

## CHAPTER 5.18

### INDIGENT DEFENSE SERVICES

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**5.18.010 APPLICABILITY.** This chapter shall apply to indigent defense services provided in Benton County, Washington.  
[Ord. 470 (2009) § 2]

**5.18.020 PURPOSE.** The purpose of this chapter is to establish standards and procedures for the selection, employment, and appointment of attorneys to provide indigent defense representation through the Office of Public Defense to indigent

persons requiring such representation. This is for the protection of the public health, safety, and general welfare of the residents of Benton County.

[Ord. 470 (2009) § 3]

**5.18.030 DEFINITIONS.** For the purposes of this chapter, the following words and phrases shall have the indicated meanings.

(a) "BFOPD" means the Benton and Franklin Counties Office of Public Defense.

(b) "CLE" refers to continuing legal education classes approved for credit by the Washington State Bar Association.

(c) "IDC" means the Indigent Defense Coordinator, appointed by the Boards of County Commissioners of Benton County and Franklin County, who serves as the Coordinator for indigent defense services in the Benton & Franklin Counties Office of Public Defense.

(d) "RALJ Misdemeanor Appeals" refers to appeals handled pursuant to the Limited Jurisdiction Court Appeals rules as promulgated by the Washington State Supreme Court.

(e) "RPC" means the Rules of Professional Conduct.

(f) "SPRC" refers to the Superior Court Special Proceedings—Criminal as promulgated by the Washington State Supreme Court.

(g) "WSBA" means the Washington State Bar Association.

(h) "WSBA Indigent Defense Standards" refers to the document entitled, "Standards for Indigent Defense Services" adopted by the Washington State Bar Association Board of Governors on September 20, 2007.

[Ord. 470 (2009) § 4]

**5.18.040 ADMINISTRATION.** The Indigent Defense Coordinator, appointed by the Boards of County Commissioners of Benton County and Franklin County shall serve as the Coordinator for Indigent Defense Services in the Benton & Franklin Counties Office of Public

Defense and shall have responsibility for the administration and enforcement of this chapter.

[Ord. 470 (2009) § 5]

**5.18.050 SELECTION OF ATTORNEYS.** The County shall endeavor to maintain a pool of available attorneys for indigent defense cases. The pool of attorneys shall be appropriate for the number and nature of cases anticipated to be filed in District and Superior Court or any specialty dockets or subdivisions existing in such Courts, including the Juvenile Division of Superior Court. The attorneys may be staff attorneys directly employed by the County or they may be independent contractor attorneys contracted to provide services on one or on many cases, as necessary.

Attorneys who are retained by contract shall be selected by the Indigent Defense Coordinator who should solicit input from the Judges of the Court(s) in which such attorneys will primarily be practicing.

The selection process for contract attorneys shall be an open process whereby proposals shall be accepted from all interested and qualified attorneys, and where the availability of contracts shall be advertised by a means reasonably calculated to attract the attention of interested and qualified attorneys in the area or in the State.

Law enforcement officials and prosecutors shall not provide any input into the process of selecting indigent defense attorneys. Furthermore, any input provided by either of such parties shall be specifically disregarded in the process of selecting attorneys.

If the County requires legal advice to do with any aspect of selection of indigent defense attorneys, such advice shall be provided by a special deputy prosecuting attorney, selected and appointed by the Prosecuting Attorney, who is not an employee of the County Prosecuting Attorney's Office.

[Ord. 470 (2009) § 6]

**5.18.060 SELECTION OF ATTORNEYS--CONTRACTS.** (a) All contracts for indigent defense services shall be in writing, shall be executed by the Board of County Commissioners, and, as much as

possible, shall be executed either prior to or contemporaneous with the appointment of cases thereunder. In cases where it is not practical or possible to execute such contracts prior to or contemporaneous with the appointment of cases, a written contract should be executed as soon thereafter as possible.

(b) The County shall not contract with attorneys who have been:

(1) on two separate occasions, found by any Court of competent jurisdiction, to have rendered ineffective assistance of counsel to any criminal defendant; or

(2) formally censured, reprimanded, or suspended, under such circumstances as would call into question their fitness to represent criminal defendants.

