

## WISCONSIN OFFICE OF THE STATE PUBLIC DEFENDER

### MISDEMEANOR CONTRACT Sample Contract

**THIS AGREEMENT** is entered into by and between the Wisconsin State Public Defender (SPD) and the Contract Attorney identified below in I.A.

#### RECITALS

**WHEREAS**, the SPD has determined that certain persons are indigent and eligible for representation under Chapter 977 Stats., and

**WHEREAS**, Contract Attorney represents to possess the legal qualifications, education, and experience to represent such persons (hereinafter referred to as “clients”) under Chapter 977 Stats., and

**WHEREAS**, Contract Attorney is willing to provide professional legal representation to such clients in accordance with the terms and conditions of this contract.

#### AGREEMENT

**NOW, THEREFORE**, in consideration for the promises and commitments hereinafter set forth, the SPD and Contract Attorney hereby agree as follows:

##### I. SCOPE OF SERVICES

###### A. CONTRACT ATTORNEY SPECIFICS

1. Contract Attorney:
  - a.) Lead Attorney – *[name, social security number and State Bar number]*
  - b.) Adjunct Attorney(s) – *[name(s), social security number(s) and State Bar number(s)]*
2. Contract Attorney Address – *[business address]*
3. County – *[contract county]*
4. Maximum Number of Misdemeanor and Misdemeanor Traffic (M and N) Cases Which May Be Appointed – *[number]*
5. Rate of Pay Per Appointed Case – *[\$]*

**B. GENERALLY.** Contract Attorney shall provide competent professional legal representation in accordance with chapter 977, Wis. Stats., Wis. Admin. Code PD 4, the ethical standards promulgated by the Wisconsin Supreme Court, and the standards of performance set forth by the Request for Proposals and this contract, to appointed clients, up to a maximum number of misdemeanor cases appointed to the Contract Attorney by the SPD, in the specific county, and at the rate per appointed case indicated at I.A. Clients shall be appointed to the Contract Attorney using an “Order Appointing Counsel” in substantially the same form as Appendix A, each of which shall, upon issuance by the SPD, constitute appointment of a case and comprise part of this agreement.

- C. PERFORMANCE.** It is expressly understood, intended, and agreed that the professional legal services provided to clients by Contract Attorney shall meet the “Minimum Attorney Performance Standards” which are attached as Appendix B.
- D. SERVICES.** For purposes of this agreement, the term “services” shall mean those legal services that, from an objective standpoint, are reasonably required for an experienced, ethical, and competent attorney to provide an appropriate and effective legal defense or representation in every appointed case.
- E. CASE.** A “case” is defined as one or more charges or allegations within a proceeding brought contemporaneously against one client in a case category where the SPD provides representation. In most situations, a case is defined by the charging document. One complaint, no matter how many charges, is defined as one case.
- F. SCOPE.** Representation commences from the time of appointment and continues through sentencing, including notice to the client of appellate rights, filing of the notice of intent to appeal when requested by the client, seeking release pending appeal in all misdemeanor jail cases, obtaining credit for jail time served, and resolution of restitution issues.
- G. CONTINUITY OF REPRESENTATION.** Contract Attorney will ensure that each attorney under the contract represents the same client from the opening of the case through final disposition. The only exception to this policy will be where the client indicates a desire for a different attorney within the contracting group. Under no circumstances may any attorney outside the contract group be substituted without prior written approval of the SPD. An attorney who represents a client on a contract case is expected to also represent the same client on a subsequent contract case, or non-contract case if eligible.
- H. INTAKE.** Contract Attorneys in Milwaukee County are required to perform intake duties for approximately four (4) hours per month per attorney. During this intake period, Contract Attorneys will be expected to accurately administer an indigency evaluation form to each person seeking or referred for Public Defender services, and to complete a case opening form for each person found eligible for such services. Contract Attorneys shall promptly submit the indigency and case opening forms to the local SPD, identifying any case that, in the Contract Attorney’s professional opinion, would constitute a conflict pursuant to Wisconsin Supreme Court Rules should the case be appointed to him/her for representation.
- I. CASE CLOSING.** Contract Attorney shall, within twenty (20) working days of final disposition of a case, submit to the Assigned Counsel Division (ACD) all case closing and billing information through the SPD online billing system. If a bench warrant or capias is issued for a client for failure to appear in court and the client has no further contact with the attorney within 6 months of the issuance of the bench warrant, the case may be closed. Note: The attorney must file with the court a motion to withdraw on the basis of the time elapsed since

