

Exhibit "31"

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Darcia Forester

Personal Email: [REDACTED]

Office Email: [REDACTED]

Telephone: [REDACTED]

or [REDACTED]

October 10, 2023

Hawaii Defender Counsel
1130 N. Nimitz Hwy. A-254
Honolulu, Hawaii 96813
VIA Email: [REDACTED], [REDACTED] and
[REDACTED]

To the Members of the Defender Counsel,

First, I would like to thank you for the opportunity to meet with the Public Defender Council in person. I appreciated the opportunity to express and share my plans for the Office of the Public Defender and my vision. The conversation was illuminating, and I am grateful for the opportunity to provide additional comments.

Since our meeting, I have spent significant time reflecting on the expressed concerns of the participants in the comment process. I take these comments and concerns very seriously. I would like to begin by stating that it is my goal to be a responsive, inclusive, and collaborative leader. I strive to become a better supervisor and leader in the office. There is always room for improvement, opportunities for growth, and the need to learn and implement new communication skills. I strive to keep improving and learning how to be a better leader – I believe a leader never stops learning and is always open to new ideas and opportunities to elevate the organization.

The first concern that was shared was that of temperament. I acknowledge that this has been an issue in the past. I have taken many steps to educate myself and to temper how I respond to stress and frustration. Over the years, I have embraced time for reflection and meditation. I have developed more patience and skills to deescalate tense situations. I have developed better coping skills to temper myself. I have taking opportunities to seek education on management and leadership skills so that I can incorporate a higher level of professionalism in how I work with fellow supervisors, fellow attorneys, and staff. I am always seeking information and guidance on how to understand how to resolve conflicts, how to mediate and how to create and provide a supportive environment. I plan to continue to do these things. I seek out and I have genuinely enjoyed listening to podcasts on leadership and management skills in the modern workplace. I

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have participated in leadership programs that have included components on creating a safe and supportive work environment. I have and will continue to seek out information and guidance on stress management for myself and for the attorneys and staff in the office. Over the years, many of us have had to manage vicarious trauma – this is a byproduct of the types of cases and clients we work with. In the past, I do not think I understood how essential it was for myself or for my co-workers to have time to decompress, to process difficult case information or difficult clients with complicated personal histories filled with unpleasant and sometimes horrific information. Our office needs to do a better job at recognizing and providing support to our attorneys and staff who are managing cases and clients in need. I have a much better understanding of and a stronger coping system now that I have made efforts to educate myself and incorporate what I have learned about stress management, anger, and trauma. I feel stronger and healthier now more than ever and I intend be mindful and supportive of our attorneys and staff moving forward.

The second concern that was shared was that of micromanaging. From our discussion, I think this concern can be split into two categories: (1) micromanaging the attorneys and (2) doing too much or doing things on my own to get them done.

I do not micromanage the attorneys. I believe our attorneys are intelligent and well-educated. They do not need to be micromanaged. What they need is training, access to resources, the opportunity and ability to ask questions and guidance, the freedom to have a case load to manage, and the opportunity to go to trial and develop their trial skills. I am certainly available to them to field questions, get information if needed, and provide input or suggestions when needed. I do not hover or monitor them on a daily basis. That being said, because I am tasked with helping train attorneys preparing for their first few jury trials, I do make the time to be available to second chair when needed, I do observe jury trials to evaluate the skills and needs of the attorneys, and I do attend hearings to support attorneys when needed. I do not consider this micromanaging. There is a fine line between micromanaging and being supportive and responsive. I am supportive and responsive and will continue to be. I will note that when I first started as the Family Court Supervisor, there were many complaints that the prior supervisor was unavailable, unsupportive, and absent. I made a concerted effort to be a better supervisor based on these complaints. I was much more on hand and present at court during the transition as I was learning about the intricacies of the FCCR Division and the FCJ Division. I developed training PowerPoints for both divisions to help attorneys transition and have access to information. This helped tremendously by providing easily accessible answers to questions and helped standardize the practice in both divisions. I spent a lot of time communicating with attorneys to alleviate the complaints that pre-dated my time as the Family Court Supervisor. As a byproduct, I was able to reduce my time observing and attending court and it gave the attorneys valuable resources they could use that reduced the number of questions and inquires I was fielding and gave them more autonomy.

On the concern that I do too much or take on too much – this is a matter of perspective. I have a very strong work ethic and I am a problem solver. I am willing to do the jobs that no one else is willing to do. For example: when our office hallways were filled with boxes of old files and our file closing system completely failed – I started working on solutions. We tried to start a working clean up committee, but participation was minimal and interested people fell to the wayside. I chose to move forward with a long-term plan that took years to accomplish and eventually our office was cleaned up and transformed into a more professional workspace. Unfortunately, there are many people in the office with strong opinions but not everyone is willing to participate in the solutions long term. There have been many projects that I have completed where the other participants have lost interest, stopped attending committee meetings, or stopped participating. There are many reasons for this, attorneys are very busy, attorneys have trial work to concentrate on, and many projects are long term that require a commitment to follow through. But this isn't sustainable, and management wasn't always supportive of efforts being made. I would like to change this. For projects that require a team, management needs to be supportive. Follow up and acknowledgment is needed – not indifference. I would like to encourage collaboration and teamwork to solve ongoing issues in the office. Buy-in requires attorney participation, managerial support, acknowledgement of the work, and flexibility. In the past, management absented themselves. I need and want to develop more of a teamwork atmosphere. This includes an expectation of participation, collaboration, communication and problem-solving. This includes recognition of those doing the work, so they don't feel their time and commitment aren't being honored and celebrated. I would very much like to be able to allow committees working on different ongoing projects to become self-sustaining with little to no direct involvement of myself. I absolutely do not want to find myself in a situation where I am overwhelmed by obligations or commitments that distract from the work of the State Public Defender. Working with Budget & Finance, working through the Legislative process, working on the Budget goals, and working towards a more present, collaborative, responsive and supportive management team for the entire office Statewide should be the priority. The next State Public Defender needs a strong team, and it is essential that I allow teams the opportunity to develop ideas, create solutions, and move toward the creation of a stronger office collaboratively.

On the concern regarding the fear of retaliation. I consider this concern the most serious and I have spent most of my contemplation on this area. I am saddened that this is a perception that attorneys have, and it is absolutely not how I plan to manage the office. Obviously, if this is a perception then I need to improve how I communicate with my peers in the office. I am going to have to work harder to alleviate any fears of retaliation and to be mindful and respectful of everyone in the office. I value the input and the criticisms as a way to better improve my management skills and a way to better improve the office as a whole. Unfortunately, the office culture has been permeated and tarnished by years of poor communication and lack of support. This has fueled a negative environment that has resulted in cliques, factions, negativity, and fear

of retaliation. For myself, I am more focused on how to build a positive environment and a stronger management team. I want to encourage more voices and opinions on how we can improve. I am not averse to receiving criticism and I will make a serious and sustained commitment to welcoming input and ideas and fostering a welcoming and collaborative environment for everyone. I don't want people to feel afraid or nervous or concerned that some negative outcomes will come their way. A strong office and strong leadership should understand that criticism can often lead to innovative ideas and solutions. We have the chance to foster leadership opportunities in the office and heal the negativity.

There is only one caveat that I would like specifically to address. When it comes to being part of the leadership team that I hope to create and foster -- I would like to surround myself with committed attorneys who are committed to the good of the entire office and who can support me in this mission. If there is a perception that I will only be helping my friends -- that perception is incorrect. However, I have to be able to trust that the leadership team can work with me from the start, will have respect for the position of State Public Defender, and who will agree to participate in a new administration that wants to embrace modern management models and fresh ideas in a positive way. I would like the negative cliques and factions to dissipate with time as the administration focuses on improvements. To do this, I plan to invite detractors to participate in the leadership process in a positive way. Senior attorneys will be invited to sit at the table and have their input received and validated. Using divisive language and using divisive tactics aren't helpful to the office as a whole. I want attorneys and staff to feel free to do their jobs and flourish in an environment that meets their needs with open training sessions, inclusion of our Neighbor Island attorneys, scheduling flexibility, and follow up. Inviting people to sit at the table to provide input and ideas is a great way to encourage inclusion and dissipate any perception that retaliation is forthcoming. Actions speak louder than words or hearsay. The perception of fairness and creating the reality of fairness is essential for everyone to feel safe, supported and cared for in a respectful way. I plan to invite my harshest critics to participate in the transformation of our office moving forward. Specifically, I plan to invite Craig Nagamine and [REDACTED] to participate. I think it would be a golden opportunity to do some healing, establish a working and collaborative relationship, and plant seeds that will grow into more opportunities for participation, leadership, and acknowledgement. I do not want either of them to feel that they will be shut out of conversations, solutions, or leadership opportunities. I value their trial experience and their in-depth knowledge of the criminal justice system and I would love for them to participate in a more positive office culture moving forward.

The way of the future is to elevate our office. We are doing good works for our community and clients, but we need to do better, and the administration need to support our attorneys and staff better. There is plenty of room for improvement. This will take a lot of hard work and a commitment to the principles of community, inclusion, and collaboration. A strong team is needed to accomplish these overriding goals -- we need each other -- we are stronger together.

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Thank you for the opportunity to provide these additional comments. Taking the time to hear the comments, to reflect, and articulate actual solutions and positive ideas has been very helpful. I am convinced that the key to a more positive office culture is communication. Better communication from the administration can substantially reduce fear-based speculation, hearsay and gossip, and negative messaging. I will be prepared to improve communication from day one of the new administration together with a team dedicated to providing the very best legal services to our clients and dedicated to caring for and supporting our attorneys and staff.

Respectfully,

Darcia Forester

Darcia Forester

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Darcia Forester

Personal Email: [REDACTED]
Office Email: [REDACTED]
Telephone: [REDACTED] or [REDACTED]

August 29, 2023

Hawaii Defender Counsel
1130 N. Nimitz Hwy. A-254
Honolulu, Hawaii 96813
VIA Email: [REDACTED] and [REDACTED]

To the Members of the Defender Counsel,

I am submitting my application for the position of State Public Defender for the State of Hawaii. I have been a Deputy Public Defender with the Office of the Public Defender since 1996. I am currently the Supervisor of our Family Court Division on the Island of Oahu. The Family Court Division includes the Family Court Criminal Division (FCCR) and the Family Court Juvenile Division (FCJ).

To begin, I would like to provide you with some background about myself and my family. I was raised in the town of Laie on the Windward side of Oahu. I am the eldest of six children. I have four brothers and one sister. My parents met in Hawaii when my father was honorably discharged from the United States Navy and my mother was attending college in Hawaii. My father was from a farming community in California and my mother was born in Samoa and raised in New Zealand. They chose to marry and raise a family in Hawaii. My mother was an English teacher for many years and was also a researcher in the Pacific Island Studies Program at Brigham Young University-Hawaii and with the Polynesian Cultural Center. My father was an Industrial Arts teacher and an employee with the Polynesian Cultural Center in their Maintenance Department. Eventually, he started a successful small business with his business partner called Network Video & Photo. The business involved processing and developing film and photos. They had a long-standing contract to take photos and process film for the Polynesian Cultural Center. Because this was a small family business, I worked part-time beginning at the age of fourteen and continued to work throughout my high school and college years for our family business.

I graduated from Kahuku High and Intermediate School in [REDACTED] and I am a product of our public school system. I graduated with honors from Brigham Young University - Hawaii with a degree in History & Government and a minor in Linguistics. After graduation, I began working as a legal secretary for the law firm of Yuen & Perkins in Downtown Honolulu. It was this experience that was pivotal in my entry into the legal profession and led me toward embracing the role and the mission of a Public Defender. Both of my employers, Renee Yuen and Richard Perkins, were former Deputy Public Defenders and their law practice focused on criminal defense. I had always been interested in social justice issues and I soon began to focus my interest on Constitutional principles, Due Process, and the defense of the indigent in our community. I was encouraged to consider law school and to take the LSAT and it became my specific desire to become a Deputy Public Defender.

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I entered law school at the William S. Richardson School of Law and graduated in 1995. While attending law school, I continued to work for Yuen & Perkins as a legal secretary, I participated in Defense Clinic, and I was a paid summer intern at the Office of the Public Defender. After graduation, I clerked for the Honorable Dexter D. Del Rosario for one year while he was a sitting judge on the criminal trial docket in the First Circuit Court. During my clerkship, I took and passed the Bar Examination and applied to be a Deputy Public Defender. For the past 26 years, I have been a Deputy Public Defender. I was a trial attorney in the Felony division from 2000-2018 [18 years] and I have been the Family Court Supervisor since 2018 [5 years].

I believe that I have the qualifications, the legal background, knowledge of the communities and people we serve, and the leadership skills required to head the Office of the Public Defender in the State of Hawaii. More importantly, I have the dedication and commitment needed to lead our office with integrity. I am dedicated to the mission of our office, to our clients and their needs, to the attorneys who protect and fight for our clients, and to the Constitutional principles that guide and steer us. I am very proud to say that I am a Deputy Public Defender. I firmly believe that it is an honor and a privilege to take on the mantle of advocacy for the indigent in our community. Our mission goes beyond just helping or representing one single client. Our mission is to provide quality and zealous representation for all who need our help and for our communities in need. The mission includes pre-trial advocacy, trial advocacy, appellate work, post-conviction work with inmates and parolees, and the continuing mission to train and support the attorneys and staff who chose to work in our office. I am proud to say that I have always strived to be the best trial attorney that I could be. I made it my mission to go the extra mile for my clients – to be an attorney who is not just an excellent trial attorney but also an excellent counselor, advocate, and resource. Our office has an excellent reputation in our legal community for the level of advocacy we provide every single day. Public Defenders are often the butt of jokes or snide remarks from those who misunderstand our mission. Sadly, some of these remarks are from Prosecutors or people in power who judge our clients without taking any time to see the trauma and the very real struggles and the stressors that our clients are living with every day. Many do not understand why we fight so hard for our clients – some of whom may be the most damaged, downtrodden, or seemingly unredeemable individuals in the criminal justice system. But to those who understand the critical work that we do, we fight to maintain the dignity of our clients, we fight to ensure that the State and the City, with all their resources, are following the rules, respecting the process, and abiding by Constitutionally protected principles. We fight for a balanced and even playing field when a poor defendant faces the Goliath that is the often prejudiced and skewed criminal justice system. Our office strives to ensure that all indigent defendants have the same quality representation that money can buy – and we strive to be the best defense attorneys in the State of Hawaii. These are lofty goals that require strength, courage, heart, and resilience. I firmly believe that a strong Public Defender's Office is the foundation for a strong and healthy criminal justice system – our work, our advocacy, and our unwavering zealous commitment keep our justice system in check for the betterment of all citizens of the State of Hawaii. We stand for our clients, we stand for justice and fairness, and we stand together in our mission because it is essential work and necessary to defend the Constitutional principles that our Democracy was built on. These principles are foundational and fundamental.