(c) Contracts for indigent defense services shall address temporary substitution of attorneys in the event of attorney unavailability. All substitute attorneys shall meet the requirements of this chapter and must be approved by the Indigent Defense Coordinator. No indigent defense services contract shall be assigned from one attorney to another. Rather, contract privity should be established with all temporary substitute attorneys for substitutions in excess of one week.

(d) Contract attorneys shall be contractually required to ensure that the amount of their private practice is never of such an amount that it interferes with their ability to fulfill their duties under their indigent defense contract. Staff attorneys shall be prohibited from having any sort of private practice.

(e) Attorneys contracted to provide indigent defense services shall maintain a case reporting and management information system that includes the number and types of cases, attorney hours, and disposition for each case served at public expense and paid for by the County. Such system shall be maintained independently from client files so as to disclose no privileged information. Furthermore, data from such system must be available to the County upon request for audit, billing verification or other legitimate purpose.

(f) Neither the County, in its selection of attorneys to provide indigent defense representation, nor the attorneys selected or employed, 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 County and the attorneys shall comply with all federal, state, and local non-discrimination requirements.  
[Ord. 470 (2009) § 7]

**5.18.070 COMPENSATION.** Attorneys who perform indigent defense services pursuant to a contract with the County should be compensated in an amount and manner reasonable and appropriate to their level of skill and experience, as well as their caseload and other responsibilities pursuant to the contract.

Attorneys shall also be compensated for approved out-of-pocket expenses specifically related to assigned cases.

Attorneys who have a conflict of interest shall not be required to bear the cost of substitute counsel; provided, that notice of the conflict is provided within reasonable time parameters established by contract, County policy, or policies of the Benton and Franklin Counties Office of Public Defense.  
[Ord. 470 (2009) § 8]

**5.18.080 ATTORNEY APPOINTMENT--DUTIES AND RESPONSIBILITIES--CASE LOAD LIMITS AND TYPES OF CASES.** (a) The County shall bear the expenses for, and through the Benton and Franklin Counties Office of Public Defense "BFOPD" shall, appoint an indigent defense attorney for all cases or matters where applicable case law, rule or statute requires that such attorney be appointed.

In cases where appointment of an attorney is mandated, an attorney should be afforded to defendants, on a provisional basis if necessary, at the earliest stage of proceedings where defendants may potentially suffer adverse consequences in the form of incarceration, detention, or deportation/denial of citizenship or naturalization.

(b) Defense services shall be provided to all qualified indigent defendants in a professional, skilled manner consistent with

standards set forth by the Washington State Bar Association "WSBA" including the Rules of Professional Conduct "RPC", applicable case law, and appropriate Court rules. The Attorney's primary and most fundamental responsibility in all appointed cases is to promote and protect the best interests of the indigent client.

(c) The caseload of appointed attorneys should allow each such attorney to give each indigent client the time and effort necessary to ensure effective representation. Appointed attorneys should not accept a workload that, by reason of its excessive size, interferes with the rendering of quality representation.

(d) The County, through the BFOPD, shall monitor and ensure that caseloads are reasonable considering types of cases and the recommendations of the WSBA Indigent Defense Standard Three.  
[Ord. 470 (2009) § 9]

**5.18.090 DEFENDANTS--INDIGENCY SCREENING--RECORDS--FEES.**

Defendants seeking the appointment of an indigent defense attorney shall be screened for indigency pursuant to the provisions of RCW 10.101.020. Screenings shall require a written application completed under oath by the defendant, and the standard form of application as provided by the Washington State Office of Public Defense should constitute the written application.

Records of indigency screening should be retained for the period of time prescribed by applicable statute or administrative rule, including any administrative rule applicable to its existence as a public record.

To the extent possible, indigency screening should be user fee based and should require applicants who are indigent but able to contribute toward the cost of their representation (as provided in RCW 10.101.020(5)) to execute promissory notes at the time counsel is appointed.

[Ord. 470 (2009) § 10]

**5.18.100 INVESTIGATIVE SERVICES, EXPERT SERVICES, AND OTHER SERVICES--SELECTION--FEES.** Investigative services, expert services, and other services are necessary for the preparation and presentation of a defense case.