the issuance of the bench warrant. If the client later appears, a new case is opened and new counsel will be appointed.

- J. VOLUME.** No attorney within the Contract group will individually handle an annual caseload under this contract greater than the ABA/NLADA standard of the equivalent of 400 misdemeanors per year.
- K. CONFIDENTIALITY.** Contract Attorney will protect the confidentiality of attorney-client information and work product in accordance with Wisconsin Supreme Court Rules and applicable case law.
- L. INELIGIBLE.** Contract Attorney will contact the SPD within forty-eight (48) hours of receipt of information that shows, or tends to show, that the client may no longer meet SPD eligibility standards.
- M. NUMBER OF CASES.** Contract Attorney understands that he/she is not guaranteed appointment of the exact number of cases set forth at I.A., but that the number represents an estimated projection based on information available as of the date of signing.

The SPD does not guarantee any number of cases will be appointed under this contract. Availability may be affected by a variety of factors (e.g., the number of cases issued by the county district attorney, proposed legislation that would decriminalize current criminal conduct, elimination of authorization to provide representation on some case types for which the SPD is currently authorized to provide representation, mandated higher caseloads for SPD staff, conversion of conduct from misdemeanor to felony, and other management concerns).

The maximum number of cases set forth in I.A. may be increased upon the mutual agreement of the parties.

- N. WITHDRAWAL.** In the event Contract Attorney withdraws from a case prior to the conclusion of representation, Contract Attorney shall immediately return the case to the local SPD office and complete the case billing and closing information using the SPD online billing system. Compensation, if any, for a non-completed case shall be determined solely by the SPD. As cases are counted at time of appointment toward the contract maximum stated above at I.A., cases from which Contract Attorney withdraws may be counted toward that contract maximum. Replacement cases may be appointed.
- O. REFUSAL OF APPOINTMENT.** In the event Contract Attorney refuses appointment of a case, that refusal may be counted as a case toward the contract maximum stated at I.A. at the sole discretion of the SPD.
- P. REQUEST FOR PROPOSALS.** In addition to the terms expressly stated in this contract, the contents of the Request for Proposals (including attachments), RFP addenda and revisions, and the Contract Attorney's proposal are contractual obligations.

## II. TERM

- A. PERFORMANCE.** Performance under this contract is binding upon execution commencing July 1, 2022 and ending June 30, 2023. The ending date of this contract, however, does not abrogate Contract Attorney's duty to complete any and all cases in which representation has begun under the terms of this contract.
- B. EXTENSION.** This contract may be extended for multiple one-year periods, with or without modifications, upon mutual agreement of the SPD and the Contract Attorney. However, no extension or disbursements under an extension will be made by the State of Wisconsin without approval from the Governor.