As the State Public Defender, I would be committed to as smooth a transition as possible. I would be committed to maintaining and implementing the following:

1. Providing solid leadership and communication
 - a. Improved and transparent communication with our staff and with our attorneys
 - b. Improving the professionalism and efficiency of the office
 - c. Strengthening communication with and engagement between the attorneys, supervisors, and administration Statewide
 - d. Strengthening support and training for our office staff
 - e. Strong representation at the Legislature
2. Fiscal responsibility
 - a. Commitment to learn the budgetary and procurement process
 - b. Commitment to fiscal responsibility and management
 - c. Maintaining strong engagement with the Office of Budget and Finance
3. Continuing legal education
 - a. Continuance of our Annual Week-Long Training Seminar at the William S. Richardson School of Law as an in-person event
 - b. Continuance of our regular Statewide Training Sessions
 - c. Continuance of our Statewide Thursday Brainstorming Sessions
 - d. Continuance of our Oahu Office Voir Dire Exercise for attorneys preparing to enter the FCCR division on Oahu and their first jury trial and expansion of this program to our Neighbor Islands
 - e. Continuance of the Forensic Updates and maintenance of the Forensic Library
4. Modernization
 - a. Forge forward on acquiring and installing a new database
 - i. Improved statistics and data collection
 - ii. Improved case tracking
 - iii. Improved case assignment system
 - iv. Improved conflict checks
 - b. Technology upgrades:
 - i. Improved internet access and access to the Share Drive statewide
 - ii. New replacement computers with improved speed
5. Office Clean-Up and Maintenance
 - a. Maintenance of our office hallways and storage
 - b. Continuing with the plan to clean out and reorganize our on-site storage facility
 - c. Continuing our H-Power disposal system
 - d. Working on a plan to expand disposal options for our Neighbor Island offices
6. Strengthening our Neighbor Island Offices
 - a. Improve communication with our Neighbor Island offices
 - b. More on-site visits with our Neighbor Island Offices and the Courts
 - c. Improving access to resources for our Neighbor Island offices
 - d. Improving participation in training opportunities
 - e. Improving representation and participation in our Annual PD Training Seminar
7. Leadership opportunities
 - a. Providing opportunities for senior attorneys and supervisors to participate in in-office and out-of-office leadership
 - i. Judiciary Meetings and Committees

- ii. HSBA Meetings and Committees
 - iii. Department of Public Safety Review
 - iv. Participation on the Legislative Team
 - v. Legislative Task Forces and Committees
8. Review of the case assignment systems and pay structure for our attorneys
- a. Reevaluating how our office manages the specialty courts in the Circuit, Family and District Courts and HOPE probation
 - b. Revising the PD3 or PD4 pay structure to create two tiers
 - i. Tier 1 – non-trial track
 - ii. Tier 2 – trial track
9. Improving Overall Communications Statewide
- a. Improving interoffice communication for both attorneys and staff
 - b. Regular Supervisor Meetings Statewide
 - c. Periodic Attorney Meetings Statewide
 - d. Creation of an evaluation structure for supervisors, attorneys, and staff to allow for constructive criticism and opportunities to suggest changes to improve how we do our work
 - e. Creation of a Statewide OPD online newsletter to report on:
 - i. Appellate cases impacting criminal defense
 - ii. Trial work and outcomes on all Islands
 - iii. Service projects or events with office sponsorship or participation
 - iv. Legislative updates
 - v. Information / deadlines / notices of interest to our attorneys and staff
 - vi. News stories of interest on topics that include criminal justice reform, etc.
10. Expanding our social services for a more holistic representation model
- a. Evaluating whether it would be fiscally responsible or appropriate to create a social service section in our office with a goal to connecting clients to community services and supports on the front end their involvement in the criminal justice system
11. Wellness & Wellbeing
- a. Promoting activities for all employees to improve wellness
 - b. Inclusion of training that includes discussion on wellness, healthy lifestyles, and healthy stress management

It is my firm belief that we have a strong and effective office. We have dedicated attorneys who are committed to providing quality public defense. We have staff who are committed to supporting our work, our attorneys, and our clients. When I look around our office, I see so much talent and so much energy and resilience. It is both inspiring and grounding. We have a solid foundation, and we need to maintain the strong office that stands on it – but I do think we can do better. I believe there is room for us to achieve a higher level of excellence and there is room for improvement.

Nationally, there is a movement to embrace and re-dedicate Public Defender offices and public defense organizations toward being “client-centered” and to have more community engagement and collaboration with other social service agencies. Apart from maintaining and improving the trial skills of our attorneys, I do want us to embrace more opportunities to collaborate with and participate in events like Expungement Clinics, Community Court Events that work with our houseless population, and the Courts in the Community where our attorney’s go into local high schools to help teach and prepare students to watch live arguments with the Hawaii Supreme Court. I would like to see a more holistic approach to how we process our cases – embracing both strong trial advocacy with access to social services and

service providers that can help us connect clients to individual help that each client may need to be successful. I would like to see a stronger and more consistent and dedicated response to issues like ongoing bail reform, police misconduct, prosecutorial misconduct, the treatment of the mentally ill and the houseless population in our communities, access to justice, and a more coordinated and holistic response to the ideals that make up criminal justice reform.

In February 2020, our State Public Defender's Office celebrated 50 years as a service provider in our community. This milestone is a reminder of what our office has accomplished but it is also an opportunity to take a step back to reevaluate not just our accomplishments but what we need to improve to better serve our clients more effectively and with more compassion. There is a lack of connection between our Office and other service providers in our community who can help our clients with mental health challenges, housing, access to transportation, and employment. There is a lack of coordinated engagement and coordination with organizations working on criminal justice reform or improving access to justice. I want our office to step ahead and embrace these movements and opportunities – to lift the level of practice and services we provide – thus lifting and improving how we can help our clients beyond just the outcome of a pending criminal charge.

I am submitting my Curriculum Vitae and a list of references for your consideration. I am also submitting a "Proposed Plan and Objectives for a New Administration" for your consideration. I look forward to having a conversation with the Defender Counsel about my vision for the future of the Office of the Public Defender.

Respectfully,

Darcia Forester

Darcia Forester

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DARCIA FORESTER

Deputy Public Defender

Phone:



CURRICULUM VITAE

EDUCATION:

University of Hawaii - William S. Richardson School of Law
May 1995 Graduate - Juris Doctor

Brigham Young University - Hawaii
June 1990 Graduate - B.A. Major: History & Government - B.A. Minor: Linguistics
Summa Cum Laude

Kahuku High & Intermediate School

EMPLOYMENT:

Office of the Public Defender, State of Hawaii
Honolulu, Hawaii

1996 - Present Deputy Public Defender [27 years]

Chambers of Judge Dexter D. Del Rosario
First Circuit Court, 13th Division
Honolulu, Hawaii

1995 - 1996 Law Clerk/Legal Research/Bailiff

Office of the Public Defender, State of Hawaii
Honolulu, Hawaii

1994 Summer Law Clerk Intern/Legal Research

Yuen & Perkins, Attorneys at Law
Ranee Yuen, Esq. and Richard K. Perkins, Esq.
Honolulu, Hawaii

1990 - 1994 Legal Secretary/Office Clerk

Network Video & Photo

Lai, Hawaii

1982 – 1990 *Retail Clerk/Office Clerk/Photo Developing Technician*

DUTIES, COMMITMENTS & ACKNOWLEDGMENTS WITH THE OFFICE OF THE PUBLIC DEFENDER:

Family Court Supervisor

2018 – Present

Supervision of the Misdemeanor FCCR Domestic Violence Trial Division & the Juvenile FCJ Division; direct supervision of 8 attorneys & staff members; created the first formal ongoing FCCR training program for new attorneys preparing for their first jury trial; organized an overhaul of the database tracking system, data entry and file management procedures for the Juvenile Division; implemented and executed a reorganization, and overhaul of file storage procedures and file destruction procedures for both divisions; trained staff and attorneys; participated in regular meetings with the Family Court Judiciary as a Stakeholder; helped navigate both divisions through the COVID epidemic; helped guide over 15 Deputy Public Defenders through their first jury trial experiences and provided support as they developed their trial skills; includes fielding questions from the public or parties to our office related to FCCR matters or FCJ matters

Felony Division Trial Attorney

Felony Trial Attorney from 2000 – 2018 [18 years]

Office of the Public Defender – Employee of the Year

2016

Statewide Public Defender Annual Training Seminar Co-Coordinator and Coordinator

2019-Present

*Organized the May 2021 2-Day Virtual Statewide Training Seminar
Presented a training on “Ineffective Assistance of Counsel and How to Avoid It”
Organized the October 2021 1-Day Virtual Statewide Training Seminar
Organized the May 2022 5-Day Virtual Statewide Training Seminar
Organized the May 2023 5-Day Virtual Statewide Training Seminar
Presented a training on “Prosecutorial Misconduct in Closing Arguments”*

Statewide Office Advocacy Training Committee

2018-Present

Headed the Committee that organizes, facilitates, and presents Statewide Training on trial practice, motions practice, and case management throughout the year

Training subject sampler:

*Panel Discussion – How to Get Your Case Trial Ready
Panel Discussion – Motions in Limine
Panel Discussion – Sentencing Advocacy
Presentation – 704 Training for District Court and FCCR
Presentation – Prosecutorial Misconduct in Closing Arguments*

Presentation – FCCR: Welcome to Your First Jury Trial
Presentation – Hearsay, the Exceptions, and the Confrontation Clause
Presentation – Motions to Suppress Statements
Presentation – Evidentiary Foundations: A Primer
Presentation – Immigration: What a Defense Attorney Needs to Know
Presentation – New Abuse Law- Planning for 2021
Presentation – New Abuse Law – Coercive Control 2021
Presentation – Trial Objection Training
Presentation – Hawaii CARES
Presentation – AMHD Peer Specialist Program and How They Can Help Our Clients Navigate the Mental Health System
Presentation – Proper Language in Forensic DNA Testimony and Reporting

Forensic Science Update & Training Coordinator - Statewide Forensic Science Library Curator
2016 – Present

Organizes statewide training opportunities on topics related to forensic science; maintains and curates the Statewide Forensic Science Library available on our share drives; curates the Forensic Update emails

Statewide Brainstorming Coordinator
2018 – Present

Coordinates, schedules, and facilitates the Statewide Brainstorming Event on Thursday afternoons via Zoom; Statewide Brainstorming sessions are available to all attorneys statewide – provides opportunities to brainstorm cases, ask questions, or participate in legal discussions on current topics and issues impacting attorneys in their various jurisdictions and divisions; includes scheduling special brainstorming events to coordinate and plan for statewide responses to current events (e.g., the statewide response to the Thompson case and the coordinated filing of pretrial motions)

Legislative Liaison/Lobbyist
2017 – Present

Provides written testimony and oral testimony to the Hawaii State Legislature on bills that affect or focus on criminal law and criminal procedures; provides input, commentary, and written amendments to bills or drafts under consideration by the Hawaii State Legislature

Co-Coordinator of the Internship/Externship/Volunteer Program
2019 – Present

Coordinates work and learning opportunities for Interns/Externs/Volunteers for our law students, college students, and high school students interested in law, criminal justice, or criminal defense who work and volunteer in the Office of the Public Defender

Oahu Office File Storage, Archive & Management (“Clean-Up”) Committee & H-Power Disposal Coordinator
2016 – Present

Heads the Committee in charge of organizing file storage, file disposal practices, maintaining a clutter-free and safe office by organizing the removal of closed case files, old office equipment, office supplies, and furniture; organized a storage system that removed files from the hallways and created a storage tracking system to help maintain files both in the main Oahu office and in the office off-site storage facilities; organizes regular events to purge old files and arrange for disposal of confidential documents through the H-Power Incineration Facility, facilitated the disposal of several tons of paper/documents

Coverage Supervisor for District Court Intake
2017 – Present

Supervised and ran District Court Intake when the District Court Supervisor was unavailable; includes determining income/indigency qualifications, database input, and fielding any issues or questions during the District Court Intake process

Training Manuals Revision Committee Member
2017-Present

Member of the Committee focusing on updating and revising the training manuals and practice guides; working towards the revision of the Pre-Trial Motions Manual, the Felony Trial Manual, the Family Court Trial Manual, the Family Court Juvenile Manual, and the District Court Manual; spearheaded the creation of the "Misdemeanor Bench Trial Caselaw Arsenal"

CONTINUING LEGAL EDUCATION, MENTORING & TRAINING:

Office of the Public Defender, State of Hawaii - Annual 5-Day Training Seminar
William S. Richardson School of Law, Honolulu, Hawaii

Student 1996-2009
Faculty 2010-2018
Supervisor/Rover 2019-Present
Coordinator 2020-Present

HSBA Trial Academy
William S. Richardson School of Law, Honolulu, Hawaii

Faculty 2016
Faculty 2018
Faculty 2023

HSBA & Hawaii State Judiciary Courts in the Community Program
Honolulu, Hawaii

2015 - Oral Arguments at Waianae High School
Volunteer Mentor/Facilitator – Waipahu High School
2016 - Oral Arguments at McKinley High School
Volunteer Mentor/Facilitator – McKinley High School
2018 - Oral Arguments at Kaimuki High School
Volunteer Mentor/Facilitator – Kaimuki High School
2019 - Oral Arguments at Waipahu High School
Volunteer Mentor/Facilitator – Campbell High School
2022 - Oral Arguments at Moanalua High School (Virtual)
Volunteer Mentor/Facilitator – Moanalua High School

NACDL and Cardozo School of Law National Forensic College
Cardozo Law School, New York, New York

Attendee 2016 (week-long training)

NACDL Forensic Science Seminar
Las Vegas, Nevada

Attendee 2017
Attendee 2018

National Legal Aid Society's 6th Annual Questioning Forensics Conference
Zoom

Attendee 2021

Law & Justice Journalism Project
Virtual - Webinar

Attendee 2023 – "Forensic Science in Criminal Law"

NACDL State Criminal Justice Network Conference
Zoom

Attendee 2023

Gideon's Promise -- Leadership Seminar & Training Program for Public Defenders
Atlanta, Georgia

Attendee 2019

National Juvenile Defender Center (NJDC) Leadership Virtual Summit – The Gault Center
Zoom

Attendee 2020
Attendee 2021
Attendee 2023

Mid-Atlantic Juvenile Defender Center
Zoom

Attendee 2021 – "FASD & Youth: What Defenders Need to Know"

Committee on LGBTQ+ Youth in Hawaii's Juvenile Justice System Conference
Honolulu, Hawaii

Attendee 2019 – "Building Competency in Serving Lesbian, Gay, Bisexual, Transgender, Queer, And Other Sexual Minority Youth"

Justice Clearinghouse

Virtual – Go To Meeting

Attendee 2021 – “Risk Assessment Tools for Legally Involved Youth”
Attendee 2021 – “Domestic Violence: Traumatic Brain Injuries”
Attendee 2023 – “The Changing Face of Probation: Supervising Justice Involved Women – The Pathway In and Out of the System”

Hawaii State Judiciary & Center for Court Innovation: Webinar Series on Domestic Violence Intervention and Hawaii Standards Review Process for Batterers Intervention

Zoom

Attendee 2020 “Abusive Partner Intervention Programming and Evidence-Based Practice”
Attendee 2020 “Survivor-Centered Work in Abuse Partner Intervention and Engagement”

