

**FIRST AMENDMENT TO AGREEMENT BETWEEN THE BOARD OF COUNTY
COMMISSIONERS OF HAMILTON COUNTY AND THE LAW OFFICE OF THE
HAMILTON COUNTY PUBLIC DEFENDER**

MEMORANDUM OF UNDERSTANDING

I. HISTORY

In 2007, the Board of County Commissioners of Hamilton County commissioned NLADA to conduct a Management and Efficiency Evaluation of the Indigent Defense System in Hamilton County. In July 2008, NLADA issued its report, "Taking Gideon's Pulse", which found that the State of Ohio was not meeting its constitutional obligations to properly fund indigent defense, and as a result suggested various reforms. In 2008, the Hamilton County Commissioners created a Task Force, chaired by Commissioner David Pepper to review the recommendations of NLADA. In February 2009, the Task Force submitted its report, again calling for various reforms. Following various meetings with the Ohio State Public Defender Commission, on May 20, 2010 that Commission issued a Memorandum, which requires the Hamilton County Commissioners and the Hamilton County Public Defender Commission to enter into a Memorandum of Understanding that sets forth concrete benchmarks for reform. The Ohio Public Defender Commission in its Memorandum identified "four critical issues that require immediate attention...": 1) increase pay for misdemeanor contract attorneys; 2) implement pay parity for staff attorneys; 3) provide adequate office space for staff attorneys; and 4) hire support staff. Further, it should be noted that the 2010 annual budget for the Hamilton County Public Defender's Office is approximately \$13 million and at the current rate of reimbursement from the Ohio Public Defender of 35%, approximately \$4.9 million will be deposited into the Hamilton County General Fund.

II. PURPOSE

This Agreement is entered into by the Board of County Commissioners of Hamilton County (hereinafter "BOCC") and the Law Office of the Hamilton County Public Defender (hereinafter "HCPD") for the purpose of complying with the mandate and recommendations outlined in the May 20, 2010 Memorandum from the Ohio Public Defender Commission, and to set forth the steps that BOCC and HCPD will endeavor to take to improve their obligations to provide indigent defense services. In 2012, in light of the County Administrator's request regarding the continuing financial issues facing the County, the Public Defender's Office has agreed to amend this Memorandum of Understanding (MOU) to extend the terms of the agreement through 2014. The amendment would in no way change the objectives within the Memorandum of Understanding (MOU), only the implementation schedule of these objectives. The amendment will extend the implementation of the additional funding and positions scheduled for 2012 to be appropriated equally over the 2012 and 2013 budget fiscal years. To that end the objectives sought to be achieved by the HCPD include, but are not limited to: 1) create salary parity with the Hamilton County Prosecutor's office; 2) without impacting budget, increase compensation for contract attorneys while reducing dependency on them; 3) maintain a firm and strong commitment to training; 4) expand and enhance performance evaluations; 5) work on ways to increase reimbursement revenue through indirect cost allocations; 6) obtain

adequate temporary and permanent space; 7) hire additional legal and support staff; 8) work with the Cincinnati Bar Association to establish a committee to review and make recommendations regarding the hourly fees and caps for assigned counsel established in the 2004 fee schedule and work toward implementation of any proposed schedule.

III. RESPONSIBILITIES OF THE HCPD

Under this Agreement, the HCPD will provide indigent defense services in Hamilton County. The HCPD will seek reimbursement from the state of Ohio for any reimbursable costs that are applicable to this service. In 2012, in light of the County Administrator's request regarding the continuing financial issues facing the County, the Public Defender's Office has agreed to amend this Memorandum of Understanding (MOU) to extend the terms of the agreement through 2014. The amendment would in no way change the objectives within the Memorandum of Understanding (MOU), only the implementation schedule of these objectives. The amendment will extend the implementation of the additional funding and positions scheduled for 2012 to be appropriated equally over the 2012 and 2013 budget fiscal years. Wherefore, HCPD agrees as follows:

A. In 2010 the HCPD shall:

- 1) Develop a plan to change from a 35-hour workweek to a 40-hour workweek for legal staff.
- 2) Develop a plan to create pay parity with the Hamilton County Prosecutor's Office for legal staff.
- 3) Develop a plan to create pay parity with the Hamilton County Prosecutor's Office for non-legal staff.
- 4) Reduce dependency on Municipal Court Contract Attorneys without any major budgetary impact.
- 5) Increase the payment schedule for contract attorneys from the current fee schedule of \$70 per client.
- 6) Work with BOCC to find sufficient and adequate space to temporarily relocate the GAL division's 28 employees.