(a) The County shall provide for access to reasonable numbers of investigators considering the number and complexity of cases being filed, the number of attorneys, logistical considerations, and the recommendations contained in WSBA Indigent Defense Standard Six. Such investigators may be employees of the County, independent contractors, or a reasonable combination thereof.

If independent contractor investigators are provided, then Benton and Franklin Counties Office of Public Defense "BFOPD" shall publish a list of approved investigators or investigation firms and shall execute open contracts with such investigators or firms.

Such contracts shall address, at a minimum, the terms and conditions of service, hourly rates, and procedures for billing including the detail necessary in such billings so as to allow the County to maintain accountability for moneys spent on such investigators. Appointed attorneys shall not utilize the services of investigators not on the approved list except upon prior written approval at the sole discretion of the Indigent Defense Coordinator.

(b) Appointed attorneys shall be free to select the expert of their choosing; provided, that such experts are indeed qualified to provide advice or testify in their field of expertise and are willing to agree to charge such fees as are approved by the BFOPD.

(c) Reasonable compensation for investigative services, expert services, or other services necessary for the preparation and presentation of the defense case shall be provided upon application for payment pursuant to rules for such a process promulgated by the BFOPD.

(d) Fees for investigative services, expert services, or other services shall be maintained and allocated from funds separate from those provided for attorney compensation.

[Ord. 470 (2009) § 11]

**5.18.110 ADMINISTRATIVE EXPENSES AND SUPPORT SERVICES.** To the extent it hires staff attorneys to provide indigent defense services, the County shall provide such staff attorneys it employs with administrative and support services comparable to that which is provided to other comparable County departments and offices.

Contract attorneys are responsible for their own administrative and support services and such services should be considered in determination of compensation.

[Ord. 470 (2009) § 12]

**5.18.120 MONITORING OF ATTORNEY CONTRACTS AND SERVICES.** The Benton and Franklin Counties Office of Public Defense "BFOPD" through its appointed Indigent Defense Coordinator shall provide contract oversight over contract attorneys, and shall supervise the work of staff attorneys. The Benton and Franklin Counties Office of Public Defense responsibilities shall include, but are not limited to:

- (a) ensuring contract compliance,
- (b) monitoring caseload numbers,
- (c) providing financial support for reimbursement of out-of-pocket expenses, and
- (d) addressing complaints by indigent defendants.

[Ord. 470 (2009) § 13]

**5.18.130 ATTORNEY QUALIFICATIONS--MINIMUM PROFESSIONAL QUALIFICATIONS.** In order to assure that indigent accused persons receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services should meet the following minimum professional qualifications:

- (a) satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court;
- (b) be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and
- (c) be familiar with the collateral consequences of a conviction, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and
- (d) be familiar with mental health issues and be able to identify the need to obtain expert services; and

(e) complete seven (7) hours of continuing legal education within each calendar year in courses relating to their public defense practice.

[Ord. 470 (2009) § 14]

**5.18.140 TRAINING.** Attorneys providing public defense services shall participate in regular training programs on criminal defense law, including a minimum of seven (7) hours of continuing legal education annually in areas relating to their public defense practice.

Attorneys specializing in particular areas of indigent defense practice such as but not limited to: involuntary treatment act, juvenile law, or drug court, should endeavor, whenever possible, to attend continuing legal education appropriate to their area of specialization.

[Ord. 470 (2009) § 15]

**5.18.150 ATTORNEY REPRESENTATION IN SPECIFIC CLASSES OF CASES.**

(a) Attorneys to be appointed to provide representation in special classes of cases should meet the minimum standards prescribed in BCC 5.18.160 through BCC 5.18.290 prior to appointment to such cases. Such specific classes of cases include:

- (1) Death Penalty Cases
- (2) Adult Felony Cases - Class A
- (3) Adult Felony Cases - Class B
- (4) Adult Felony Case - All Other Class B Felonies, Class C Felonies, Probation or Parole Revocation Cases
- (5) Persistent Offender (Life Without Possibility of Release) Cases
- (6) Juvenile Cases - Class A
- (7) Juvenile Cases - Class B and Class C
- (8) Juvenile Status Offenses Cases
- (9) Misdemeanor Cases
- (10) Dependency Cases
- (11) Civil Commitment Cases
- (12) Contempt of Court Cases
- (13) Specialty Court (e.g. mental health court, drug diversion court, homelessness court) Cases
- (14) RALJ Misdemeanor Appeals to Superior Court Cases