## III. CONTRACT ATTORNEY PAYMENTS

- A. CONTRACT ATTORNEY PAYMENTS.** Subject to the terms and conditions set forth in this agreement, the SPD agrees to pay Contract Attorney for services rendered at the rate set forth at I.A. not to exceed the maximum number of cases set forth at I.A.
- B. PAYMENT METHOD.** Payment shall be made to Contract Attorney as follows:
1. The SPD will make reasonable efforts to make payments to Contract Attorney within thirty (30) business days after billing and case closing information is submitted using the SPD online billing system.
  2. Payments to Contract Attorney shall be made payable to the Lead Attorney under his/her social security number or FEIN.
  3. Upon early termination of this agreement, the SPD shall be liable only for the pro rata amount of the professional legal services actually performed in accordance with the terms and standards of this agreement by Contract Attorney, through the effective date of termination, less any damages caused by the negligent or non-conforming performance of Contract Attorney.
- C. EXCLUSIVE COMPENSATION.** No attorney representing clients under this contract may solicit or receive compensation from those clients, or on behalf of those clients, in addition to any compensation that the attorney has received or expects to receive from the SPD, pursuant to this contract.

## IV. EVALUATION

**CONTRACT ATTORNEY PERFORMANCE EVALUATION.** On-going evaluation of the work performed under this contract may be conducted. Contract Attorney agrees to cooperate with the SPD in any evaluation or investigation, including promptly providing case information and other data upon request.

**V. CONTRACT COST CONSIDERATION**

**COST PER CASE.** The rate per case paid to Contract Attorney is designed to cover attorney fees associated with representation of a client under the terms of this contract.

Contract Attorney will be reimbursed for necessary expenses. Experts, investigators, and interpreters must have prior written approval by the SPD. The SPD reserves the right to refuse expense payment for the employment of any of the services acquired without prior written approval of the SPD.

**VI. QUALIFICATIONS OF CONTRACT ATTORNEY**

**CONTRACT ATTORNEY QUALIFICATIONS.** Each Contract Attorney providing services under this contract must be related in the same law firm (not office sharing) and ethically obligated under SCR 20:5.1, and 20:5.2. Each Contract Attorney must meet all of the certification requirements contained in Wis. Admin. Code PD 1.04 for the case types covered by this contract. Each Contract Attorney must comply with the CLE requirements set forth by the Supreme Court and the SPD. No reimbursement shall be provided by the SPD for these courses.

**VII. LEAD ATTORNEY**

**LEAD ATTORNEY.** Contract Attorney hereby designates the attorney identified at I.A. as the Lead Attorney who shall manage, supervise, and direct all attorneys furnishing professional services pursuant to this contract, in accordance with SCR 20:5.1 and 20:5.2, and to execute all writings on behalf of Contract Attorney. The Lead Attorney shall assume responsibility for the execution and performance of all requirements under this contract and will be directly and personally responsible hereunder. All contract communications and notices shall be sent to the Lead Attorney at Contract Attorney’s business office or email address as shown in this contract at I.A. Contract Attorney shall keep the OSPD informed at all times of his/her correct mailing and email addresses.

**VIII. TERMINATION**

This contract may be terminated by either party for any reason. The following shall justify immediate termination of the contract by the SPD. The SPD may impose conditions on the Contract Attorney to continue the contract. Failure to exercise the right of termination shall not constitute waiver of such right, which may be exercised at any subsequent time.

1. The failure of Contract Attorney to comply with any of the terms of this contract or any reasonable direction on the part of the SPD;
2. Institution of proceedings by, or against, Contract Attorney under the bankruptcy laws of the United States;
3. A finding by the SPD that this contract was obtained through fraud by commission or omission;

4. Any assignment by Contract Attorney of all or any parts of this contract without prior written approval;
5. Filing of a public complaint with the Wisconsin Supreme Court by the Office of Lawyer Regulation alleging that a Contract Attorney has violated a disciplinary rule;
6. The commencement of criminal prosecution of Contract Attorney's firm or Contract Attorney's attorneys upon evidence which gives rise to a reasonable concern for the welfare of clients or the financial welfare of the SPD; or, a conviction of these attorneys for any misdemeanor or felony offense;
7. Loss of any Contract Attorney's license in any state for disciplinary reasons, or in Wisconsin for any reason;
8. The placement of liens or other encumbrances against the payment obligations owed to Contract Attorney under the terms of this contract;
9. Refusal by Contract Attorney to allow SPD access to or copying of Contract Attorney records or reports associated with this contract;
10. Failure of Contract Attorney to fully, promptly, and responsively cooperate with an SPD investigation of alleged misconduct, ineffectiveness, or negligence by Contract Attorney;
11. Failure of Contract Attorney to timely submit case-closing information;
12. Disregard by Contract Attorney of the rights and/or best interests of the clients under this contract;
13. Conduct of the Contract Attorney which threatens or impairs the financial integrity of the SPD; or
14. A finding of ineffectiveness by any court applicable to any client, contract based or otherwise.