Thomson Reuters

Virtual – Webinar

Attendee 2023 – “The New Era – Redefining How Legal Professionals Do Their Work
ChatGPT and Generative AI within Law Firms”

LEGAL ASSOCIATIONS, PRO BONO & VOLUNTEER EXPERIENCE:

Hawaii State Bar Association (HSBA)

Member 1995 – Present

2018 – Present *Member of the Pacific Islander Legal Association (PILA)*
2021 – Present *Member of the HSBA Diversity Committee*
2021 *Member of the HSBA Ad-Hoc Committee on HSBA Renewal Forms*

Pacific Islander Legal Association of Hawaii (PILA)

2018 - Present

Founding Member

President 2018 – Present

National Association of Criminal Defense Attorneys (NACDL)

Member 2016 – Present

National Association of Public Defenders (NAPD)

Member 2019 – Present

National Juvenile Defender Center (NJDC) – The Gault Center

Member 2018 – Present

Western Region Advisory Board Member 2021 - Present

Interstate Commission for Juveniles – Hawaii State Council

2018 – Present

Commission Member

Commercial Sexual Exploitation of Children [CSEC] Steering Committee Member – Hawaii State Legislature, the Department of Human Services, and the Office of Youth Services (OYS)

2018-Present

Committee Member

Committee on LGBTQ+ Youth in Hawaii's Juvenile Justice System

2018-2021

Committee Member

Special Committee on Judicial Performance – Hawaii State Judiciary

2023-Present

Committee Member

Forensic Lab Task Force – Hawaii State Legislature

Task Force Representative for the Office of the Public Defender

2017-2018

Legal Aid Society of Hawaii – Community Navigator Program

Resource Presenter – Oahu

2019-Present

2019 Participated in the Training Program as a resource presenter at the University of Hawaii-Manoa

2023 Participated in the Training Program as a resource presenter at the Kukui-Children's Center

2023 Participated in the Training Program as a resource presenter at Catholic Charities Hawaii

Domestic Violence Intervention Working Group

2022-Present

Committee Member

2023 Collaborated to successfully draft and submit Act 23 to the 2023 State Legislature; Act 23 was signed into law to modify the sentencing options for Abuse, Violations of TROs, and Violation of Orders for Protection in the Courts to allow for assessments to determine if Domestic Violence Intervention or Anger Management is more appropriate for defendants on probation

ACLU of Hawaii

Resource Partner and Presenter

2017-Present

2017 Panelist on Bail Reform and Mass Incarceration

2019 Panelist on "Moving Beyond School Discipline" and Juvenile Justice

2019 Participant and resource partner in the Second Chances Expungement Day Event at the William S. Richardson Law School, helped develop training curriculum and planning for the event in coordination with the Hawaii Innocence Project

LAHUI Foundation – Aloha Aina Expungement Clinic

Resource Partner
2023

2023 *Aloha Aina Expungement Clinic: participant in the expungement clinic designed to assist members of the community with applications for expungement at the Kahuku Community Center*

Office of Youth Services (OYS) Civil Citation & Diversion Policy Group

2019-Present
Committee Member

William S. Richardson School of Law – Discover Law Day

Volunteer/Mentor/Keynote Speaker 2018
2017-Present

2018 *Keynote Speaker*

Hawaii State Judiciary – Conference Attendee

2018 *Family Court Conference - "The Intersection of Domestic Violence and Technology"*
2019 *Hawaii State Juvenile Justice Conference*
2019 *Hawaii Summit on "Improving the Governmental Response to Community Mental Illness"*

Hawaii High School Mock Trial Championships – HSBA Young Lawyer's Division

2021 *Competition Judge*
2022 *Competition Host*

Hawaii State Bar Association – Conference/Forum Attendee

2018 *HSBA Conference – "Journey of Transformation: Working with Commercially and Sexually Exploited Children"*
2018 *HSBA Criminal Law Forum – Panelist on Mental Health Issues relating to HRS Chapter 704*
2019 *HSBA Bench/Bar Conference – Criminal Misdemeanor Section*
2020 *HSBA Criminal Law Forum – Criminal Family Court Section*
2021 *HSBA Bench/Bar Conference – Criminal Circuit Court Section*
2022 *HSBA Criminal Law Forum – Criminal Family Court Section*
2023 *HSBA Bench/Bar Conference – Criminal Circuit Court Section*

Hawaii Access to Justice Commission – Conference Attendee

2019 *Conference – "Expanding Access to Civil Justice"*
2021 *Conference – "Access to Justice and the Time of COVID"*
2022 *Conference – "Continuing to Meet Challenges to Access to Justice"*
2023 *Conference – "Building Trust and Understanding of Civil Access to Justice"*

Hawaii Youth Challenge Academy – Hawaii National Guard

Resource Presenter - Oahu

2023-Present

- 2023 Spring Class - Participated in the Judiciary Education Program for Youth Challenge students as a resource presenter.*
- 2023 Fall Class - Participated in the Judiciary Education Program for Youth Challenge students as a resource presenter*

Liliuokalani Trust – iHuddle – Conference Attendee

- 2019 Conference for service providers, community partners, social innovators, and mentors for juveniles around the State of Hawaii*
- 2023 Conference for service providers, community partners, social innovators, and mentors for juveniles around the State of Hawaii*

Fetal Alcohol Spectrum Disorders Action Group – Conference Attendee

- 2019 Hawaii Conference on FASD- Improving Outcomes Across Systems of Care*

Opportunity Youth Action Hawaii (OYAH) at Kawaiiloa

- 2021 Kawaiiloa Youth and Family Wellness Center Convening*
- 2022 Kawaiiloa Youth and Family Wellness Center Convening*
- 2023 Kawaiiloa Youth Housing Convening - conference to strengthen the network of public and private entities seeking or provide affordable housing for justice/system involved youth*

Hawaii Youth Services Network – Safe Spaces for Youth Conference

Honolulu, Hawaii

- 2023 Conference for youth services providers together with the Hawaii Department of Human Services and the Office of Youth Services*

Mental Health America of Hawaii

Zoom

- 2023 Youth Suicide & Bullying Prevention Training-for-Trainers*

Substance Abuse and Mental Health Services Administration [SAMHSA] & Hawaii Health and Harm Reduction [HHHR]

Honolulu, Hawaii

- 2023 Sequential Intercept Model [SIM] Training and Workshop Conference with mental health service providers, first responders, Judiciary representatives, and other organizations that intersect with the mentally ill population in crisis to advance community-based solutions for justice-involved people with mental and substance use disorders*

Forensic Resources Blog

2023 Publication of "Forensic Podcasts Episodes for Attorneys" compiled by Deputy Public Defender Darcia Forester - Link: [Forensic Podcasts Episodes For Attorneys - Forensic Resources](#)

Hawaii Lawyers Care

June 1993 - December 1993

Preparation of uncontested divorce documents for indigent clients

Common Cause Hawaii

September 1988 - March 1989

Part-time Research Assistant - Externship

COMMUNITY ORGANIZATION AFFILIATION & VOLUNTEERING:

United States - Federal Selective Service System - Board of Directors

2013-2017 Member of the Board of Directors for Hawaii Area Office 001 Local Board 004

2018-Present Member of the District Appeal Board for the State of Hawaii 523

Lumana'i Mo Samoa Committee & Awards Program - Board of Directors

2008-Present Member of the Board of Directors

Non-profit organization that raises money to assist and encourage outstanding high school seniors of Samoan ancestry planning to attend college. Helps host the annual award ceremony to bestow monetary awards and acknowledgment for outstanding students

Lilipuna AOA Condominium Association - Board of Directors

2007 - 2021 Board of Directors - Treasurer

2021 - Present Board of Directors - President

2023 Condorama X attendee - Board of Directors training program attendee

2023 Associa Hawaii Condo Board Training and Continuing Education Seminar attendee

Chozen-Ji International Zen Dojo of Hawaii

2023-Present Zazen Meditation Training

Brigham Young University-Hawaii

2022-Present

2022 Government & Business Department - Student Internship Training Liaison

2023 Government & Business Department - Student Internship Training Liaison

2023 Human Rights Club Guest Speaker on the Intersection of Criminal Defense and Human Rights

American Red Cross - Hawaii Chapter

2005-2010 Disaster Assessment Team On-Call Volunteer

Office of Elections – State of Hawaii

2006-2018 *Election Precinct Official – Benjamin Parker Elementary School*

Farrington High School

2017 *Volunteer Tutor – JV Football Team Study Group*

Comic Con Honolulu

2015-2020 *Volunteer – Events Department*

YMCA – Kalihi Branch

2006-2022 *Member*

NOTEWORTHY CASES AND APPEALS:

State of Hawaii vs. Moses Henry	Reckless Manslaughter
State of Hawaii vs. Valentine Mahuiki	Negligent Homicide 1
State of Hawaii vs. Ceriaco Kasoga	Negligent Homicide 1
State of Hawaii vs. Jeffrey Gaspar	Negligent Homicide 1
State of Hawaii vs. Joseph Galiki	Attempted Murder 2
State of Hawaii vs. Keith Yamamoto	Attempted Murder 2
State of Hawaii vs. Julienné Goodell	Attempted Murder 2
State of Hawaii vs. Joshua R.D. Williams	Attempted Murder 2
State of Hawaii vs. Jessica Hinebaugh	Attempted Murder 2
State of Hawaii vs. Chauncey Ingraham	Attempted Murder 2
State of Hawaii vs. Michael Ford	Attempted Murder 2
State of Hawaii vs. Ranier Ines	Attempted Murder 2
State of Hawaii vs. Ronante Aquino	Murder 2
State of Hawaii vs. Carol Weidman	Murder 2
State of Hawaii vs. Melvin Yoshida	Murder 2
State of Hawaii vs. Melchor Adviento	Murder 2
State of Hawaii vs. Yu Wei Gong	Murder 2
State of Hawaii vs. Stephen Brown	Murder 2
State of Hawaii vs. Rachel Correia	Attempted Arson 1
State of Hawaii vs. Jennie Mersberg	Manufacturing Methamphetamine
State of Hawaii vs. Rocky Flores	Methamphetamine Trafficking 1
State of Hawaii vs. Foe Liulama	Methamphetamine Trafficking 1
State of Hawaii vs. Tommy Welle	Robbery 1
State of Hawaii vs. Albert Araneta	Continuous Sexual Assault of a Minor Under the Age of 14
State of Hawaii vs. Severino Narag	Sexual Assault 1
State of Hawaii vs. Jon Joseph Rutherford	Sexual Assault 1
State of Hawaii vs. Brandon Dalumpinis	Sexual Assault 1
State of Hawaii vs. Christopher Acacia	Sexual Assault 1
State of Hawaii vs. Douglas Danielson	Sexual Assault 1
State of Hawaii vs. Louis Martinez	Sexual Assault 1
State of Hawaii vs. Jason Engleby	Sexual Assault 1
State of Hawaii vs. Sean Stillwell	Sexual Assault 2

State of Hawaii vs. Laki Vaa
 State of Hawaii vs. Edison Legaspi
 State of Hawaii vs. Kalai Tavares
 State of Hawaii vs. Rachel Correia
 State of Hawaii vs. Laura Pitolo

Kidnapping
 Kidnapping
 Kidnapping
 Attempted Arson I
 Theft I

Oral Arguments

Intermediate Court of Appeals
 Hawaii Supreme Court

State v. Linda Benish
 State v. Nathan Picini
 State v. David Davia
 State v. Martin Richardson

Appeal - SC No. 19842 (1997)
 Appeal - SC No. 19907 (1997)
 Appeal - SC No. 19961 (1998)
 Appeal - SC No. 19564 (1998)

REFERENCES:

Years Known

Honorable Richard K. Perkins Administrative Judge, First Circuit Court, Retired	30
Honorable Dexter D. Del Rosario Judge, First Circuit Court, Retired	25
Magistrate Rom A. Trader Federal Magistrate United States District Court - District of Hawaii 300 Ala Moana Boulevard, C-338 Honolulu, Hawaii	20
Honorable Shirley M. Kawamura Administrative Judge, Criminal Division, First Circuit Court 777 Punchbowl Street Honolulu, Hawaii	20
Honorable Ronald Johnson Judge, Circuit Court, First Circuit Court 777 Punchbowl Street Honolulu, Hawaii	5
Honorable Lesley Maloian Judge, Family Court Division, First Circuit Court 4675 Kapolei Parkway Kapolei, Hawaii	15
Honorable Brian Costa Judge, Family Court Division, First Circuit Court 4675 Kapolei Parkway Kapolei, Hawaii	5

Richard Sing, Esq. Law Offices of Richard H.S. Sing 841 Bishop Street #410 Honolulu, Hawaii	23
Thomas Otake, Esq. Davis Levin Livingston 851 Fort Street, Ste. 400 Honolulu, Hawaii	20
Jamie Nakano, Esq. Deputy Public Defender Office of the Public Defender 1130 N. Nimitz Highway, Suite A-254 Honolulu, Hawaii	26
Rochelle Vidinha, Esq. Deputy Prosecuting Attorney 1060 Richards Street Honolulu, Hawaii	25
Kristen Yamamoto, Esq. Deputy Prosecuting Attorney 1060 Richards Street Honolulu, Hawaii	12
Kirsha Durante, Esq. Senior Staff Attorney Native Hawaiian Legal Corporation Honolulu, Hawaii	15
Pauni Tapu Post Office Box 523 Hauula, Hawaii	35

Additional references can be provided upon request



OFFICE OF THE PUBLIC DEFENDER - STATE OF HAWAII

PROPOSED PLAN AND OBJECTIVES FOR A NEW ADMINISTRATION

PERSONAL PHILOSOPHY:

A Public Defender is many things: a counselor, a teacher, a social worker, a listener, a fighter, an officer of the Court, a voice, a researcher, a beacon of hope, a wall against prejudice, and a zealous advocate. A Public Defender may be the only person willing and able to help a person charged with a crime – sometimes these crimes may be complicated, notorious, or heinous and sometimes they may be a simple and uncomplicated petty misdemeanor or traffic offense – but every indigent person charged with a crime that may impact their freedom or their liberty deserves a qualified professional at their side to help navigate the criminal justice system.

We are charged by our oath and by our mission to be zealous – to challenge, to ask questions, and to advocate with words and actions for those who may not be able to speak for themselves – we help the indigent and the disenfranchised – we are the standard bearers for Due Process, Equal Protection, and Fairness in our State Justice System. We exist to make sure that all people who are charged with crimes are given fair treatment, the benefit of the presumption of innocence, and the ability to have their stories told. We are the voice of the Constitution at every level and stage of a criminal proceeding. We stand and fight and we are a constant reminder to Prosecutors, Judges, Probation Officers, Court staff, family members, jurors, or to any member of the public who comes to Court, that the Constitution is alive, that it is to be respected, that it is not to be dismissed as inconvenient or inefficient – it is how we keep ourselves in check against the abuse of power, corruption, lies and human error. The Constitution is an ever-present necessity to protect our clients as they navigate through their cases. Public Defenders are necessary to fight and keep justice alive and well. We have the honor and privilege of using our education, our knowledge, our skills, our individual and collective life experiences, and our compassion to help those who are disenfranchised, or who cannot help themselves, or who simply need a helping hand in our criminal justice system.