(b) In the event that an attorney who does not meet the minimum standards for some class of cases is appointed to such a case, it is that attorney's responsibility to advise the Indigent Defense Coordinator and the Court of that fact and either arrange for mentoring by a more experienced attorney, engage in a free-of-charge case consultation with a State Office of Public Defense Attorney who is qualified for such a case (for cases other than death penalty cases), or ask that the case be re-assigned to a qualified attorney. [Ord. 470 (2009) § 16]

**5.18.160 REPRESENTATION IN A DEATH PENALTY CASE--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney acting as lead counsel in a death penalty case or an aggravated homicide case in which the decision to seek the death penalty has not yet been made shall meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) have at least five (5) years criminal trial experience; and
- (c) have prior experience as lead counsel in no fewer than nine (9) jury trials of serious and complex cases which were tried to completion; and
- (d) have served as lead or co-counsel in at least one jury trial in which the death penalty was sought; and
- (e) have experience in preparation of mitigation packages in aggravated homicide or persistent offender cases; and
- (f) have completed at least one death penalty defense seminar within the previous two (2) years; and
- (g) meet the requirements of SPRC 2.

The defense team in a death penalty case should include, at a minimum, the two (2) attorneys appointed pursuant to SPRC 2, a mitigation specialist, and an investigator. Psychiatrists, psychologists, and other experts and support personnel should be added as needed.

[Ord. 470 (2009) § 17]

**5.18.170 REPRESENTATION IN AN ADULT FELONY CASE - CLASS A--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a defendant accused of a Class A felony as defined in RCW 9A.20.020 shall meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) either, has served two years as a prosecutor; or
  - (1) has served two (2) years as a public defender, or two (2) years in a private criminal practice; and
  - (2) has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three (3) felony cases that have been submitted to a jury.

[Ord. 470 (2009) § 18]

**5.18.180 REPRESENTATION IN AN ADULT FELONY CASE - CLASS B--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Violent Offense or Sexual Offense. Each attorney representing a defendant accused of a Class B violent offense or sexual offense as defined in RCW 9A.20.020 shall meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) either:
  - (1) has served one year as a prosecutor; or
  - (2) has served one year as a public defender, or one year in a private criminal practice; and
- (c) has been trial counsel alone or with other counsel and handled a significant portion of the trial in two (2) Class C felony cases that have been submitted to a jury.

[Ord. 470 (2009) § 19]

**5.18.190 REPRESENTATION IN AN ADULT FELONY CASE - ALL OTHER CLASS B FELONIES, CLASS C FELONIES, PROBATION OR PAROLE REVOCATION--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a defendant accused of a Class B felony not defined in BCC 5.18.180

or a Class C felony, as defined in RCW 9A.20.020, or involved in a probation or parole revocation hearing shall meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) either:
  - (1) has served one year as a prosecutor; or
  - (2) has served one year as a public defender, or one year in a private criminal practice; and
- (c) has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in two (2) criminal cases that have been submitted to a jury; and
- (d) each attorney shall be accompanied at his or her first felony trial by a supervisor, if available.  
[Ord. 470 (2009) § 20]

**5.18.200 REPRESENTATION IN A PERSISTENT OFFENDER (LIFE WITHOUT POSSIBILITY OF RELEASE) CASE--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney acting as lead counsel in a "two-strikes" or "three strikes" case in which a conviction will result in a mandatory sentence of life in prison without parole shall meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) have at least
  - (1) four (4) years criminal trial experience; and
  - (2) one year experience as a felony defense attorney; and
  - (3) experience as lead counsel in at least one Class A felony trial; and

(4) experience as counsel in cases involving each of the following:

(A) mental health issues; and

(B) sexual offenses, if the current offense or a prior conviction that is one of the predicate cases resulting in the possibility of life in prison without parole is a sex offense; and

(C) expert witnesses; and

(D) one year of appellate experience or demonstrated legal writing ability.