#### **IX. INDEMNIFICATION**

**SAVE HARMLESS AND INDEMNIFICATION.** Contract Attorney shall assume the defense, including paying for all costs associated therewith, indemnify, and save harmless the State of Wisconsin, the SPD, its board members, administrators, employees, and staff from all suits, actions, damages, or claims of every name, nature, and description that they may be subjected to or put to by reason of claimed injury to persons, property, or interests during the performance of this contract, resulting from, or alleged to have resulted from the negligence, carelessness, or willful acts of Contract Attorney or his/her agents, servants, or employees, in the performance of this contract.

#### **X. NON-ASSIGNMENT AND SUBCONTRACTING**

**NO ASSIGNMENT OR SUBCONTRACTING.** Contract Attorney shall not assign this contract or assign responsibility or compliance with any part of this contract or assign the right to receive payment under this contract to anyone without the prior written consent of the SPD.

## XI. INDEPENDENT CONTRACT ATTORNEY

**CONTRACT ATTORNEY AS INDEPENDENT CONTRACTOR.** The Contract group, as individual attorneys and as a whole, are at all times deemed to be independent Contract Attorneys. This contract does not in any way create the relationship of attorney and client or employee and employer, either between Contract Attorney and the State of Wisconsin, or between Contract Attorney and the SPD. Contract Attorney exclusively assumes the responsibility for the acts of his/her associates and employees as they relate to services provided during the course and scope of this contract. Contract Attorney shall defend and hold the SPD, and individuals associated therewith, harmless against any claims to the contrary.

## XII. CONTRACT DISPUTES

All disputes between the Contract Attorney and the SPD pertaining to the terms of this contract shall be resolved according to the following procedure:

- A. Claim of Dispute:** The Contract Attorney may request resolution of any dispute pertaining to the terms of this contract by filing a Claim of Dispute (“Claim”) with the Assigned Counsel (ACD) Director within thirty (30) days after the dispute arises. The Claim must be in writing and contain a concise statement of the matter in controversy together with any existing supporting documentation. The ACD Director shall issue a response to the Claim within thirty (30) days of its receipt. Submission of a Claim to the ACD Director is a prerequisite to resolution by appeal to the State Public Defender.
- B. Appeal to the Office of the State Public Defender:** If the Contract Attorney is not satisfied with the response issued by the ACD Director, the Contract Attorney may file an appeal with the State Public Defender. The appeal must be in writing and received by the State Public Defender no later than fifteen (15) days from the issuance of the ACD Director’s answer. The State Public Defender or his/her designee shall issue a decision within fifteen (15) days of receipt of the appeal. Appeal to the State Public Defender is a prerequisite to resolution by arbitration.
- C. Arbitration:** If the Contract Attorney is not satisfied with the decision issued by the State Public Defender, the matter in controversy may be submitted to arbitration as set forth below and pursuant to the Wisconsin Arbitration Act:
  - 1. **Written Demand.** The Contract Attorney may make a demand for arbitration by filing such a demand, in writing, to the Director. The demand shall be made within fifteen (15) days of the date of issuance of the State Public Defender’s decision on appeal. The Claim’s original statement of the matter in controversy with supporting documentation shall constitute the entire subject matter to be heard by the arbitrator, unless the parties agree to modify the scope of the issue at the hearing.
  - 2. **Selection of Arbitrator(s).** The arbitrator shall be an attorney selected by the SPD. The arbitrator shall not be on the current SPD certification lists or

part of a firm with attorneys on the current SPD certification lists. The Contract Attorney may reject one such selection of an arbitrator by filing a written rejection notice with the Director within ten (10) days of the date of issuance of the notice of arbitrator selection.

