from the public library, and on public transportation lines. While the Knox County Tennessee and Augusta Georgia buildings serve different communities, what they have in common is the public funders in real terms support the mission of the offices in visible ways. The design and function of the offices illustrate the values that clients and their families should have a professional, well designed space to meet with counsel and that the public defender is an important part of the local criminal justice system. In October 2019, the Neighborhood Defender Service opened a new office in Detroit, after winning a contract bid from the Wayne County government seeking to provide a holistic public defender office to its residents with additional funding support from the Michigan Indigent Defense Commission (a statewide body). These institutions recognized the power of public defense to improve outcomes in their criminal legal systems. The NDS model of client-centered, holistic representation combined with a strong emphasis on a team-based culture model is setting a high standard for indigent defense in Michigan and nationwide. The Detroit Neighborhood Defender Service Office reflects these values in the way it receives clients and how the office looks. For instance, the NDS Detroit core values are prominently displayed in the lobby to greet clients, visitors, and staff when they arrive, for example, "We listen to our clients and respect their dignity." Another large poster depicts the definition of courage (*noun.* mental or moral strength to venture, persevere, and withstand danger, fear, and difficulty) beneath a

symbols mediate the meaning of work and anchor culture."[22] The office's symbols should reflect the core values of the program. The office should promote client-centered representation in its appearance. This should include a welcoming, professional reception area for clients and visitors, and symbols throughout the office.

Public defense offices should have the equipment and supporting services necessary to provide meaningful representation of its clients, and, at least, comparable to those of the prosecution and of a private law firm of similar size, including electronic legal research, electronic data investigation, case management technology services, and communications systems. The information about the representation of clients must remain confidential and in control of the public defense program.

There must be "parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system." This includes equality of "benefits, technology, facilities, legal research…."[23] The funding of the public defense program for "operational expenses…should be substantially equivalent to, and certainly not less than, that provided for other components of the justice system with whom the public defender must interact, such as the courts, prosecution, the private bar, and the police."[24] In the event that prosecution offices do not have adequate resources, the public defense providers' resources should not be limited by the inadequacy of the prosecution resources but should be adequate for the public defense providers' needs.[25]

Equipment used by public defense programs "should take advantage of the significant advances in office technology which have become available to the private practitioner and other government offices."[26] The public defense providers should have legal research capabilities, internet, email, phone, copying, software programs for office and litigation needs, recording and photographic resources. Every defender and defender staff whose job takes them from their office should have a laptop or equivalent device so they can use their time efficiently and access electronically stored information remotely.

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picture of African-Americans enduring the powerful blasts of a firehose in Birmingham, Alabama in 1963. The artwork and inspirational quotes serve as reminders of the organization's core values and affirmations that NDS is more than a law office. The Maryland Public Defender issued a challenge to each office to create client-centered reception areas. See *Jonathan A. Rapping*, *Gideon's Promise: A Public Defender Movement to Transform Criminal Justice* (2020), pp. 137-38. The Kentucky Department of Public Advocacy's state office in Frankfort has a threshold that has the provision of the Kentucky Constitution guaranteeing the right to counsel carved in granite and has a lobby that includes the Kentucky Commission on Human Rights' Gallery of Great Black Kentuckians, found at: https://kchr.ky.gov/ggbk/Pages/default.aspx

[22] Lee G. Bolman, Terrence E. Deal, *Reframing Organizations: Artistry, Choice, and Leadership* (4th ed. 2008), p. 277.

[23] Principle 8, ABA *Ten Principles of a Public Defense System* (2002).

[24] National Advisory Commission on Criminal Justice Standards and Goals, The Defense (1973) Standard 13.14 Supporting Personnel and Facilities.

[25] See, *e.g.*, Washington CrR 3.1 STDS. Standard 5.2 (A): "Contracts for public defense services should provide for or include administrative costs associated with providing legal representation. These costs should include but are not limited to travel; telephones; law library, including electronic legal research; financial accounting; case management systems; computers and software; office space and supplies; training; meeting the reporting requirements imposed by these standards; and other costs necessarily incurred in the day-to-day management of the contract. http://www.courts.wa.gov/court_rules/pdf/CrR/SUP_CrR_03_01_Standards.pdf.