[Ord. 470 (2009) § 21]

**5.18.210 REPRESENTATION IN A JUVENILE CASE - CLASS A--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a juvenile accused of a Class A felony shall meet the following requirements:

(a) the minimum requirements set forth in BCC 5.18.130; and

(b) either:

(1) has served one year as a prosecutor; or

(2) has served one year as a public defender; one year in a private criminal practice, and

(c) has been trial counsel alone of record in five (5) Class B and Class C felony trials; and

(d) each attorney shall be accompanied at his or her first juvenile trial by a supervisor, if available.

[Ord. 470 (2009) § 22]

**5.18.220 REPRESENTATION IN A JUVENILE CASE - CLASS B AND CLASS C--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a juvenile accused of a Class B or Class C felony shall meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) either:
  - (1) has served one year as a prosecutor; or
  - (2) has served one year as a public defender, or one year in a private criminal practice, and
  - (3) has been trial counsel alone in five (5) misdemeanor cases brought to final resolution; and
- (c) each attorney shall be accompanied at his or her first juvenile trial by a supervisor, if available.  
[Ord. 470 (2009) § 23]

**5.18.230 REPRESENTATION IN A JUVENILE STATUS OFFENSES CASE--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a client in a "BECCA" matter shall meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) either:
  - (1) have represented clients in at least two (2) similar cases under the supervision of a more experienced attorney or completed at least three (3) hours of CLE training specific to "status offense" cases; or
  - (2) have participated in at least one consultation per case with a more experienced attorney who is qualified under this section.

[Ord. 470 (2009) § 24]

**5.18.240 REPRESENTATION IN A MISDEMEANOR CASE--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a defendant involved in a matter concerning a gross misdemeanor or condition of confinement shall meet the requirements set forth in BCC 5.18.130.

[Ord. 470 (2009) § 25]

**5.18.250 REPRESENTATION IN A DEPENDENCY CASE--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a client in a dependency matter shall meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) Attorneys handling termination hearings shall have six (6) months dependency experience or have significant experience in handling complex litigation.
- (c) Attorneys in dependency matters should be familiar with expert services and treatment resources for substance abuse.
- (d) Attorneys representing children in dependency matters should have knowledge, training, experience, and ability in communicating effectively with children, or have participated in at least one consultation per case either with a state Office of Public Defense resource attorney or other attorney qualified under this section.  
[Ord. 470 (2009) § 26]

**5.18.260 REPRESENTATION IN A CIVIL COMMITMENT CASE--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a respondent in a civil commitment case shall meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) each attorney shall be accompanied at his or her first 90 or 180 day commitment hearing by a supervisor; and
- (c) shall not represent a respondent in a 90 or 180 day commitment hearing unless he or she has either:
  - (1) served one year as a prosecutor, or
  - (2) served one year as a public defender, or one year in a private civil commitment practice, and
  - (3) been trial counsel in five (5) civil commitment initial hearings; and

(d) shall not represent a respondent in a jury trial unless he or she has conducted a jury trial as lead counsel; or been co-counsel with a more experienced attorney in a 90 or 180 day commitment hearing.

[Ord. 470 (2009) § 27]

**5.18.270 REPRESENTATION IN A CONTEMPT OF COURT CASE--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a respondent in a contempt of court case shall meet the following requirements:

(a) the minimum requirements set forth in BCC 5.18.130; and

(b) each attorney shall be accompanied at his or her first three (3) contempt of court hearings by a supervisor or more experienced attorney, or participate in at least one consultation per case with a state Office of Public Defense resource attorney or other attorney qualified in this area of practice.

[Ord. 470 (2009) § 28]

**5.18.280 REPRESENTATION IN A SPECIALTY COURT CASE--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney representing a client in a specialty court (e.g., mental health court, drug diversion court) shall meet the following requirements:

(a) the minimum requirements set forth in BCC 5.18.130; and

(b) the requirements set forth above for representation in the type of practice involved in the specialty court (e.g., felony, misdemeanor, juvenile); and

(c) be familiar with mental health and substance abuse issues and treatment alternatives.