3. **Expenses.** The parties to the arbitration shall each bear their own expenses in the arbitration for their respective attorney's fees, witnesses and related expenses.
4. **Cost and Fees.** The losing party shall pay administrative costs and arbitrator fees, unless otherwise divided or awarded by the arbitrator. If, in the arbitrator's judgment, it is deemed more equitable to divide the arbitration costs and fees between the parties, the arbitrator shall determine in what portion against each party such costs and fees shall be assessed.
5. **Binding Effect.** Any award rendered in arbitration shall be final and binding on each of the parties and judgment may be entered in any court having jurisdiction.

### **XIII. PRIVATE PRACTICE**

**PRIVATE PRACTICE OF LAW.** Neither Contract Attorney, nor the named attorneys under this contract, shall be prohibited from engaging in the private practice of law, including the handling of criminal cases.

### **XIV. TIME SHEETS AND RECORDS**

**A. TIME AND EXPENSE REPORTS.** Contract Attorney shall prepare and maintain contemporaneous time records and expense documentation for each case appointed to him/her by the SPD. Contract Attorney shall follow SPD policies and use the SPD online billing system to submit time and expense records. The records shall include:

1. The date on which each legal service was provided;
2. The time spent performing each legal service;
3. A detailed description of each legal service

**B. CONTRACT ATTORNEY RECORDS.** Contract Attorney shall also make available for inspection and copying: pleadings, briefs (unless confidential by statute), time records, expense records, and other documents relating to an appointed case. Contract Attorney shall keep and retain such records for a period of at least seven (7) years following the conclusion of an appointed case. Failure to produce such records for inspection and copying by the SPD may result in forfeiture of Contract Attorney's right to payment under this contract and cancellation of the contract.

### **XV. AUDITS**

All records required by this contract are subject to inspection from time to time by the local SPD office personnel or an Assigned Counsel Division representative. The SPD may approve or reject a bill in whole or in part if the records are incomplete,



inaccurate, fraudulent, lack necessary documentation, or do not support Contract Attorney billings.

**XVI. WARRANTIES AND REPRESENTATIONS**

By signing this contract, Contract Attorney hereby warrants and represents that:

1. After reasonable inquiry, Contract Attorney is not aware of any conflict of interest within the meaning of SCR 20:1.7, 20:1.8, 20:1.9 or 20:1.10 that would preclude Contract Attorney from providing the professional legal services to clients appointed under this agreement;
2. Neither a state public official, as defined in §19.42(14), Stats., nor an organization in which a state public official or a member of that official's immediate family owns or controls a ten (10%) percent interest, is a party to this contract; and
3. If a state public official, as defined in §19.42(14), Stats., or an organization in which a state public official or a member of that official's immediate family owns or controls a ten (10%) percent interest, is a party to this contract, then, this contract shall be voidable by the State and any amounts paid hereunder may be recovered as provided in §16.77(2), Stats. and Wis. Admin. Code ADM 10.10(5), unless appropriate disclosure is made to the State of Wisconsin Ethics Board.

**XVII. ENTIRE AGREEMENT**

This contract contains the entire agreement of the parties. Any amendment, modification, or alteration must be in writing signed by both parties.

**XVIII. CHOICE OF LAW; SAVINGS CLAUSE**

This agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin, including, without limitation, Chapter 977, Stats., Wis. Admin. Code PD 4, and Supreme Court Rules governing the ethical conduct of licensed attorneys. If any provisions of this agreement are determined to be prohibited by or invalid under Wisconsin law, such provisions shall be ineffective only to the extent of such prohibition or invalidity, without affecting the validity or enforceability of the remaining provisions of this agreement.