MISSION STATEMENT:

To carry out the mission of the Office of the Public Defender – to provide zealous and compassionate legal representation for indigent clients – to maintain a high level of legal skill and advocacy, and to encourage ongoing training, education, and support to the attorneys charged with defending the Constitution and the rights of the indigent in the State of Hawaii

To improve communication, efficiency, training, and overall service to the attorneys, staff, and clients of the Office of the Public Defender.

FIRST STEPS:

1. ESTABLISH A NEW ADMINISTRATION – determine how to fill any vacancies and who can best service in the different supervisory capacities.

- a. Current Oahu Supervisors:

- | | |
|-------------------------------|------------------|
| i. First Deputy | Lee Hayakawa |
| ii. Felony Supervisor | William Bento |
| iii. Felony Supervisor | Steven Nichols |
| iv. District Court Supervisor | Jerry Villanueva |
| v. Family Court Supervisor | Darcia Forester |
| vi. Appellate Supervisor | Jon Ikenaga |
| vii. Investigators Supervisor | Keven Palmerton |
| viii. Office Staff Manager | Laura Gualdarama |

- b. Current Neighbor Island Supervisors:

- | | |
|----------------------|-----------------|
| i. Maui Supervisor | Danielle Sears |
| ii. Kauai Supervisor | Marissa Agena |
| iii. Kona Supervisor | Rachel Thompson |
| iv. Hilo Supervisor | Kenji Akamu |

2. Meet with the Director of Budget and Finance about the budget, goals, communications, expectations and continued good relations
3. Evaluate and develop an action plan re the immediate hiring needs of the Office statewide with a particular focus on the needs in the Hilo Office and the Kona Office
4. Become familiar with the State budget and procurement process
 - a. Develop a clear agenda and list of priorities to maintain the budget within the required limitations
 - b. Complete all required procurement classes
 - c. Develop a plan and strategy to address issues where advocacy on increasing the budget may be appropriate or necessary
 - i. Computers/electronic equipment/data storage
 1. Establish a working plan to find an appropriate vendor for our new database and case tracking system
 - ii. Determine the viability of increasing the pay for our staff and attorneys
 - iii. Determine the viability of the establishment of attorney or social worker positions for the following:
 1. Homeless Service Provider Coordinator
 - a. Community Outreach Court expansion
 2. Substance Abuse and Mental Health Services Coordinator
 3. Specialty Court Coordinator

5. Continue to understand and facilitate the Legislative process and the role of the Office of the Public Defender in advocating/taking positions/testifying/drafting for bills under consideration
 - a. Develop a guideline/strategy for press releases/press responses/media
 - b. Develop a plan/team to manage the Legislative calendars
 - c. Establish a clear protocol and mission to comment on every bill that affects the criminal justice system and our clients

6. Meet with every attorney and member of staff on Oahu
 - a. Discuss expectations, concerns, issues
 - b. Understand their concerns and accept suggestions for improvement
 - c. Promote and encourage trial work and motions work
 - d. Improve communication and develop a practical priorities list together with the new supervisors/team

7. Fly out to the Neighbor Island Offices to meet with every attorney and member of staff individually and meet with the Administrative Judge for each Circuit Court division to establish communication and open dialog
 - a. Discuss expectations, concerns, issues
 - b. Understand their concerns and accept suggestions for improvement
 - c. Become familiar with each Neighbor Island office and staff to encourage communication
 - d. Become familiar with each Administrative Judge to increase open dialog and address concerns about the relationship between the Office of the Public Defender and the Courts in each of the individual Circuits

8. Meet with the current Prosecutor in each City & County to establish communication and open dialog

9. Meet with the Administrative Judge of the Circuit Court, Family Court, and the District Court on Oahu to establish communication and open dialog and to address pressing issues or problems that may need to be addressed.

GOALS/PRIORITIES/PLANNING:

FIRST PRIORITIES:

1. ESTABLISH CASE ASSIGNMENT PROCEDURE/GUIDELINES
 - a. Establish fair, transparent, and consistent procedures for case assignments and distribution
 - b. Establish a trial work tracking system for all Class A felonies
 - c. Establish a trial tracking system for all other felonies

2. ESTABLISH AN ACCURATE CASE ASSIGNMENT DATA BASE

- a. Establish accurate tracking and record keeping
- b. Determine whether current record keeping can be improved or will need to be revised
- c. Create system that will generate accurate statistics on case load and client volume and case tracking

UPDATE AND IMPLEMENT USE OF AN ACCURATE DATA BASE

3. ESTABLISH CLEAR AND TRANSPARENT EXPECTATIONS AND REQUIREMENTS FOR PROMOTION

- a. Trial advocacy and trial work
- b. Work ethic
- c. Legal ethics
- d. Work product
- e. Organization
- f. Pre-Trial Motions work
- g. Efficiency
- h. Review of motivations and reasons for withdrawal from any jury trial case (felony and misdemeanors)
- i. Ability to work with difficult clients and flexibility when working with the mentally ill

4. ESTABLISH FAIR PROCEDURES FOR INTEGRATING NEW ATTORNEYS

- a. Establish training and resources for new attorneys
 - i. Create a mentoring system for new attorneys
- b. Establish training and resources for attorneys entering each division:
 - i. District Court
 - ii. Family Court
 - 1. Adult - FCCR
 - 2. Juvenile - FCJ
 - iii. Misdemeanor Jury Trials
 - iv. Level 3 Felony Attorneys

5. ESTABLISH A CLEAR, CONCISE AND TRANSPARENT "CONFLICT" POLICY

- a. Preliminary Hearings
- b. Arraignments
- c. Motions

6. UPDATE AND MAINTAIN THE OFFICE MANUALS & CASE LAW ARSENALS

- a. Establish teams to develop a plan and strategy to update the manuals
- b. Begin with the Felony Pre-Trial Motions Manual
- c. Then focus on the District Court Manual
- d. Other Manuals:
 - i. Family Court
 - ii. Felony

iii. Mental Health

- e. Establish a plan to maintain the office manuals so they don't become out of date of obsolete again
7. RE-EVALUATE HOW MANY ATTORNEYS ARE NEEDED IN THE DIVISIONS ON OAHU - FAMILY COURT, DISTRICT COURT, LEVEL 3 FELONY, LEVEL 4 FELONY
8. REVIEW AND DETERMINE THE NEED FOR ADDITIONAL ATTORNEYS ON THE NEIGHBOR ISLANDS
- a. Are we properly staffed on the Neighbor Islands?
 - b. Are we in need of additional Level 2 or Level 3 attorneys?
9. ESTABLISH A COMPREHENSIVE PLAN TO KEEP THE OFFICE HALLWAYS CLEAN AND TO MANAGE OLD FILES AND FILES IN STORAGE
- a. Continue with the H-Power disposal plans
 - b. Begin review of all files in the felony storage area
 - i. Beginning with year 2005
 - c. Clear out and make space for more in office shelving storage
 - d. Consider the purchase of an industrial grade shredder on Oahu
 - e. Goals:
 - i. Keep hallways clear
 - ii. Move older files or files of attorneys who have left the office to storage room across the street
 - iii. Allow attorneys to store closed files in office shelving units for management
10. IMPROVE COMMUNICATION IN THE OFFICE
- a. Communication with Staff
 - b. Communication with Attorneys
 - i. Regular email updates
 - ii. Regular meetings
 - iii. Subjects:
 - 1. Supreme Court decisions
 - 2. ICA decisions
 - 3. Court information/updates
 - 4. Judicial conferences/probation conferences
 - 5. Forensics
 - 6. News - 4th Amendment, etc.
 - 7. OCCC/Halawa/FDC visits
 - 8. Jury pool (large Juries)
 - 9. Parking issues at courthouse
 - 10. Problems at the courthouse
 - 11. Sanctions/Orders to Show Cause/Contempt
11. ESTABLISH AN ONGOING TRAINING PROGRAM FOR STAFF ON OAHU
- a. Focus on understanding how to use and read records and minutes on eCourt Kokua

- b. Improve telephone etiquette and skills and to create a better interface protocol between staff and clients to better answer questions or direct questions to the person who can help answer the questions
- c. Establish standardized telephone protocols

12. ESTABLISH A PLAN FOR BETTER COMMUNICATION WITH OUR NEIGHBOR ISLAND OFFICES

- a. Assess the needs of the individual Neighbor Island offices
- b. Improve communication and open dialog about statewide issues
- c. Improve communication and open dialog about issues affecting individual offices
- d. Should we establish a plan to bring Neighbor Island attorneys to Oahu to second chair Class A felony cases? Would this be helpful or useful? Is this financially viable?

13. IMPROVE COMMUNICATION WITH THE ADULT CLIENT SERVICES DIVISION / PROBATION / OAHU INTAKE SERVICE CENTER

14. WORK ON CREATING A DATABASE RE:

- a. Prosecutorial misconduct
- b. HPD Officer misconduct
- c. LPO misconduct
- d. Tracking of court rulings on lying, misrepresentation, etc.

MID-TERM PRIORITIES:

15. WORK ON CREATING A MASTER LIST OF ALL CLEAN & SOBER HOUSES AND SERVICE PROVIDERS ON ALL ISLANDS – OR COORDINATE WITH HAWAII CARES TO ESTABLISH ACTIVE PROVIDERS

- a. Clean & Sober Housing
- b. Residential Substance Abuse Programs
- c. Intensive Outpatient Programs
- d. Outpatient Programs
- e. After Care Programs
- f. AA/NA Meetings
- g. Dual-Diagnosis Programs
- h. Sex Offender Therapy
- i. Mental Health Programs
- j. Mental Health Service Providers

16. ESTABLISH IN-HOUSE COMMITTEES:

- a. Professional Development/Training
- b. Annual PD Seminar
- c. Legislative work
- d. Clean up, storage, and file maintenance systems
- e. Office manuals
 - i. Pretrial Motions

- ii. Trial Handbook
- iii. District Court Handbook
- iv. Family Court Handbook
- f. Community Service / Community Engagement
 - i. Expungement Clinics
 - ii. Legal Aid Community Navigator Presentations
 - iii. Youth Challenge Presentations

Note: goal is to include more deputies in office training and to provide opportunities for professional development and inclusiveness

17. EVALUATE WHETHER WE SHOULD WE RE-CREATE A MOTIONS TEAM?

18. SHOULD WE ATTEMPT TO RE-ESTABLISH OR STRENGTHEN VERTICAL REPRESENTATION?

- a. How can we manage the value of vertical representation with the reality of the specialty courts and in-house movement

19. DO WE NEED TO RE-EVALUATE STAFF DUTIES/RESPONSIBILITIES?

- a. Modernize/update duties and job expectations
- b. Understand requirements and limitation with the Unions and State policies
- c. Clarify and make clear what is required and what is the responsibilities of the attorneys
 - i. File Transfers
 - ii. Orders
 - iii. Scanning
 - iv. Faxing
 - v. Mailing letters
 - vi. Transcripts
- d. Evaluate how the new Circuit Court e-filing system is affecting the workload and duties of the support staff and determine if any changes or adjustments are needed

LONG-TERM PLANNING:

20. MAINTAIN AND IMPROVE REGULAR TRAINING

- a. Try to work out a comprehensive training schedule
 - i. New attorney training
 - ii. District/Family court training
 - iii. Abuse/MJD trial training
 - iv. Establish a second chair policy for new trial attorneys
- b. Annual PD Seminar
 - i. Involve more local attorneys in training and presentations
 - ii. Should we allow outside attorneys / members of HACDL to attend our training?
 - 1. Confidentiality issues?
- c. Organize more specialized in-house training – focus on practical help

- i. Mental health
 - 1. CIT training – Crisis Intervention Training
 - ii. Specific motions practice
 - iii. Immigration
 - iv. Trial practice
 - v. Voir Dire
 - d. Find more opportunities for off-campus training
 - i. National Forensic College
 - ii. NACDL Training
21. IMPROVE COMMUNICATION WITH THE DEPARTMENT OF PUBLIC SAFETY
- a. Meet with Wardens about attorney visits/access/safety/dress codes
 - i. Visits with mentally ill clients
22. IMPROVE OVERALL COMMUNICATION WITH THE OFFICE OF THE PROSECUTING ATTORNEY AND THE CRIMINAL JUSTICE DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL
23. IMPROVE THE EDUCATION, INVOLVEMENT AND ON-GOING EDUCATION OF UP-AND-COMING SENIOR ATTORNEYS
- a. Allow and foster training opportunities
 - b. Allow and foster opportunities to be on committees
 - i. Jury instruction committee
 - ii. Legislative committees and task forces
 - iii. Other planning committees
24. IS IT POSSIBLE TO CHANGE OUR PAY SCALE TO CREATE TWO LEVELS OF LEVEL 3 or LEVEL 4 PAY
- a. To accommodate the division between trial attorneys and non-trial attorneys at the Level 3 pay grade
 - i. Specialty courts vs. trial work
 - ii. To create incentive to do more trial work
25. INCREASE MENTAL HEALTH TRAINING, AWARENESS AND PROGRAMS THAT COORDINATE BETWEEN AGENCIES FOR BETTER SERVICING OF THE MENTAL HEALTH AND HOMELESS POPULATIONS AT ALL LEVELS
26. DEVELOP A PLAN FOR OFFICE WIDE VOLUNTEER SERVICES FOCUSING ON SOCIAL ISSUES AFFECTING CLIENTS
- a. Create office sponsored Clinics or Events
 - b. Participation in outside sponsored Clinics or Events
 - c. Focus on:
 - i. Homelessness
 - ii. Access to Justice
 - iii. Mental Health
 - iv. Expungement
 - v. BW Recall Events

CONCLUSION STATEMENT:

I believe that I am not only highly qualified to assume the duties of the Public Defender for the State of Hawaii, but I also believe that I have the energy, dedication, passion, and a clear vision for the future of the Office. I love this Office and I love being a Deputy Public Defender. I am proud of my accomplishments, I am proud to be a member of such a skilled and dedicated group of attorneys and staff, and I am proud to be a public servant. Public service is a calling – you must have within you a core that is both strong and compassionate to work with the variety of clients and members of the public that we encounter every day. You must be able to see beyond the poverty, the mental illness, the poor decision-making, and criminal activity and be able to see and work with people. Each client is an individual with a history, a family, a struggle, and who has some measure of hope for a better future. We do this job because we have a fundamental belief that stereotypes and generalizations may be wrong, faulty, and skewed. We try very hard to help, to assist and to see beyond the obvious and to take a deeper look into our client's life and circumstances. This is challenging work and requires a certain amount of grit, courage, and tenacity to do it well and to continue to do it well year after year. I also believe our office can do better – that we can strive and achieve a higher level of practice, a higher level of service and a higher level of skill in the interest of all citizens of the State of Hawaii. By protecting the rights of one single indigent person – we are in fact protecting the rights of every single citizen of our State. It is a high honor and a privilege to be entrusted with this duty and to do it with dignity, patience, skill, and dedication. This is what I believe on a fundamental level. This is why I feel I can and will be an excellent State Public Defender and a leader who inspires excellence for the entire Office of the Public Defender.

