

ORDINANCE NO. 1444
CITY OF LACEY

AN ORDINANCE RELATING TO STANDARDS FOR INDIGENT DEFENSE, ADDING CHAPTER 9.60 TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, RCW 10.101.030 requires the City of Lacey to adopt standards for the delivery of Public Defense Services; and

WHEREAS, the Washington Supreme Court by Order No. 25700-A-1004, as amended, has adopted new standards for indigent defense; and

WHEREAS, such standards, with the exception of Standard 3.4 are currently in effect; and

WHEREAS, new Standard 3.4 relating to case load limits will become effective on January 1, 2015; and

WHEREAS, the City Council finds it is in the best interest of the citizens of Lacey to adopt the proposed standards.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, AS FOLLOWS:

Section 1. There is hereby added to the Lacey Municipal Code a new Chapter, 9.60, to read as follows:

9.60.010 – Adoption of Indigent Defense Standards

The city hereby adopts the following standards for public defenders:

(1) Purpose and Intent. These indigent defense standards are intended to ensure that indigent criminal defendants receive high-quality legal representation through a public defense system that efficiently and effectively protects the constitutional requirement of effective assistance of counsel.

(2) Contract. All indigent defense services shall be provided pursuant to a written contract between the indigent defense attorney(s) and the city. The written contract shall include,

among other things, the duties and responsibilities of the indigent defense attorney, the substitution of attorneys, and assignment of the contract.

(3) Compensation. All indigent defense attorneys shall be reasonably compensated, taking into consideration the experience and training of the attorney.

(4) Qualifications of Attorneys. In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services shall meet the following minimum professional qualifications:

- a) Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and
- b) Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and
- c) Be familiar with the Washington Rules of Professional Conduct; and
- d) Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association; and
- e) Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and
- f) Be familiar with mental health and substance abuse issues and be able to identify the need to obtain expert services; and
- g) Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

(5) Caseload Limits. The caseload of public defense attorneys shall allow each lawyer to give each client the time and effort necessary to ensure effective representation. Neither defender organizations, county offices, contract attorneys, nor assigned counsel should accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation. As used in this Standard, “quality representation” is intended to describe the

minimum level of attention, care, and skill that Washington citizens would expect of their state's criminal justice system.

Caseload limits reflect the maximum caseloads for fully supported full-time defense attorneys for cases of average complexity and effort in each case type specified. Caseload limits assume a reasonably even distribution of cases throughout the year.

If a defender or assigned counsel is carrying a mixed caseload including cases from more than one category of cases, these standards should be applied proportionately to determine a full caseload. If public defense attorneys also maintain private law practices, the caseload should be based on the percentage of time the lawyer devotes to public defense.

Definition of case. A case is defined as the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation. In courts of limited jurisdiction multiple citations from the same incident can be counted as one case.

The caseload of a full-time public defense attorney should not exceed 400 Misdemeanor or Gross-Misdemeanor cases per attorney per year. Full time Rule 9 interns who have not graduated from law school may not have caseloads that exceed twenty-five percent (25%) of the caseload limits established for full-time attorneys.

(6) Investigators. Public defense attorneys shall use investigation services as appropriate.

(7) Services Other Than Counsel. Reasonable compensation for expert witnesses, investigators and other services for adequate preparation and presentation of the defense case shall be provided pursuant to Criminal Rule 3.1(f).

(8) Administrative Costs.

(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.

(b) 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.

(9) Limitations on Private Practice. Private attorneys who provide public defense representation shall set limits on the amount of privately retained work which can be accepted. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent.

(10) Reports of Attorney Activity and Vouchers. Attorneys on contract shall maintain a case reporting system, which includes the number and types of cases. Quarterly reports shall be submitted by the attorney to the contract administrator.

(11) Training. Attorneys shall participate in regular training programs in areas relating to their indigent defense practice to include a minimum of seven hours of continuing legal education within each calendar year.

(12) Disposition of Client Complaints. Complaints should be directed first at the attorney. If the complaint cannot be resolved amicably, the attorney shall ask the court to withdraw and substitute new counsel. If the complaining client feels dissatisfied with the evaluation and response received, he or she should be advised of the right to complain to the Washington State Bar Association.

(13) Cause for Termination or Removal of Attorney. Contracts for indigent defense services should include the grounds for termination of the contract by the parties. Termination of an attorney's contract should only be for good cause or as provided within the terms of the agreement between the city and firm or attorney. Good cause shall include the failure of the attorney to render adequate representation to clients; the willful disregard of the rights and best interests of the client; the willful disregard of the standards herein addressed; or violations of the RPCs.

(14) Nondiscrimination. Neither the city, in its selection of an attorney, firm, or agency to provide indigent defense representation, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation, or handicap. Both the city and the contractor shall comply with all federal, state, and local nondiscrimination requirements.

Section 2. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, at a regularly-called meeting thereof, held this 25th day of
September, 2014.

CITY COUNCIL

By: 
Mayor

Approved as to form:


City Attorney

Attest:


City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE NO. 1444

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on September 25, 2014, Ordinance No. 1444, entitled “AN ORDINANCE RELATING TO STANDARDS FOR INDIGENT DEFENSE, ADDING CHAPTER 9.60 TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.”

The main points of the Ordinance are described as follows:

1. The Ordinance adds new Chapter 9.60, which contains Indigent Defense Standards, to the Lacey Municipal Code.
2. The Ordinance approves this Summary for Publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: September 29, 2014.