**XIX. VENUE AND JURISDICTION**

Any action relating to the construction, interpretation, enforcement, or recovery of amounts owed under this agreement shall be brought and venued in the Dane County Circuit Court in Madison, Wisconsin, provided that nothing herein shall be construed to waive any sovereign immunity or other defenses that the SPD may have under applicable Wisconsin law. Contract Attorney hereby consents to personal jurisdiction in the Dane County Circuit Court, and waives any jurisdictional defense that Contract Attorney otherwise might have relating thereto.

**XX. EFFECTIVE DATE**

This agreement shall become effective immediately upon acceptance and execution by the SPD. It is expressly understood between parties to this contract that terms are not in full force and effect until written gubernatorial approval has been executed. No work may proceed prior to the Governor’s approval.

**XXI. REPRESENTATIVE CAPACITY**

It is understood, intended, and agreed that the SPD, as an agency, is executing this agreement as an agent and representative of the State of Wisconsin and assumes no direct personal liability hereunder.

**XXII. CAPTIONS**

The captions in this agreement are for convenience of reference only and shall not define or limit any of the terms and conditions set forth herein.

\_\_\_\_\_ Date: \_\_\_\_\_

Contract Attorney

\_\_\_\_\_ Date: \_\_\_\_\_

State Public Defender or Designee

Approved Pursuant to §20.930, Wisconsin Statutes

\_\_\_\_\_  
Governor or Governor’s Designee

## APPENDIX A

### OFFICE OF THE STATE PUBLIC DEFENDER—ORDER APPOINTING COUNSEL

*Note to Client: Please call your attorney immediately upon receipt of this notice.*

Name:		Court Case No:
Address:		
Phone:		DOB:
Client ID:	SPD ID:	SPD Case No:
In-Custody:		DOC #:
Nature of Case:		
Description:		
County and Court:	Branch:	Judge:
Next Court Appearance:		Facility:
<u>Hearing Date:</u>	<u>Hearing Time:</u>	<u>Hearing Info:</u>

Comments:

Prior Attorney:

Other Information:

*In accordance with Chapter 977 of the Wisconsin statutes, I hereby appoint the following attorney to represent the above named individual in relation to the above entitled proceedings:*

Attorney Name:	State Bar No:
Address:	
Attorney Telephone:	Date Appointed:
Appointed By:	Supervisor ID:
SPD Office Handling:	SPD Office Phone:
Date Case Opened:	Date OAC Printed:

#### **Office of the State Public Defender – Notice to Clients – File Retention Policy**

When an attorney represents an individual, s/he makes and keeps a file of the documents and work done on the case. Attorneys on staff with the Office of the State Public Defender (SPD) create and maintain such files for each case. This notice applies only to cases handled by staff attorneys of the Office of the State Public Defender. If your case has been assigned to a private attorney, please consult that attorney about his or her file retention policy.

Upon the conclusion of the representation in this case, the SPD will, upon your request, deliver the original file or any portion requested, to you, along with any of your original documents or other property that the SPD has in its possession.

If you do not request your file, the SPD will retain it for a period of at least five years after the matter is closed. At any point during this period, you may request delivery of the file. If you do not request the file before the end of the five-year period, the SPD may, in its discretion, destroy the file and its contents without further notice to you.

## **APPENDIX B**

### **Wisconsin Office of the State Public Defender Minimum Attorney Performance Standards for Appointed Private Bar Counsel**

The following are the minimum attorney performance standards for appointed private bar counsel adopted by the Wisconsin Office of the State Public Defender (OSPD). These standards require an attorney to do more than merely comply with Supreme Court Rules and stay above the threshold for ineffective assistance of counsel.

These standards reflect the commitment in our mission statement to provide high quality legal services.