My favorite quote about Public Defense work:

"Often portrayed and even disturbingly romanticized as serfs in the hierarchical caste-like system that exists within the legal profession (and outside of it), in actuality, public defenders are, minus plush and puffy royal-red robes, golden crowns, and other baubles of majesty, the kings and queens of the law. Public defenders are called in battle like Davids: With well-worn slingshots they march across a rocky and hostile legal terrain towards an angry, often unfeeling Goliath; the outcome is usually far from biblical but somehow, summoning strength of character and a singular will to help a fellow soul, they act. The joy in public defense is found in the unshakeable belief that no matter a person's alleged or actual crime, there is goodness inside each one of us, and that is always something worth fighting for."

Stephen Cooper (2016); an excerpt from "The Joy of Public Defense"



"Homework" from Interview

3 messages

Ikenaga, Jon N [redacted] Tue, Oct 10, 2023 at 4:28 PM
To: Crystal Glendon [redacted] Gina Gormley [redacted] Stanton Oshiro
Cc: "Nishiyama, Randall S" [redacted]

Council Members and DAG Nishiyama,

Thank you for giving me the opportunity to address your questions and concerns. Before I address the two specific "homework" assignments that were given to me by the Council, I would like to respond to other questions that came up during the interview.

All of the Council members voiced their concerns about how the Hilo Office situation was handled. I do not agree with the position of the current administration that change was needed at the Hilo Office because the attorneys were not going to trial. There was absolutely nothing wrong with the way that cases were being resolved by the Hilo PDs and it is unclear to me why the current administration felt the need to overhaul a system that wasn't broken. The measure of success should not have been the number of trials but the outcomes for the clients. The Hilo Office debacle serves as a good example of why having a plan for change is not sufficient. All three candidates for PD have plans for change. Everyone knows that change, drastic change, is necessary. The issue is how the change is implemented. [redacted] had a well-detailed plan for change for Hilo but [redacted] imposed it upon the attorneys and staff without any regard for their input or any real knowledge or concern that the current system was working fine. The lesson from Hilo is that any changes must take into account the unique practices and standards of each island and that all attorneys must have input and agency. The changes I have outlined in my Vision Statement are designed to support the attorneys and staff in serving our mission, not to simply distinguish myself from the prior administration. The biggest change and the change I feel that is necessary for any other changes to occur is that I will work tirelessly to ensure that all attorneys and staff feel supported, protected and respected. Ensuring that the attorneys and staff feel that administration supports them and gaining their trust and support are the key first steps to implementing the changes that I have outlined.

Fixing the Hilo office situation will be a top priority for me. I have secured a commitment from [redacted] as supervisor of the Hilo Office. [redacted] is an experienced, respected member of the Hilo legal community and is an integral part of rebuilding the Hilo office. [redacted] was made aware of my plans for change, my difference from the current administration and my commitment to the Neighbor Island offices and agreed to return only if it is under my administration. [redacted] and the other Hilo attorneys and staff had lost all faith in management. Most of the office left because management did not support them, value them or validate their concerns. The fact that I could convince [redacted] to believe in me, my vision and my commitment to change shows that if given the opportunity, I can begin to do the same with other members of the office who are unsure whether I can bring about change and whether I am not just an extension of the current administration. This leads to the second concern raised that I would like to address.

Ms. Gormley asked me how I would convince people that I was different than James and [redacted] and that I was committed to change. Gaining the support, trust and loyalty of the office is not a short-term fix. It will take time. Several people have told me that what convinced them that I was different than the current administration was my assurance that [redacted] will not be my Assistant Public Defender or a supervisor in my administration. I believe that this first step was compelling and a tangible way to separate myself from James and [redacted] I was also "interviewed" by seven PD 2s in the Honolulu office. As a supervisor, I could not approach people directly, so I made it known that if anyone wanted to speak to me and ask me questions, I was available. These "interviews" ranged from 45 minutes to over an hour. After speaking with me, all of the attorneys pledged their support and agreed that I was committed to change and that I was different than the current administration. I will make myself available to anyone else who wants to speak with me. If I am appointed PD, I will also begin the first of my monthly statewide meetings by sharing the highlights of my vision statement with the office. In order to ensure that the Neighbor Island offices know that they will receive the same attention and respect as the Honolulu

office, me and [REDACTED] will also personally visit each office to speak with all attorneys and staff, inspect the offices and begin to address any issues or concerns. We will continue to have in-person visits on a quarterly basis and hold monthly meetings with the supervisors from each Neighbor Island office. As the Neighbor Island offices feel the most disenfranchised and have been neglected for so long, I will double my efforts to ensure that they know they are an equal and valued part of a statewide office.

"HOMEWORK RESPONSES"

1. How would I address my relationship with [REDACTED]?

I appreciate you bringing to my attention concerns that were raised about my relationship with [REDACTED]. The concerns made me realize that many people in the office do not know the whole story or that I followed required procedures and brought my relationship to the attention of HR at Budget and Finance (B&F) and James Tabe. I can understand that other persons who are unaware of the chronology of my relationship with [REDACTED] or who are unaware that I followed B&F procedures may have raised concerns about the propriety of my actions. I cannot risk that anyone in the office might hesitate to report misconduct or harassment on the mistaken belief that my relationship was improper and that I would condone improper behavior. Therefore, if I am appointed as PD, I would send the following email to the entire office shortly after beginning my term.

To all Attorneys and Staff,

It is it is of the utmost importance to me that we create a harassment-free work environment at our Office in which all employees feel safe and respected. A harassment-free environment is one in which all conduct is based on respect for others, and where no one in any way attempts to exploit power and/or status differences. To demonstrate my commitment to ensuring that all of you feel safe and protected by my administration and understand that no improper conduct of any kind will be tolerated, I am willing to publicly share some details about my personal life.

During my interview with the PD Council, a concern was raised about my relationship with [REDACTED] former secretary and Community Outreach Court (COC) Coordinator. [REDACTED] was the Appellate Section secretary for approximately two to three months after I was appointed as Appellate Section supervisor. Subsequently, [REDACTED] was given the position of COC Coordinator. The COG Coordinator position is under the supervision of the District Court supervisor. My relationship with [REDACTED] began after she had left the Appellate Section and when she was COG Coordinator and no longer under my supervision. Even though I was no longer [REDACTED] supervisor, I was concerned of the appearance of impropriety as I was still a supervisor. I reported the relationship to Mr. Tabe and he notified Human Resources at Budget and Finance (B&F). B&F confirmed that there was no policy against such a consensual relationship. B&F also asked Mr. Tabe to conduct separate interviews with me and [REDACTED] to confirm the nature of the relationship and that it was consensual at all stages. After Mr. Tabe confirmed that the relationship was consensual, B&F advised him that no further action was necessary. [REDACTED] no longer works for the office and she and I are in a long-term relationship.

The last thing I would want is for anyone who feels they are being harassed by a supervisor, or by anyone for that matter, to hesitate in coming forward to report such improper conduct because of an inaccurate perception about the history of my relationship with [REDACTED]. To be clear, while I handled the situation with [REDACTED] appropriately, I understand that there may be inappropriate situations that may arise between co-workers. Me and my administration will have zero tolerance for anyone, regardless of their position in the office, who subjects another employee to unwanted and unwelcome advances or behavior. If you feel that you have been subjected to any type of improper conduct, please report the conduct immediately to either your supervisor, the Public Defender, Assistant Public Defender, the PD Council, or Budget and Finance (Bobby Robinson, Lori Ikenaga or Dika Enoki). There will be absolutely no retribution or retaliation for such reporting and you will have the right to maintain your privacy throughout the process.

2. How would I address concerns that [REDACTED]?

I would like to start off by stating that I unequivocally stand by my choice of [redacted] as Assistant Public Defender. As detailed in my vision statement, [redacted] professional experience and credentials are unquestionable. [redacted] is widely supported and respected throughout the legal community for [redacted] work product and conduct. I have known [redacted] since [redacted] began at the office, I have worked with [redacted] both at the office and while [redacted] was in private practice and I have the utmost respect for [redacted] on a professional and personal level. During the course of my "candidacy" I have been approached by at least seven employees, all of who spoke candidly and shared their thoughts with me about my candidacy and issues within the office. Every person supported my choice of [redacted] as Assistant PD and no one raised any concerns about any type of improper behavior by [redacted]. The people who spoke with me included four women who have children. I have also received positive reviews of [redacted] from former-PDs who learned of my choice of [redacted] as my Assistant PD. If given the opportunity to change things, I would not hesitate to choose [redacted] again.

I understand that there have been specific concerns raised to the Council and I would like to confirm that I will have zero tolerance for any acts of bullying, harassment or intimidation. Every employee regardless of position will be treated the same way if any such situation arises. In fact, I will hold supervisors to a higher standard of conduct as they represent my administration and need to set an example for the rest of the office. If I am appointed as PD, will require that all employees complete State of Hawaii, Department of Human Resources Development training on workplace violence, harassment and EEO. Supervisors will also receive additional training on how to investigate complaints and the potential consequences of failing to act. I will also email and post throughout all offices information regarding workplace violence (which includes verbal or physical intimidation, harassment, threat of violence, hostile behavior or any violent act) and how to report such behavior. During my conversations with attorneys and staff, I was very concerned to learn that some of them were hesitant to submit comments on the other candidates due to fears of retribution. These concerns lead me to believe that there are incidents of workplace violence which have occurred at the office, not necessarily involving the other candidates, which have gone unreported due to fears of retribution or retaliation. In order to encourage any person who feels they have been victimized to come forward without fears of retribution or retaliation, I will offer several options for reporting -- 1) to the employee's supervisor; 2) to either the PD or Assistant PD; 3) to the PD Council; or 4) to B&F. I believe these options will allay some fears about retribution or retaliation. With the consent of the complainant, all incidents of workplace violence will be reported to B&F regardless of who receives the initial report and any action will be with the approval of B&F. I am attaching a copy of the B&F Workplace Violence Action Plan which details the steps which will be followed for every complaint. The involvement of a neutral, outside arbiter (i.e. B&F) will help to address any concerns about the propriety of the process, any appearances of impropriety or favoritism and that anything less than a fair and neutral resolution of the issue was reached.

Our office is entering a critical juncture. We need changes and we need experienced leadership that can gain the trust and support of the office to make those changes. Even as only a candidate, I have been able to create a calming, unifying presence and have gained support for my vision. I will do much more if I am selected as Public Defender. I have worked with three separate administrations and am familiar with the administrative challenges that will arise. I am the only supervisor of a state-wide section who has regular contact with the Neighbor Islands both through the Appellate division and my work as IT assistant and JEFS and CJIS administrator. The next administration will also begin during the midst of the legislative session. Getting funding for changes and positions will be especially challenging as we are in a supplemental budget year. I am the only candidate that has significant legislative experience and who is familiar with the complexities of the purchasing and human resource processes. I have also secured a commitment from a person who has years of experience in State government as a department head and who now works at the Legislature to assist me in strategizing how to gain support and funding for our office. A plan for change will be useless without practical knowledge of how to implement that plan.

The Council has expressed some concerns about my willingness or ability to make critical changes. I can and will make the changes that we need to move our Office toward my goal of restoring the reputation of our Office and ensuring that our Office reaches its fullest potential so that all persons in the legal system have the same voice, quality of representation and zealous advocacy as every other person. I have dedicated my entire professional career to our Office because I truly believe in our mission to provide meaningful and comprehensive legal assistance to our most vulnerable community members. Going through the Public Defender selection process was a humbling and eye-opening experience as I've already made difficult and sometimes painful decisions for the betterment of the current and future attorneys and staff. I have been approached by both attorneys and staff who pledged their support for me and told me that they believe in and trust me to do what's right for all of us, since I've shown I can and will make personal sacrifices for the Office regardless of personal cost. I know that change is absolutely necessary and I will do everything in my power to unify the Office and ensure our attorneys and staff trust and support management once again. I love this Office and everyone who's sacrificed to work here. I've given 28 years of my life to this vital and remarkable place that provides freedom to

disadvantaged community members against all odds. I will not let the Council, attorneys, staff members, or marginalized clientele down, should I be selected as the Public Defender.

Thank you!

Jon N. Ikenaga

Appellate Section Supervisor

Office of the Public Defender

Phone: (808) 586-2202

Facsimile: (808) 586-2222

 01-10-08 Workplace Violence Action Plan.pdf
1140K

Crystal Glendon

Tue, Oct 10, 2023 at 4:54 PM

To: "Ikenaga, Jon N"

Cc: Gina Gormley

Stanton Oshiro

"Nishiyama, Randall S"

Aloha Mr. Ikenaga,

Thank you for your follow-up submission. We appreciate the time you've taken to respond to our request. Should we have any further questions, we will reach out to you.

We anticipate announcing our decision at the next public meeting scheduled for 11/2/23 at 10am. That meeting will be in person at the Office of the Public Defender.

Mahalo,
Crystal Glendon, Chair
Gina Gormley, Vice Chair
Stanton Oshiro, Member

Defender Council
[Quoted text hidden]

Hawaiiante
To: Crystal Glendon

Wed, Oct 11, 2023 at 10:38 AM

Thank you.

Sent from my iPad

On Oct 10, 2023, at 4:54 PM, Crystal Glendon wrote:

[Quoted text hidden]

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Crystal Glendon [REDACTED]

Addendum to "homework" response

1 message

Ikenaga, Jon N [REDACTED]
To: Crystal Glendon [REDACTED]

Gina Gormley [REDACTED]

Fri, Oct 13, 2023 at 2:25 PM
Stanton Oshiro

Cc: "Nishiyama, Randall S" [REDACTED]

Council Members and DAG Nishiyama,

In my previous email I inadvertently omitted mentioning a conversation I had with [REDACTED] immediately after my interview to discuss the [REDACTED] issue raised by the Council. I could only talk to [REDACTED] about the Council's general remarks as I was not made aware of the specific nature of the allegations. [REDACTED] was surprised to hear about such comments because [REDACTED] said [REDACTED] has always tried to treat everyone in the Office with respect and would never intentionally hurt anyone personally or professionally. [REDACTED] also shared that many people within the Office have approached [REDACTED] to express support of [REDACTED] potential first deputy position. [REDACTED] assured me that [REDACTED] takes the allegations very seriously and offered to take whatever actions necessary to assure the Council and the Office that [REDACTED] will treat all employees with kindness and respect. [REDACTED] and I collaborated on determining an appropriate way to address the claims. Without knowing the specific nature of the allegations, my resolution for my "homework" response would address similar issues not only within my administration but also office-wide. Again, if the Council believes specific actions are necessary for or regarding [REDACTED] is more than willing to follow the Council's guidance. [REDACTED] is focused on the future of the Office and how to improve working conditions for all employees, which further assures me that [REDACTED] is the right person to help me lead. Thank you again for the opportunity to respond to the Council's concerns.

Jon N. Ikenaga

Appellate Section Supervisor

Office of the Public Defender

Phone: (808) 586-2202


Facsimile: (808) 586-2222

DC 000108



Jon N. Ikenaga, Esq.