B. In 2011 the HCPD shall:

- 1) Further, reduce dependency on Municipal Court Contract Attorneys without any major budgetary impact.
- 2) Hire an additional 7 Municipal Staff attorneys using a portion of the funds in the Contract Attorney line item in the 2011 budget.
- 3) Hire 3 additional support personnel.
- 4) Seek reimbursement from the State Public Defender for any indirect costs deemed to be associated with Pre-Trial Services.
- 5) Hire 1 additional support person for the relocated GAL division.
- 6) In conjunction with the Cincinnati Bar Association, create a committee to review 2004 fee schedule for assigned counsel.

C. In 2012 the HCPD shall:

- 1) Hire 1 Juvenile Investigator.
- 2) Hire 1 additional felony staff attorney.
- 3) Hire 5 Administrative Assistants, one to be assigned to each of the (5) Municipal Staff Teams.
- 4) Hire 1 Information Systems Assistant.
- 5) Hire 1 GAL Paralegal.

D. In 2013 the HCPD shall:

- 1) Hire 2 additional Municipal Staff Attorneys.
- 2) Hire 2 additional Juvenile Staff Attorneys.
- 3) Hire 2 paralegals one to municipal division and one to juvenile division.
- 4) Hire 1 additional Felony Staff Attorney.
- 5) Hire 1 Administrative Assistant

E. In 2014 the HCPD shall:

- 1) Hire 2 additional Felony Staff Attorneys.
- 2) Hire 1 Appellate Staff Attorney.
- 3) Hire 5 Forensic Social Workers.
- 4) Hire 2 Investigators

IV. RESPONSIBILITIES OF BOCC

Under this Agreement, the BOCC agrees to provide the funding necessary to enable the HCPD to achieve its objectives as set forth in section II above and to comply with the Ohio Public Defender's Commission Memorandum dated May 20, 2010. In 2012, in light of the County Administrator's request regarding the continuing financial issues facing the County, the Public Defender's Office has agreed to amend this Memorandum of Understanding (MOU) to extend the terms of the agreement through 2014. The amendment would in no way change the objectives within the Memorandum of Understanding (MOU), only the implementation schedule of these objectives. The amendment will extend the implementation of the additional funding and positions scheduled for 2012 to be appropriated equally over the 2012 and 2013 budget fiscal years. Appropriations to cover the costs of these objectives will be made as part of the annual budget process. Wherefore, BOCC agrees to:

A. By August 4, 2010 BOCC shall: Provide an additional \$152,570 to be used for but not limited to the following:

- 1) An additional \$152,570 to HCPD's budget to enable HCPD to make the necessary salary increases to reflect a 40-hour workweek.
- 2) Assist HCPD in finding sufficient and adequate space to temporarily relocate the GAL division's 28 employees.

B. In 2011 BOCC shall: Provide an additional \$750,000 to be used for but not limited to the following:

- 1) An additional \$488,230 to HCPD's budget to cover the annual cost associated with the change to a 40-hour workweek for legal staff and pay parity for all employees. If BOCC agrees to provide salary adjustments to other departments within their salary plan, HCPD will receive the salary adjustment based upon its salaries after the conversion to the 40-hour workweek and establishment of pay parity with the Hamilton County Prosecutor's Office.
- 2) The funds necessary to renovate available space and to move the GAL division into acceptable temporary facilities.
- 3) Provide an additional \$118,800 to HCPD's budget to cover the costs associated with the hiring of 3 additional support personnel.
- 4) Work towards having a portion of the Pre-Trial Service budget designated as an indirect cost allocation to the HCPD.
- 5) Provide an additional \$30,360 to HCPD's budget to cover the salary associated with the hiring of 1 additional support person for GAL.
- 6) Provide an additional \$10,000 to HCPD's budget for additional computer equipment for new staff.
- 7) In addition to the 4 full-time employees set forth above an additional 7 full-time employees for 11 full-time employees; a portion of the cost for the additional 7 to be bore by HCPD by a reduction in Contract Attorney line item in the 2011 budget.