“Appointed attorney” refers to an attorney in private practice who is certified and appointed by the OSPD to represent clients eligible for OSPD services. Except for those rules which reference issues peculiar to the private bar, e.g. certification, these standards reflect the same expectations the Wisconsin Office of the State Public Defender has for staff attorneys.

#### Generally

1. An appointed attorney shall comply with all Supreme Court Rules, including both the Rules of Professional Conduct in SCR Chapter 20 and the Standards of Courtesy and Decorum in SCR Chapter 62.
2. An appointed attorney shall comply with local court rules in the counties in which s/he practices.
3. An appointed attorney shall comply with statutes, administrative code rules, and OSPD policies and procedures related to public defender appointments, certification and billing.
4. In all cases, including, but not limited to, those under Wis. Stats. Chapters 48, 51 and 55, an appointed attorney shall function as adversary counsel.
5. An appointed attorney shall maintain an updated client file, detailing all action taken on the case and including copies of all relevant court filings and other materials. The file is the property of the client and must be tendered to the client upon request at the close of the case unless the file is being forwarded to successor counsel. An attorney should print the electronic court record for the client file or should maintain electronic records in a format that allows the attorney to print documents for the client file after the case is closed. Attorneys lose access to the e-filing system once a case is closed; therefore, attorneys should not rely on the court system for record management. For recordings and other relevant materials not susceptible to printing, the attorney should take reasonable steps to ensure that the

materials are available and accessible in a format that can be delivered to the client or successor counsel.

6. An appointed attorney shall retain all client files not turned over to the client or successor counsel for a minimum of six years and follow all Supreme Court rules regarding the disposal of client files and property.
7. An appointed attorney shall cooperate fully with successor counsel. This includes promptly delivering the client file and answering questions about the earlier representation, consistent with ethical obligations.
8. An appointed attorney shall cooperate with inquiries from the OSPD regarding the status of appointed case, performance issues, or billing issues in appointed case.

### Competence and Diligence

1. An appointed attorney shall accept only those cases for which s/he can provide competent representation. Certification by the OSPD for a particular case type or category is not the same as competency to provide services in any individual case.
2. An appointed attorney shall personally act as an advocate for the client and provide zealous, effective, and high-quality representation to the client at all types of proceedings. An appointed attorney may arrange for another certified attorney to provide coverage of a routine appearance in the event a scheduling conflict cannot be avoided.
3. An appointed attorney shall know to a reasonably proficient standard all relevant Wisconsin substantive law and procedure and keep abreast of developments in substantive and procedural law.
4. An appointed attorney shall meet all statutory and court-imposed deadlines.
5. An appointed attorney shall meet promptly with the client, in person, whether in custody or not. Ordinarily, the first meeting with the client should take place as soon as practicable after appointment. In appellate matters, an in-person meeting may be delayed until the attorney has had a chance to review the file and transcripts.

### Communication

1. An appointed attorney shall explain the role of attorney and attorney-client relationship, determine background information and solicit the defendant's version of the facts.
2. An appointed attorney shall consult with the client as often as necessary to elicit the information necessary to build a defense.
3. An appointed attorney shall keep the client reasonably informed about the status of his/her case, defense strategies, tactical choices, consequences of conviction, and explain the nature and purpose of court proceedings.

4. An appointed attorney shall promptly respond to the client's reasonable requests for information, including providing a copy of any motion or brief filed in the client's case upon the request of the client.
5. An appointed attorney shall present and consult with the client about all plea negotiations and offers of settlement.
6. An appointed attorney shall explain matters to the extent reasonably necessary to allow the client to make an informed decision regarding the case.