[26] Commentary, ABA Standards for Criminal Justice *Providing Defense Services* (3d ed. 1992), Standard 5-4.3.

The information systems of the public defense system must be in the control of the public defense program to protect the confidentiality of information. This can best be accomplished by the defender program owning and housing the servers that store their data, the network that the data travels on, and directly employing the staff who control and manage the information technology system. This approach not only guards against intentional breaches of confidentiality, it also makes accidental breaches far less likely. Statewide and regional defender networks can centralize IT infrastructure, providing service to small, local offices, while larger offices will benefit from developing their own internal capacities. The other manner to accomplish this for systems that do not have total direct control and custody is to have the governmental entity that provides these services bound by law or a memorandum of understanding that assures strict confidentiality, including how a subpoena for data will be handled.[27]

Support for staff expenses should be provided. The public defense providers should receive reimbursement for travel expenses required for performance of job duties.

Many defenders and defender staff must travel to perform the duties of the job, such as to go to a courthouse in an adjoining county, to perform investigation, to discover the life history of clients, and to conduct client communications at the jail or prison. The funding authority should provide travel reimbursement to public defense staff performing these duties.[28]

[27] See KRS 31.030(6) which provides that the "authority and duties" of the Kentucky public defense statewide program "shall include but are not limited to... maintaining and exercising control over the department's information technology system, and working with the Commonwealth Office of Technology to ensure that the department's information technology is in conformity with the requirements of state government." The MOA between Kentucky Department of Public Advocacy and the state's technology office includes provisions that require that any third party technology service should be required to agree that in the event it receives a release, subpoena, summons, warrant, open records request, or Freedom of Information Act request, or other document or communication which purports to request any of the public defense program's confidential information, whether it be by a federal, state, municipal or other lawful governmental authority, or by any individual, corporation, or other legal entity, that it will immediately so advise the Chief Defender and deliver a copy of the release, subpoena, summons, warrant, open records request, or Freedom of Information Act request to the Chief Defender. The third party provider must agree that it will not release confidential information to any outside entity outside until the Chief Defender is given notice that such information has been sought, and the Chief Defender has been given opportunity to be heard on objections to such release, including the opportunity to invoke applicable privileges. The third party provider must agree that the Chief Defender is responsible for responding to reasonable requests, and defending the public defense program against unreasonable requests for confidential information, and will not undertake on its own to initiate action against or in cooperation with such requests, provided that the third-party provider will take all steps reasonably possible to protect the public defense's privilege interests.

[28] National Advisory Commission on Criminal Justice Standards and Goals, The Defense (1973) Standard 13.14 Supporting Personnel and Facilities, "4. Sufficient funds or means of transportation to permit the office personnel to fulfill their travel needs in preparing cases for trial and in attending court or professional meetings."

Conclusion: Meaningful Representation of clients requires proper space, equipment, confidential communication with clients, supporting services

A number of factors influence the work an attorney can competently and ethically perform on behalf of clients who face the loss of liberty or life. There must be an adequate number of lawyers[29] and an adequate number of support staff.[30] These staff must be supervised and trained according to national standards. Likewise, Public Defense attorneys cannot provide meaningful representation to their clients without being provided proper space, equipment, confidential communication and services.

[29] See NAPD Statement on the Necessity of Meaningful Workload Standards for Public Defense Systems (March 19, 2015), found at: https://www.publicdefenders.us/files/NAPD_workload_statement.pdf

[30] See NAPD Policy Statement on Public Defense Staffing: Staff supporting public defense counsel must be adequate for meaningful representation (2020), found at: https://www.publicdefenders.us/files/NAPD_Policy%20Statement%20on%20Public%20Defense%20Staffing.pdf