1130 N. Nimitz Highway A-254
Honolulu, Hawai'i 96817



WORK EXPERIENCE

Office of the Public Defender, State of Hawai'i Appellate Section Supervisor, September 2020 to present

- Supervisor of the Appellate Section, the only statewide section of the office, which is responsible for handling appellate matters for all offices.
- Responsible for screening and processing all appellate matters for the Office of the Public Defender. Serves as legal resource in appellate and trial legal issues for attorneys within the office and from the private bar.
- Maintains an appellate caseload, which includes drafting briefs and writs. Represents clients at parole and involuntary civil commitment hearings.
- Supervises four senior attorneys and two junior attorneys who handle appeals, parole matters, and involuntary civil commitment hearings.

Office of the Public Defender, State of Hawai'i Deputy Public Defender, August 1995 to September 2020

- Represented appellate, parole, and involuntary civil commitment hearing clients.
- Wrote appellate briefs and writs and handled oral arguments for cases before the appellate courts.
- Assistant to the IT Specialist for the Office of the Public Defender, which included assisting in computer and server repair and maintenance and purchasing IT related items and software.
- Served as the security Liaison for JEFS, JIMS and CJIS (current).

Honorable Bambi E. Weil, Judge of the Circuit Court of the First Circuit, State of Hawai'i Law Clerk/Bailiff, July 1994 to August 1995

- Researched and drafted bench memoranda on legal issues before the court.
- Supervised juries, performed bailiff functions, managed the court calendar, and assisted the clerks and judicial assistant.

EDUCATION

Juris Doctorate -- 1991 to 1994
University of Hawai'i, William S. Richard School of Law

Bachelor of Arts in Philosophy -- 1985 to 1991
University of Hawai'i -- Manoa Campus

COMMITTEES

- **Interagency Committee on Intermediate Sanctions**
January 2021 to present
A task force that discusses strategies to reduce recidivism in Hawai'i by 30 percent.
 - **HCR 23 Taskforce**
June 2023 to present
A task force consisting of stakeholders throughout the criminal justice system and who service clients, some of whom are in the criminal justice system, whose purpose is to examine and make recommendations regarding existing procedures of the Hawai'i Paroling Authority setting the minimum terms of imprisonment.
 - **Criminal Justice Agency Forum**
June 2023 to present
A group of Judiciary and Government Criminal Justice Agencies that meets once a month to discuss issues for JEFS e-filing and JIMS case management, and the creation of a statewide database.
-

CAREER HIGHLIGHTS

During my employment with the Office of the Public Defender, I drafted briefs and writs in over 250 cases in the appellate courts. I presented oral argument in 10 cases in the appellate courts. I also assisted numerous members of the criminal bar with drafting trial motions and memoranda, appellate briefs, and writs.

I drafted the writs and presented oral argument in two cases seeking the mass release of pretrial and sentenced defendants during the COVID pandemic.

REFERENCES

Richard H. S. Sing, Esq.
841 Bishop Street, Suite 801
Honolulu, Hawai'i 96813
(808) [REDACTED]

Thomas M. Otake, Esq.
400 Davis Levin Livingston Place
Honolulu, Hawai'i 96813
(808) [REDACTED]

Alan M. Kaneshiro, Esq.
841 Bishop Street, Suite 2201
Honolulu, Hawai'i 96813
(808) [REDACTED]

Randall K. Hironaka, Esq.
201 Merchant Street, Suite 2240
Honolulu, Hawai'i 96813
(808) [REDACTED]

September 8, 2023

To: **Chair Glendon, Co-Chair Gormley and Council Member Oshiro
Public Defender Council**

Re: **Letter of Interest and Vision for the Office of the Public Defender**

Thank you for giving me the opportunity to apply for the position of Public Defender, State of Hawai'i. I believe that I possess the leadership qualities, vision and professional and managerial qualifications that the Council is seeking to unify and move the Office forward. This is an overview of my vision for the Office of the Public Defender.

My vision for the Office and assessment of its current condition:

I am applying to serve as Hawai'i's next Public Defender because I want to restore the reputation of our Office and ensure that the Office reaches its fullest potential so that all persons, even the underprivileged and indigent, have the same voice, quality of representation and zealous advocacy as every other person.

I have dedicated my professional career to our Office because I believe in its mission and the people who serve this mission. I have served as a deputy public defender for the past 28 years, under three different administrations. I am currently the supervisor of the only state-wide section of the Office. Unlike other supervisors or attorneys who work only within their island office, I communicate and collaborate daily with attorneys from all islands. Up until the pandemic, I also visited the Neighbor Island offices at least once a year for IT duties. While I was not a supervisor in our Office until two years ago, my positions in the Appellate Section, as an IT assistant, as the administrator for JEPS, JIMS and CJIS, and my involvement on the legislative team have given me the unique opportunity to observe details of the management of the Office even before I became a supervisor.

During my 28 years, I have yet to see the full potential of our Office realized. We have the components for success. We have highly-committed and skilled attorneys who are passionate about our mission. We are fierce advocates for our clients. The attorneys from our Office have gone on to become some of the most skilled and respected trial attorneys in the State. Yet, despite these attributes, our Office has failed to achieve greatness. Unfortunately, I believe our failure to live up to our potential is attributed to the management of our Office. Under our current management, morale has dropped, confidence in management is at an all-time low, the Big Island offices are in disarray, our reputation with the judiciary and other stakeholders has suffered, and we continue to lose attorneys and staff. We cannot continue on our current course.

While James, [REDACTED] and I came up in our Office together and we continue to be close friends, they know that I am applying for Public Defender because I need to offer a better solution for the future of this Office. It saddens me greatly that there is a

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prevailing belief that I am a contributing member to the current management of the Office. While I was aware of some decisions and offered my opinion, I had no say in the ultimate decisions that were made in the Office. To ensure that this misperception is not perpetuated, [REDACTED]

[REDACTED] I could not allow my personal relationship to detract from what is right for the Office. The Office comes first and my vision for the Office, my management approach and my dedication to the Office all differ greatly from James and [REDACTED]. The easiest choice for me would have been to avoid having to choose between my personal relationships and what is best for the Office. I could keep my head down, avoid the difficult choices that come with applying for the position and quietly continue to serve as the Appellate Section supervisor. My other choice was to step forward, make difficult choices and rebuild and improve the Office. The choice is simple.

My leadership model:

My first hard decisions will be in building a statewide leadership team. There is tremendous anxiety in the Office during any transition. In order to calm nerves and move forward, I need to set a direction and vision for the future that is inspiring and my management team is the key.

I will appoint [REDACTED] to be my Assistant Public Defender. [REDACTED] is a skilled trial attorney, presently serving as a [REDACTED]. I have worked with [REDACTED] in both appellate and trial matters. [REDACTED] has established contacts with the judiciary, the private bar and many other stakeholders. For example, [REDACTED] currently serves on the HSBA's Judicial Administration Committee [REDACTED] the HSBA's Professional Responsibility Committee, the Criminal Reform Working Group, and the Women's Corrections Implementation Commission. [REDACTED] has shown [REDACTED] dedication to our Office by returning after a stint in private practice. [REDACTED] believes in our Office and is dedicated to our mission. Most importantly, though, we have similar values and aspirations for our Office. I have the utmost respect for [REDACTED]. I value [REDACTED] opinion and we will have a collaborative approach to managing the Office. From a leadership perspective, we listen more than we talk. We are engaged with stakeholders. We have earned the respect of our colleagues and will work together to maximize the strengths of our Office.

The Office needs collaborative and inclusive leadership that sets high standards, helps staff meet the standards, and holds people accountable. This requires a leadership team that extends beyond the Public Defender and Assistant Public Defender. Our organizational structure is very flat and our supervisors need to be an integral part of our leadership team, especially on the Neighbor Islands. I have already met with [REDACTED] and other people whose opinions I value and respect to discuss the current supervisors. All supervisor positions will need to be evaluated to ensure that my management team shares my vision for the Office and is willing to adopt my inclusive, collaborative approach to management. With a strong, stable leadership team in place, we can work together to chart a course for our future.

Reshaping of the internal structure of the Office:

The heart of this Office is our 131 people – attorneys and staff. While we still have talented attorneys, we need to re-ignite the passion for the cause. We need to raise expectations, work together, and enable our staff to be successful.

- The Office of the Public Defender is a **statewide office** and needs to be managed accordingly. I will hold state-wide meetings each month so that attorneys from all islands become a contributing, valued part of the common mission and objectives of the Office. These meetings will facilitate transparency and reinforce my open-door policy for all members of the Office. These meetings will also enable me and my management team to be apprised and aware of the developments in each office.
- I will also hold **monthly meetings with the supervisors**, including Neighbor Island supervisors. The Neighbor Island offices feel disenfranchised due to the current management's Oahu-centric focus. We are a **statewide office** and **each Neighbor Island office** should have the equal focus and attention of management.
- [REDACTED] and I will conduct **regular site visits to the Neighbor Island offices**. This will not only serve to reinforce our commitment to our statewide office model but also to ensure that the Neighbor Island offices are sufficiently supported in terms of facilities and resources.
- I will manage the office with more **transparency and communication** between management, attorneys and staff. In order to move forward as an office with a shared, common vision, **attorneys and staff must feel valued, supported, protected and informed by management**.
I will make a commitment to **improving office morale and camaraderie**. Attorneys and staff will be made aware of decisions and issues that affect the office as a whole and their opinions and concerns will be valued and considered. Supervisors must also have a (reduced) caseload so that they remain abreast of issues that are directly affecting the attorneys and to decrease the perception that supervisors are detached and distant from the line attorneys.
- One of the most tangible ways to ensure that attorneys feel valued and supported will be to work to **achieve salary parity** with other government attorneys' offices such as the Attorney General's office and the prosecutors' offices, especially on the neighbor islands. Achieving parity will not only ensure that current attorneys feel valued and supported but it will also help significantly with retention and recruitment of new attorneys.
- In order to ensure that attorneys can effectively manage their caseloads and support their clients, we must offer better support for the attorneys.
 - One very significant part of this support is to **professionalize case management**. We will purchase and maintain a professional case management system so that attorneys statewide can share and access information. Prior to the pandemic we had secured legislative approval for the purchase and retention of such a system. I have received an informal

commitment from the Department of Budget and Finance to go forward with this purchase.

- I will also **create a social worker position** so that attorneys can focus on the legal issues in their cases. While providing social work support for attorneys statewide is a daunting task, the University of Hawai'i School of Social Work has also indicated that it would be willing to allow social work students to intern at the office on a regular basis if they work under a licensed social worker.
 - In that regard, I will also clarify the duties of the **clerical staff and IT positions**. The attorneys simply do not have enough time to handle both legal and clerical duties such as preparing and filing routine documents. The legal system is becoming completely paperless and audio-visual technology is becoming the standard of practice in cases. Attorneys must also be given significant and reliable support in issues related to technology such as audio-visual aids in cases and have reliable IT support for software and other computer-related issues.
 - Due to the increased reliance on technology, we must continue to **upgrade and maintain technology in our office**. We only recently upgraded our internet connection speed to functional levels. We must also ensure that we do not allow technological limitations to affect the quality of our legal representation.
- **Systematic and standardized training** is also critical to our success. I will establish a standardized training for new attorneys to the office and, in addition to our annual PD seminar, hold regular training sessions for all attorneys. In order to ensure that the Office of the Public Defender is kept abreast of current and relevant issues in criminal defense, attorneys will be sent to the Mainland for seminars and continuing legal education. These attorneys will then share what they have learned with the office and other members of the criminal bar.
 - **Recruitment of new attorneys** is also crucial to the success of our Office now and in the future. The multitude of issues created by staff shortages and the inability to recruit new attorneys is manifest. It appears that our current recruitment strategies are basically word-of-mouth and an unfocused internship "program." We must establish consistent contact with the law school and undergraduate programs that generally attract potential law school candidates. Rather than relying on individual attorneys to have informal conversations with law clerks, we must have an established strategy to ensure that we identify and actively recruit law clerks who are talented and committed to our Office's mission. We must also establish a presence at career fairs to recruit not only attorneys but also for staff positions.

Re-building of relationships with our stakeholders and partners:

In addition to strengthening internally, we need to build relationship with stakeholders and partners to build our credibility. The Public Defender, Assistant Public Defender and members of the management must be involved in this endeavour.

- **The Judiciary.** Establishing and maintaining lines of communication between the judiciary and the office is critical to achieving our mission and ensuring that we are a relevant and valued voice with the Judiciary. I will meet with the Chief Justice to discuss issues that implicate the Judiciary as a whole and establish the position of the Office on those issues. And, I will meet with and maintain relationships with the administrative judges from each circuit so that I can understand and address issues and concerns which are unique to each circuit.
- **Legislature.** I will ensure that we establish a presence at the legislature. I will begin by creating a dedicated legislative team. It is critical to establish both personal and professional contacts with the legislature to ensure that our position on proposed legislation is clearly understood and valued and to gain support for issues that affect our office directly (such as funding) and the criminal legal bar as a whole.
- **Prosecutors' Offices.** I will increase dialogue with the prosecutors' offices on each island to ensure that the court system functions in a more orderly and efficient manner and that the concerns of our office are communicated and understood and that our clients receive fair and just treatment.
- **Other stakeholders.** I will ensure that the Office of the Public Defender becomes more actively involved with other stakeholders who often share our position on issues and/or who have direct connections to our clients and their interests. These include the Federal Public Defender's Office, the William S. Richardson School of Law, the Hawai'i Association of Criminal Defense Lawyers, the Legal Aid Society of Hawai'i, Volunteer Legal Services of Hawai'i, the American Civil Liberties Union, the Native Hawaiian Legal Corporation, the Hawai'i State Bar Association and the Department of Public Safety. I will establish contacts at each of these organizations so that we can not only communicate but collaborate with them on legal issues, legislation and other areas where we can mutually support each other to benefit our clients.
- **Criminal Bar.** The Office of the Public Defender must take the lead on issues which affect the criminal bar. We must keep abreast of not only legal issues in Hawai'i but also other states and at the federal level. Knowledge of issues alone is not enough. We must be at the forefront of raising new and novel legal issues and supporting other stakeholders by, for example, filing amicus briefs on common issues. The aforementioned collaboration with other stakeholders is critical in this regard. The connections I establish will allow the sharing of institutional knowledge not only within the office but between our office and the other stakeholders.
- **Media.** The Office of the Public Defender must increase its social media and media presence to increase the relevance of the Office on current issues and to ensure that our position on issues is clearly communicated to the public. The print and broadcast media currently relies on members of the private criminal bar for elucidation of criminal legal issues. I will establish contacts with both local print and broadcast media, including online publications such as Civil Beat. I will also establish a social media presence on all major social media platforms such as Twitter/X, Bluesky, Instagram and Facebook. As the face of the Office, I

should be the primary contact for print and broadcast media. I will also seek volunteers to manage and maintain social media accounts in collaboration with management on the content of those accounts.

Re-building trust internally and re-building respect externally will take time and persistence. I wholeheartedly believe that we have the basic building blocks and can serve as strong foundation when asked. I am committed to leading the Office by building a collaborative, transparent, accountable organization that will result in improved morale and make the Office of the Public Defender the employer of choice for persons who dedicate their careers to zealously advocating for those who society has largely abandoned.

I look forward to speaking with you in more detail about this opportunity. If you have any additional questions about my qualifications or experience, please contact me by email or phone at any time. Thank you very much for your consideration.