Practice Standards – Trial

1. An appointed attorney shall actively represent an in-custody client on the issue of release throughout the case.
2. An appointed attorney shall review and examine the complaint and accompanying papers, information or other charging document and determine the sufficiency of the same.
3. An appointed attorney shall obtain and review all discovery materials, including but not limited to police reports, all written or recorded statements of the defendant, names of witnesses to any written or recorded statements, a copy of the client's criminal record, if any, and statements of witnesses, a copy of the criminal record of prosecution witnesses; and physical evidence and/or reports of physical evidence.
4. An appointed attorney shall arrange for the client to review discovery materials in so far as it is necessary for the client to make informed decisions about his/her case. An attorney should provide the discovery necessary to properly inform the client.
5. An appointed attorney shall cause an investigation of the facts including attempting to interview appropriate defense or prosecution witnesses.
6. An appointed attorney shall analyze all legal issues presented in the case. In consultation with the client, and attorney shall decide which issues have merit and make strategic decisions about issues to be pursued. An appointed attorney shall then file and argue appropriate motions.
7. An appointed attorney shall utilize experts, investigators, interpreters and other professional support where appropriate.
8. An appointed attorney shall consider all appropriate available diversion, treatment court, and other alternatives to prosecution.
9. An appointed attorney shall prepare the case for trial or hearing, as appropriate, and advise the client of the procedures to be followed and his/her rights.
10. An appointed attorney shall prepare a plan or argument for sentencing for the client if the client is convicted, and advise the client of the sentencing procedures.

11. An appointed attorney shall inform the client of his/her right to appeal, file a notice of intent to pursue post-conviction relief if requested to do so by the client, and make a proper referral to the OSPD Appellate Division.
12. An appointed attorney shall notify the local OSPD office as soon as the attorney moves to withdraw. If in writing, the attorney shall provide the local OSPD office with a copy of the written motion prior to the hearing on the motion to withdraw.
13. An appointed attorney assigned to handle cases involving the revocation of probation, Extended Release or parole, rescission of parole, and re-confinement shall do all of the following:
  - a. Obtain and review all DOC documents relevant to the administrative or court hearing.
  - b. Where appropriate, review material held by the DOC including but not limited to the client's file held by his/her agent.
  - c. Review information regarding the offense(s) underlying the supervision.
  - d. Coordinate representation with any attorney handling a new criminal matter for the same client.
  - e. Insure that issues regarding sentence structure and sentence credit are properly resolved.
  - f. Represent the client through the administrative hearing.
  - g. File an administrative appeal unless after consultation with the client, the client consents to foregoing the administrative appeal.
  - h. Review the decision on the administrative appeal and determine if grounds exist for filing a Writ of Certiorari; advise the client whether viable grounds to file a Writ of Certiorari exist, and consult with the client regarding whether to pursue such a Writ if the attorney has determined there are viable grounds; pursue a Writ Certiorari when appropriate.
  - i. Represent the client in the related re-confinement hearing or sentencing after revocation, unless successor counsel is appointed.

#### Professionalism and Ethics

1. An appointed attorney shall treat the client, the client's family, and other members of the public with courtesy and respect. An appointed attorney should be mindful of the rules related to confidentiality and loyalty to the client when speaking with family members and others.

2. An appointed attorney shall maintain civility and respect towards the court's courthouse staff, prosecutors, law enforcement, local public defender office staff, and members of the public.
3. An appointed attorney shall maintain a system of conflict checks.
4. An appointed attorney shall maintain his/her skills and keep up with changes in the law and the practice of law. An appointed attorney will report his/her approved CLE credits to the OSPD as required by the administrative code.
5. An appointed attorney shall not appear in the workplace, including, but not limited to a courthouse, jail or other correctional facility, treatment or other placement facility, nor meet with a client, the client's family, or a witness in a case while impaired by drugs or alcohol or with a noticeable odor of intoxicants.
6. An appointed attorney shall not accept a case appointment for a client with whom s/he has had a personal or sexual relationship. An appointed attorney shall not accept a case appointment for a client for whom s/he is or was the guardian or protective payee.
7. An appointed attorney shall promptly notify the OSPD Assigned Counsel Division (ACD) Director if the attorney has been arrested or charged with a crime. This notification shall occur within 24 hours of arrest or charging.