C. In 2012 BOCC shall amend the Memorandum of Understanding (MOU) to extend the terms of the agreement through 2014: Provide an additional \$288,015 to be used for but not limited to the following:

- 1) An additional \$52,800 to HCPD's budget to cover salary of 1 Juvenile Investigator.
- 2) An additional \$36,647 to HCPD's budget to cover salary of 1 Information System Assistant.
- 3) An additional \$198,000 to HCPD's budget to cover the salary of 5 Administrative Assistants, 1 to be assigned to each of the 5 Municipal Staff Teams.
- 4) An additional \$41,800 to HCPD's budget to cover 1 Guardian Ad Litem Paralegal.
- 5) An additional \$72,600 to cover the salary of 1 additional Felony Staff Attorney.
- 6) In addition, to support the above mentioned 9 full-time employees; a portion of the cost for the additional 9 to be borne by HCPD by a reduction of \$114,000 in Contract Attorney line item in the 2012 budget.

D. In 2013 BOCC agrees to: Provide an additional \$288,015 to be used for but not limited to the following:

- 1) An additional \$116,160 to HCPD's budget to cover the salaries for 2 additional Municipal Staff attorneys.
- 2) An additional \$116,160 to HCPD's budget to cover salary for 2 additional Juvenile Staff attorneys.
- 3) An additional \$83,601 to HCPD's budget to cover salaries for 2 Paralegals one for the Juvenile and Municipal Division's.

- 4) An additional \$72,600 to HCPD's budget to cover salary for 1 additional Felony staff Attorney.
- 5) An additional \$39,600 to HCPD's budget to cover salary for 1 additional Administrative Assistant.
- 6) In addition, to support the above mentioned 8 full-time employees; a portion of the cost for the additional 8 to be borne by HCPD by a reduction of \$140,000 in Contract Attorney line item in the 2012 budget

E. In 2014 BOCC agrees to: Provide an additional \$521,400 to be used for but not limited to the following:

- 1) An additional \$145,200 to HCPD's budget to cover the salaries for 2 additional Felony Staff attorneys.
- 2) An additional \$72,600 to HCPD's budget to cover salary for 1 additional Appellate Staff attorney.
- 3) An additional \$198,000 to HCPD's budget to cover salaries for 5 Forensic Social Workers.
- 4) An additional \$105,600 to HCPD's budget to cover salary for 2 Investigators. .
- 5) Provide funds necessary to renovate and/or relocate to permanent facilities of approximately 50,000 sq. ft.
- 6) Provide the costs associated with the relocation to permanent facilities.

V. USE OF FUNDS RECEIVED

The Law Office of the Hamilton County Public Defender warrants and agrees that any funds received from the Hamilton County general fund will be utilized by the Law Office of the Hamilton County Public Defender to provide constitutionally mandated indigent defense.

VI. AVAILABILITY OF FUNDS

In the event that the reimbursement rate set by the State of Ohio exceeds or drops below the current 35% rate, the HCPD and the BOCC agree to continue to work together to insure that the objectives set forth in this Memorandum of Understanding are met.

VII. EFFECTIVE DATE

The original Agreement commenced on 8/1/2010. This first amendment to the Agreement will commence on 1/1/2012.

VII. ENTIRETY OF AGREEMENT

All terms and conditions of this Agreement are embodied herein. No other terms and conditions will be considered a part of this Agreement unless expressly agreed upon in writing and signed by all parties.

The terms of this Agreement are hereby agreed to by the parties as shown by the signatures of the authorized representatives of each.

Hamilton County Public Defender

Date

Christian Sigman, Administrator
Hamilton County

Date