Sincerely,



Jon N. Ikenaga
Appellate Section Supervisor
Office of the Public Defender

October 11, 2023

To: Crystal Glendon, Chair
Gina Gormley, Vice Chair
Stanton Oshiro, Member

Re: *Craig Nagamine Application for the Position of State Public Defender*

Aloha Ms. Glendon, Ms. Gormley and Mr. Oshiro:

At the Defender Council's request, I am writing to respond to concerns that were raised in the submitted comments regarding Craig Nagamine's application for the position of State Public Defender.

One of the issues that was raised is the concern for misogyny and toxic masculinity. If these things were true, they would be unacceptable and fatal to any administration – misogyny and toxic masculinity have no place in the Office of the Public Defender. If I have acted or said anything that has raised any concerns, I apologize and I fully agree that those behaviors would have to change.

I have been consistent about assisting deputies in their professional development. Over the years, I have trained and assisted many women lawyers by empowering them to reach their greatest potential as trial attorneys and as public defenders. Many of those women have gone on to extremely successful legal careers or have been raised to The Bench. Our work is stressful, and Public Defenders bond closely as personal friends, not just professional colleagues. We must acknowledge that no boundaries at all would be unhealthy, but tight restrictions on how people express themselves would be just as unhealthy.

With respect to toxic masculinity and misogyny – the most effective way to change those behaviors is to speak up when they are at issue, not after. This is a very diverse group of people. Public defenders and staff come from a huge range of backgrounds. It's not just gender and race, but socio-economic diversity, national origin, religion, etc. People have said and will occasionally continue to say things that are offensive, off-putting, and disrespectful. No administration can undo the harm caused by the one before it, but the path to a healthy organization must have one with a plan in place to minimize harm and create a workplace where people can speak freely, share ideas, and collaborate. Immediately calling out and triggering a discussion about how the behavior is harmful provides the best feedback to individuals engaging in that behavior. And the way to encourage speaking up is to guarantee safety and respect – a strict prohibition on retaliation – for those who do speak up.

Another issue that was raised is the fear of retribution. To be clear, there is not a "hit list." No one will be fired or asked to resign. On the contrary, we will ask

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everyone to stay and get actively involved in making the positive changes that the organization desperately needs.

It is our intention to assess the organization's current assets and needs then determine the best and most effective course of action. Where necessary, we may have to and likely will reposition the tremendous talent available and maximize the organization's full potential. With that said, we will need everyone.

We invite everyone to read the strategic plan and help us in its execution. Alternatively, we invite everyone or anyone to offer other or better ideas that will allow us to move forward. Now is a time of rebuilding and it is our hope that everyone will give us a chance and join us in this new endeavor.

Should the Council have any other concerns or questions, I will be more than happy to respond.

Aloha and Mahalo,



Craig S. Nagamine

October 11, 2023

Aloha Ms. Glendon, Ms. Gormley and Mr. Oshiro:

Craig has asked me to write to you about my feelings regarding the next four years and to address some of the feedback that has come up to through this selection process.

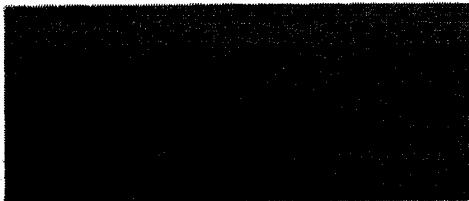
I have been practicing law for [REDACTED] years at this point. During that time, I have been a fierce and uncompromising litigator. I have sometimes brought that highly assertive stance back to our office, in my dealings with our colleagues. I acknowledge that, at times, this attitude was the wrong approach.

My unnecessarily blunt and straightforward ways of giving advice or answering questions are not always well-received, and I do not always think about the impact my words and manner of speaking may make others feel. It has never been my intention to make others feel "less than," but to try to convey knowledge and experience in the least roundabout way. I understand that I have not always been successful in this. In my attempts to be the strongest litigator and advocate at all times, I have hurt others' feelings, and for that, I want to apologize.

During the last several years, I have grown a lot as a lawyer, [REDACTED] and as a human being. A lot of that growth stems from my reflections on what it means to be [REDACTED]

I feel that the next four years will be critical for the future of the office and for the development of its attorneys. We are now in a very strange position, where there are only two PD4s who have gone to jury trial on murder cases, Craig and myself.

I remember preparing to do my first murder trial. I was surrounded by highly experienced Public Defenders, offering me their advice and counsel. I would like to be that person for others and assist my friends and colleagues the same way. I know that our office can only be truly great if every person has access to the resources they need to succeed. I am here to help, because above all else, I believe in our office, our colleagues, and our mission.



DC 000148



[REDACTED]

State of Hawai'i Defender Council
Attention: Ms. Crystal Glendon

Ms. Glendon and Members of the Defender Council:

I am writing to express my interest in the position of Public Defender for the State of Hawai'i that was advertised in the Hawai'i State Bar Association Website. Attached for your review and consideration is my resume which outlines my background and experience.

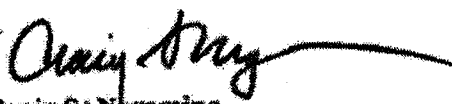
I joined the Office of the Public Defender on October 1999 and since 2004, I have been a Deputy Public Defender IV at the Honolulu Office, litigating some of the most serious, complex and high-publicity cases. During that period, I have also served as an instructor for the annual Public Defender Trial Advocacy and the Hawai'i State Bar Association Trial Academy. In addition, I have also informally trained and mentored deputy public defenders as they develop into felony trial attorneys through small group skills training, as well as, brainstorming and case preparation.

Having served as a Deputy Public Defender for almost 25 years, the Office of the Public Defender is ripe for a change in leadership and new direction. I believe that I can facilitate that change and new direction.

Attached is a proposed strategic plan that outlines, in detail, the vision and direction for the Office of the Public Defender that will provide the structural changes and improvements that are necessary to advance and ensure long-term success for the organization.

Thank you for your time and attention, and I look forward to hearing from you.

Sincerely,



Craig S. Nagamine

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Craig S. Nagamine



A Senior Trial Lawyer with 25 years of experience. Possesses a Bachelor's Degree in European History, a Doctor of Jurisprudence from the University of Hawaii and a Hawaii State Attorney License.

PROFESSIONAL EXPERIENCE

STATE OF HAWAII, OFFICE OF THE PUBLIC DEFENDER

Senior Trial Lawyer

October 1999-Present

- Conducted high-profile criminal jury trials.
- Trial Skills Trainer for the Hawaii State Bar Association Trial Academy.
- Instructor/Trial Skills Trainer for the Office of the Public Defender Trial Skills Seminar.

STATE OF HAWAII JUDICIARY

Law Clerk to the Honorable Dexter D. Del Rosario

August 1998-October 1999

- Legal research and writing for Judge of the First Circuit Court.
- Assisted Judge Del Rosario in administering both Civil and Criminal jury trials.

OTHER RELEVANT EXPERIENCE

HONOLULU FIRE COMMISSION

Former Chair of Honolulu Fire Commission

July 2019-July 2021

- Designed, Chaired and Managed the selection of current HFD Chief.
- Current member of the Honolulu Fire Commission.

EDUCATION

WILLIAM S. RICHARDSON SCHOOL OF LAW, UNIVERSITY OF HAWAII

Doctor of Jurisprudence, June 1998

UNIVERSITY OF HAWAII-MANOA

Bachelor's Degree in European History, June 1995

- Graduated With Distinction 

KAMEHAMEHA SCHOOLS

High School Diploma, June 1989

CERTIFICATIONS (LICENSES)

- Licensed State Attorney, Honolulu HI 1998-Present.

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A PLAN FOR THE OFFICE OF PUBLIC DEFENDER

INTRODUCTION

The Office of the Public Defender ("OPD") was established to fulfill the constitutional requirement of effective assistance of counsel, pursuant to the Sixth Amendment to the United States Constitution and Article 1, Section 14 of the Hawai'i State Constitution.

The OPD is the largest organization providing legal services to criminal defendants with offices in every county and every judicial circuit in the State. Its attorneys are found in every kind of criminal proceeding, from remote and rural district courts to cases before the Hawai'i Supreme Court. Its clients range from first-time arrestees to people who have spent the majority of their lives under supervision or incarcerated by the State. Given its constitutional mandate, the primary purpose and mission of the OPD is to safeguard an individual's constitutional rights zealously and effectively in all criminal proceedings and related matters with applicable laws, court rules, and rules of professional responsibility.

The OPD must set the standard of excellence in criminal defense in Hawai'i. Its attorneys carry the most cases, master more legal issues and complexities, and interact with the courts, prosecutors, and other institutions within the criminal justice system more than any other criminal defense firm. The OPD also represents the most vulnerable people in Hawai'i. Its attorneys not only advance the constitutional mandate of effective assistance of counsel, but set the standard for how the indigent, disenfranchised, and oftentimes reviled people in Hawai'i should be treated. In that sense, the OPD carries the conscience of the community and advocates for the decent, just, and moral treatment of all people.

Given its primary purpose and mission, the following is an outline of a proposed direction for the next OPD administration.

THE PLAN

- I. **LEADERSHIP MUST EMBRACE THE CULTURE AND VALUES OF HAWAII.** Unique to Hawai'i is its "sense of place." As noted cultural specialist Charles Kaupu stated, "Sense of place is the knowledge of who you are, where you come from and those treasures that have been passed from generation to generation to be used in such a way to enhance all that you do to honor the past, function in the present and set a solid foundation for the future."

In the zealous and effective representation of clients, the OPD must engage in "place-based" representation by systematically adopting Hawai'i's unique culture and values in its representation of clients. At a minimum, the new OPD administration must carefully incorporate the spirit of Aloha and its

five distinct values (Akahai, Lōkahi, Olu'olu, Ha'aha'a, and Ahonui) as stated in Hawai'i Revised Statutes § 5-7.5, in the administration of the organization and the representation of clients by the frontline deputies. Applying these important values will provide unity among the deputies, raise morale, and further focus the organization on its mission.

Place-based practice includes:

- Educating deputies and supervisors about the diverse cultural backgrounds of our clients to better understand their needs and respect their choices.
- Improving language access at the OPD in client intake and interviewing and demanding adequate language access at court.
- Adopting formal anti-discrimination policies.
- Engaging in community outreach to stay apprised of the makeup of OPD client community.

II. LEADERSHIP MUST HAVE A CLEAR VISION OF PURPOSE AND MISSION.

- A) LEADING FROM THE FRONT.** OPD leadership, including the Public Defender and supervisors in all sections and in every office, must be involved in the daily business of representing clients in the courtroom.

Like all deputies, a new OPD administration must be directly involved in representing clients at all stages of proceedings. There is no more fundamental way to provide a clear vision for the zealous representation of clients than for leadership to be present at the courthouse, and meeting with clients, along with their colleagues. The new OPD administration, beginning with the Public Defender, must carry a caseload to observe firsthand what is happening in court, interact with clients, and work alongside front-line deputies. In doing so, the new OPD administration will demonstrate leadership at the frontlines and improve morale. It will also allow leadership to effectively and efficiently be responsive to the needs of the organization by having firsthand experience of the trends and issues confronting clients and the criminal defense bar.

- B) RECOGNIZING A SINGLE STATEWIDE OFFICE.** The OPD is, and has always been, an organization founded to serve the people of the entire State of Hawai'i. Currently, a significant majority of financial and human resources are spent on only the Oahu Office, to the detriment of the neighbor island offices. As a result, the neighbor island offices have been neglected, resulting in problems (e.g., low morale, not enough attorneys, no investigators, equipment shortage, etc.) that undermine the mission and purpose of the OPD itself. A new OPD administration must recognize that it is a single statewide office and act accordingly.

To provide proper support for all OPD branches in the state, the new OPD administration must:

- Provide proportional parity for all branch offices when it comes to financial and human resources.
- Directly engage the neighbor island branches, actively assess their needs, and provide the financial and human resources to enable them to carry out the purpose and mission of the OPD.
- Advocate for additional funding and positions (e.g., additional attorneys to cover the caseload in each circuit, and dedicated investigators for Kauai and Kona) that fits the specific needs of each individual branch.
- Promote greater integration between Oahu and the neighbor islands by leveraging technology (e.g., Zoom for meetings and trainings, as well as digital cloud services to provide access to materials and a centralized client case management system).
- Provide opportunities for neighbor island deputies to receive greater training and professional experience (e.g., creating an exchange program for the neighbor island deputies to do jury trials on Oahu and permit Oahu deputies to experience the neighbor island courts).
- Create a strategy to transfer new hires to positions in the neighbor island branches when necessary. This will include requesting that the new hires accept a "rotation" to neighbor island offices for 2-3 years with the option of returning to Oahu branch, or remaining in the neighbor island offices as a senior attorney.

The new OPD administration must regularly coordinate with all offices to take inventory of materials and assets, and where necessary, redistribute materials and assets until sufficient funding has been secured to adequately equip all offices. Supervisors will be required to regularly update the OPD administration at least on a monthly basis. In turn, the OPD administration must personally visit the neighbor island offices periodically to maintain contact and verify that the issues are being resolved.

C) BEING RESPONSIVE TO NOVEL AND EMERGING LEGAL ISSUES.

To set the standard of excellence in criminal defense and convey a clear vision of purpose and mission, a new OPD administration must take the lead in coordinating the efforts of the trial deputies, the appellate division, and the private criminal defense bar to litigate novel and emerging legal issues. As individuals, several deputy public defenders have been at the vanguard of emerging problems (e.g., *Apprendi*, *Crawford*, *Thompson*, and *Bruen* issues).

OPD leadership must build on these individual efforts by:

- Directing and supporting the appellate division to give advice in cases in the lower courts on how to properly set up issues for appeal.

- Leading, alongside the appellate division, in the training of deputies in taking advantage of new court opinions, including the drafting of practical, usable motions and memoranda.

D) PROMOTING MORE COMPREHENSIVE PROFESSIONAL DEVELOPMENT FOR ALL DEPUTY PUBLIC DEFENDERS. The OPD has a long history of hiring, nurturing, and developing a diverse population of young attorneys. The OPD does not engage in any special hiring or recruitment practices to amass individuals of talent. Instead, applicants come from all walks of life and all social and cultural backgrounds, who are already aware of the OPD's mission and wish to be part of it. In exchange for their time, effort, and unique insights, the OPD endeavors to provide them with training and trial experience. So much so, that many of the organization's best lawyers have been recruited to the bench, chosen to lead other government or nonprofit agencies, or have moved on to extremely successful private law practices.

The reputation and strength of advocacy of the OPD is its greatest recruitment tool, and its ability to train compassionate and skilled attorneys is one of its greatest contributions to the legal community. The new administration must embrace, encourage, and expand that role in regard to training, development, and promotion of its young attorneys.

The OPD currently provides professional development opportunities for its deputies in the form of week-long annual seminars, sporadic presentations, in-house materials that are not systemically updated, deputies informally shadowing other deputies, inconsistently arranged second-chair opportunities, and a subscription to either Westlaw or Lexis (depending on the current contract).