[Ord. 470 (2009) § 29]

**5.18.290 REPRESENTATION IN AN RALJ MISDEMEANOR APPEAL TO SUPERIOR COURT CASE--ATTORNEY QUALIFICATIONS AND REQUIREMENTS.** Each attorney who is counsel alone for a case on appeal to the Superior Court from a Court of Limited Jurisdiction should meet the following requirements:

- (a) the minimum requirements set forth in BCC 5.18.130; and
- (b) have had significant training or experience in either criminal appeals, criminal motions practice, extensive trial level briefing, clerking for an appellate judge, or assisting a more experienced attorney in preparing and arguing an RALJ appeal.  
[Ord. 470 (2009) § 30]

**5.18.300 COMPLAINTS AGAINST INDIGENT DEFENSE ATTORNEYS--FORMAL AND INFORMAL COMPLAINTS--GENERAL PROCEDURES.** Complaints about the services of indigent defense attorneys shall be addressed within any contracts for such services and/or office policies by which staff attorneys are bound. Specifically, such complaints shall be addressed in the following manner:

- (a) The Benton and Franklin Counties Office of Public Defense "BFOPD" shall be the agency charged with receiving, responding to and resolving all complaints by indigent defendants. Complaints received by other County agencies or elected offices, including but not limited to the Courts, and any Prosecutor's Office, in this regard should be forwarded to the BFOPD for disposition.
- (b) Complaints shall be regarded as "formal" if they are received in writing, whether electronically or otherwise. Otherwise, complaints shall be regarded as "informal."
- (c) The BFOPD shall track and maintain records of the disposition of all formal and informal complaints received.
- (d) In the cases of both formal and informal complaints, every effort should be made initially to resolve the complaint by asking the indigent defendant and the attorney to work together and the BFOPD should take all reasonable steps, including contacting the attorney or suggesting that the attorney meet with the indigent defendant, to facilitate such. In the case of informal complaints, if no further communication is received, then the matter shall be regarded as closed.
- (e) In the case of informal complaints, if a further complaint is received after step "3" above, then the complainant should be advised that for further action to be taken, a written complaint needs to be

filed. Written complaints may be on any form, but the complainant should be advised that the following information needs to be contained on the complaint:

- (1) the complainant's full name (no action shall be taken on any anonymous complaints);
- (2) the case number;
- (3) the type of crime;
- (4) the name of the attorney in question;
- (5) a detailed description of the nature of the complaint.

The complaint should also be submitted via email or, if in writing, should be signed and dated.

[Ord. 470 (2009) § 31]

**5.18.310 DISPOSITION OF COMPLAINTS BY INDIGENT DEFENDANTS.**

Complaints about the services of indigent defense attorneys shall be addressed within any contracts for such services and/or office policies by which staff attorneys are bound. Specifically, such complaints shall be addressed in the following manner:

(a) The Benton and Franklin Counties Office of Public Defense (BFOPD) shall be the agency charged with receiving, responding to and resolving all complaints by Indigent Defendants. Complaints received by other County agencies or elected offices, including by not limited to the Courts, and any Prosecutor's Office, in this regard should be forwarded to BFOPD for disposition.

(b) Complaints shall be regarded as "formal" if they are received in writing, whether electronically or otherwise. Otherwise, complaints shall be regarded as "informal."

(c) The Benton and Franklin Counties Office of Public Defense shall track and maintain records of the disposition of all formal and informal complaints received.

(d) In the cases of both formal and informal complaints, every effort should be made initially to resolve the complaint by asking

the indigent defendant and the attorney to work together and BFOPD should take all reasonable steps, including contacting the attorney or suggesting that the attorney meet with the indigent defendant, to facilitate such. In the case of informal complaints, if no further communication is received, then the matter shall be regarded as closed.

(e) The Benton and Franklin Counties Office of Public Defense shall devise and publish a procedure for resolving all formal and informal complaints that is expeditious and takes the following factors into consideration:

- (1) The seriousness of the complaint;
- (2) Whether the complaint is against a contractor or employee;
- (3) The need for the defendant to know of the disposition of the complaint;
- (4) The need for the Court to know of complaints in order to ensure the quality of practicing attorneys who may be assigned to indigent defense cases; and
- (5) The County's risk management efforts and needs.

[Ord. 470 (2009) § 32]

**5.18.320 SEVERABILITY.** If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

[Ord. 470 (2009) § 33]

**5.18.340 EFFECTIVE DATE.** This chapter shall take effect and be in full force upon its passage and adoption.

[Ord. 470 (2009) § 34]