As the largest criminal defense organization in Hawaii, OPD leadership is aware that many deputies trained at the OPD will eventually work elsewhere or start their own private practice. Better training at the OPD advances the mission of setting the standard of excellence for the entire State. To enable greater professional development of attorneys throughout the State, more comprehensive training programs must be implemented in a way that is repeatable, reliable, and sustainable for future generations of attorneys, as outlined in the sections below.

E) ESTABLISHING AND CULTIVATING ALLIES. The issues and needs of the present require more than just the representation of clients in the courtroom. To achieve better results for clients and deputies, the OPD must cultivate and maintain relationships with other organizations or community allies at the state and national level.

Working with other organizations strengthens OPD's efforts to create change on issues such as bail reform, expungement of records, and diversion.

courts. Having community allies can aid in the representation of clients and may even help to shift the negative and prejudicial narrative created against them.

A new OPD administration must foster and promote:

- Relationships that have already been established and developed by individual deputy public defenders with the community through projects such as Project e4 or the Kiai Expungement Clinic, and legal organizations such as the Hawaii State Bar Association, county bar associations on the neighbor islands, the National Association of Criminal Defense Lawyers, Hawaii Association of Criminal Defense Lawyers, the American Civil Liberties Union, and the California Attorneys for Criminal Justice.
- Partnerships with allies that have deep knowledge and connections in its client populations, such as the COFA community (whose members have a disparate representation in the OPD clientele) as well as the Native Hawaiian Legal Corporation (who expressed a great interest in working with the OPD on various issues related to Native Hawaiians).

III. LEADERSHIP MUST BE TRANSPARENT AND ACCOUNTABLE

- A) STANDARDS.** Transparency and accountability begin and end with standards. In 1998, Public Defender Richard W. Pollack promulgated and published an Administrative Manual that outlined standards of operation for the OPD. It has never been updated. Moreover, since Mr. Pollack's departure from the OPD, due to his appointment to the Circuit Court, those written guidelines have not been implemented consistently resulting in arbitrary enforcement, evaluations of deputies, and even promotion.

The Public Defender must update the Administrative Manual and implement statewide guidelines and standards of operations for the OPD. An Administrative Manual that clearly outlines standards for every deputy (and staff) provides the necessary standardized guidelines, promotes fairness in the workplace, and serves as a proper reference point for work and performance expectations.

- B) COMMUNICATION.** To facilitate greater transparency and accountability, OPD administration must provide a forum for open communication regarding its direction, as well as operations and decisions.

At a minimum, leadership must:

- Proactively and clearly communicate plans and decisions by the office with the Defender Council, the deputies, support staff, and, where necessary, the public. For example, leadership is to provide written monthly reports on the decisions, activities, and changes within the organization.

- Maintain and encourage open dialogue between administration and frontline deputies. The new OPD administration must create a system that will allow deputies to provide input and comment on certain issues, policies, or operations, and incorporate ideas and suggestions where possible.
- Create and make available rules for formally resolving human resources issues. In addressing disputes, for example, the new OPD administration must create a standardized complaint process that will address any human resource issue expeditiously and confidentially which can include the following process:
 - a) a written complaint process that will outline the nature the alleged incident, actions taken before the complaint is filed, and efforts to secure assistance,
 - b) a formal and documented meeting between the OPD administration and the complaining party (if the dispute does not involve current OPD administration) to discuss the issue in dispute,
 - c) providing a formal written decision regarding the issue, and
 - d) an appeal process that will involve the Defender Council and/or the Department of Budget and Finance.

C) BETTER OPPORTUNITIES FOR LEADERSHIP ROLES TO DEVELOP A SYSTEM FOR SUCCESSION AT ALL LEVELS. To promote accountability and invest in the future for the OPD and the criminal defense bar, the new administration must create and foster leadership roles for deputies who are not in supervisory positions. This will allow the OPD to develop succession plans at all levels in the event of promotion or resignations. One example of leadership opportunities involves the apprenticeship training described below. Another opportunity for leadership is for the new OPD administration to create committees or teams led by volunteer deputies who will review, strategize, and implement the specifics of this proposed strategic plan – or propose and implement additional ideas. The new OPD administration must also establish policies for assigning deputies to represent and speak for the OPD in the various standing committees on criminal justice issues, legislative hearings, or other public forums. Deputies will be encouraged and supported in creating their own projects that advance the mission of the OPD, such as community outreach programs like project e4 and the expungement project as referenced above.

D) COLLABORATIVE PERFORMANCE EVALUATION. To provide greater accountability for the new OPD administration and its deputies, and to assist in the professional development of individual attorneys, a collaborative evaluation system based on clear performance standards must be implemented, with the intent to strengthen the organization as well as support each deputy's professional growth and development in carrying out the responsibilities of advocacy.

- 1) **EVALUATING THE ORGANIZATION.** An annual office-wide evaluation must be conducted to provide an objective view of the status of the organization. The office-wide evaluation will be conducted collaboratively with the involvement of administration, deputies, investigators, and staff. The annual evaluation will examine and determine whether the plans and policies implemented by the OPD administration meet the desired metrics or require a course correction.

- 2) **EVALUATING THE DEPUTIES.** Evaluation of deputies will be collaborative, not merely top-down review, and will focus on professional growth and development. The following is a possible way of evaluating the deputies.
 - a) Each deputy will be evaluated in the following areas, which are consistent with the standards established in 1998: a) trial experience, b) management of caseload, c) preparations for court proceedings, d) proficiency of performance in court, e) writing skills, e) zealous representation; and f) willingness and ability to work within the office/team concept.

 - b) The process for evaluation will involve a pre-conference where the deputy and the evaluating deputy will discuss the deputy's professional development needs, strategies and plans to address each area for evaluation. The evaluating deputy and the deputy should establish and discuss pertinent measures from the standards that require emphasis during the evaluation period.

 - c) At the end of the evaluation period, based on the results of the period, the deputy will submit a short-written summary that highlights his/her accomplishments towards the measures established and discussed in the preconference.

 - d) The evaluating deputy shall review the deputy's short written summary and conduct a summative evaluation based on the measures established and discussed at the preconference. The summative evaluation shall occur at the end of the evaluation period. The evaluating deputy and the deputy will meet to discuss the evaluation and the rating, as well as the rationale for each rating during the evaluation.

To ensure that the evaluation system is positive and beneficial to the organization, the evaluation system must be reciprocal. When the subordinate deputy is evaluated, the subordinate deputy will also have an opportunity to evaluate the supervisor in the same manner.

E) TRAINING. A comprehensive training regimen that is responsive to the professional development needs of each deputy must be developed to ensure the long-term success of the OPD and the criminal defense bar. To that end, the new OPD administration must allow deputies to seek their learning and training in ways that fit them best, once they have been taught the basics of advocacy. As such, the new OPD administration should implement the following training regimen:

- 1) **The Annual PD Seminar.** Although the current annual PD seminar is effective in training newer deputies, it is less effective and engaging for deputies with sufficient trial experience on the felony level. As such, the annual PD Seminar should be focused solely on training newer deputies on the fundamentals and mechanics of trial and advocacy.
- 2) **Individualized Training/Apprenticeship.** Once promoted to the felony division, deputies will be paired with more senior deputies in an instructor-apprentice type relationship. The purpose of these pairings is to not only continue trial and advocacy training at the felony level, but also to provide opportunities for the instructor to teach younger deputies on the various organizational operations. Although such "apprenticeship" currently exists in an informal setting for some, the new OPD administration is responsible to everyone and must encourage and foster professional development for all deputies. Individualized training will allow the "apprentice" to focus on specific and individualized needs as well as gain knowledge and understanding of organization's operations. The senior deputy will endeavor to be a resource and provide individualized training for the deputy and the deputy should access the senior deputy as such.
- 3) **Training Outside the Office.** The new OPD administration shall encourage and, when available, provide financial support for senior deputies to attend trainings and seminars offered by other organizations at the national level (e.g., NACDL seminars and trainings, Forensic College, and National Criminal Defense College). Senior deputies who receive outside training will then serve as instructors and mentors for the newer deputies, expanding the knowledge and tools available to all deputies. While all attorneys must master the basics of advocacy, attorneys who wish to become subject-matter specialists or experts should be supported.

IV. LEADERSHIP MUST BE RESPONSIVE AND ADAPTIVE TO MODERN TRENDS IN PUBLIC DEFENDER WORK

A) LEVERAGING TECHNOLOGY. The OPD must leverage and utilize technology to maximize the effectiveness of its frontline deputies and provide

greater efficiency for the organization. Further, the new OPD administration can leverage technology to bridge the statewide geographical divide of the various offices within the organization.

Moving forward, leadership must devote resources toward:

- A centralized case management system, available statewide, at court and within the office.
- Completely digitizing the application process, case file and discovery management.
- Enabling efficient and secure use of personal portable and mobile devices to promote communication, case management, and even calendaring.
- Using efficient and secure digital cloud technology.
- Using data science to analyze the OPD's existing database of clients (over 25 years of information) as well as construct a more robust data collection system that can provide objective data to support arguments before the legislature. Data collection and analysis is essential to securing the resources the OPD needs, buttressing arguments when supporting or opposing legislation related to the representation of OPD clients, and highlighting systemic inequalities that need to be rectified.

B) REPRESENTATION BEYOND THE ATTORNEY-CLIENT RELATIONSHIP.

As stated at the outset, the Office of the Public Defender was created to provide effective assistance of counsel, as required by our state and federal constitutions. The Hawai'i State Constitution, however, has been consistently interpreted by the Hawai'i Supreme Court to afford "broader protections" to criminal defendants "than that given by the federal constitution."¹ Accordingly, the OPD and its deputies may take a more expansive view of client-centered representation. Public defender offices in outside jurisdictions have utilized social workers as assistants in the representation of clients. Social workers have been indispensable in the preparation of drug treatment applications and plans, mental health assessments, and other needs of the client that courts have demanded.

The new OPD administration must create social work positions where funding is available, or leverage relationships with one of the local universities and colleges to obtain internships/externships that can provide similar assistance. Many deputies are currently devoting a significant amount of their time to such work to help clients achieve better disposition outcomes. Obtaining social worker assistance would not only free up time for the deputies to focus on pretrial and trial work, but also provide more significant aid for clients seeking housing, financial assistance, and access to mental health or medical care.

¹ *State v. Hoey*, 77 Hawai'i 17, 36, 881 P.2d 504, 523 (1994).

C) ACTIVELY ENGAGING THE MEDIA. The OPD needs to be an advocate in all forums – including the media. So many of the reform efforts championed by the OPD have been stymied because lawmakers and the public do not have positive views of the OPD or OPD clients. The OPD has a duty to control the narrative and explain the realities of the lives and needs of OPD clients. A modern public defender's office must be prepared and equipped to speak to the media regularly.

The new OPD administration must have a point of contact (either the Public Defender, the First Deputy, or an assigned deputy) for the media. This person should be able to provide information (using press releases or social media platforms) and answer questions when necessary. This is crucial specially when the OPD is engaged in issues that are of concern and relevance to the public (e.g., bail reform, COVID-19 emergency release, legalization of cannabis).

Additionally, where media advisory or social media is insufficient, the OPD administration must train individual deputies, especially the senior trial attorneys who are assigned high profile cases, on how to engage and speak to the media.

D) ACTIVELY ENGAGING THE LEGISLATURE. Inasmuch as the new OPD administration must have a point of contact for the media, that same point of contact can be employed to set up meetings and actively lobby legislators on issues being championed by the OPD. The point of contact will be aided by deputies specifically assigned to lobby on the issues.

Additionally, the OPD must actively communicate and engage with lawmakers beyond the legislative session by cultivating and maintaining a regular line of communication. This can be achieved by periodically briefing legislators with data regarding OPD work and clientele relevant to their communities, and appraising and inviting legislators to attend and participate in community outreach projects by the OPD.

E) CREATING AND PROMOTING INNOVATIVE AND REPONSIVE COMMUNITY PROJECTS. It is imperative that the OPD is seen, not just an organization that is limited to the representation of criminal defendants in the courtroom, but as a community partner.

As stated above, projects that have already been established and developed by individual deputies with the community such as Project e4 or the Kia'i Expungement Clinic have garnered recognition, not only by the Judiciary, but by community leaders who have become indispensable allies in the representation of clients.

The new OPD administration must create and promote community projects that are responsive to the needs of the community. For example, the new OPD administration can adopt the current efforts by Project e4 in law related education for high school age children at Farrington High School and promote it statewide. Similarly, considering the recent tragedy in Lahaina, the new OPD administration can adopt the community outreach project that has been started by the Maui office to help and support OPD clients that have been affected by the Lahaina wildfires, and document that outreach model for future possible disasters.

CONCLUSION

While the constitutional mandate and the OPD's mission to provide outstanding legal services to the public are a steadfast part of the State's criminal justice system, the OPD must grow and change to meet the challenges facing the criminally accused today and in the future. The proposed direction for a new OPD administration that a) embraces Hawaii's culture and values in its governance as well as the representation of clients, b) directly engages with the deputies, clients and the community, c) has a system for transparency and accountability within and outside the organization, and d) emphasizes responsiveness to the emerging trends in the representation of clients, will provide the structural changes and improvements that are necessary to advance and ensure long-term success for the organization. These changes and vision are essential to fulfilling the OPD's mission in providing zealous and effective representation of individuals in criminal proceedings.



Eric Lee Niemeyer, PE
Attorney at Law

August 23, 2023

State of Hawai'i Defender Council



RE: Letter of Interest -- State Public Defender

Subject:

I am sending this letter of interest in response to the State Public Defender position advertised on the HSBA website. I started my legal career in 2006 following a successful engineering career. Although I had doubts changing careers in my 40s, I accepted a full-time position as a public defender in Yreka, CA. I clearly remember my first day on the job with a bucket of misdemeanor files in court. From that day forward I conducted arraignments, wrote and argued hundreds of pre-trial motions, and conducted dozens of bench and jury trials from minor misdemeanors to murder. I love working as a public defender where I can keep a watchful eye on the power of the government. In 2015 I accepted a position as an engineer because Springfield, OR made me an offer I could not refuse. I left Springfield and moved to Oahu because my son lives here and am back to doing privately retained criminal defense and as conflict counsel for the courts. I am getting up to speed on Hawaii criminal law and procedure and love it.

I look forward to a timely response.

Sincerely,

A handwritten signature in black ink, appearing to be 'ELN'.

Eric Lee Niemeyer, Attorney at Law

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Eric Lee Niemeyer, PE
Attorney at Law

September 6, 2023

State of Hawai'i Defender Council

RE: Qualifications and Leadership Vision – State Public Defender

Subject:

I am sending this letter in response to an email from Crystal dated 08-23-23.

I am uniquely qualified to lead the Office of the State Public Defender because I have practiced law as a public defender in several jurisdictions since 2006. Courtroom experience in dozens of bench and jury trials include California, Hawaii and Oregon. Criminal defense across several jurisdictions, and familiarity with differing rules and procedures, provide ideas that I can bring to the Office. I have noticed good aspects about each jurisdiction that I can slowly integrate into the criminal justice system here. For instance, rules on whether the court needs a defendant present at all court hearings differ substantially. I can bring my experience and client control methods, especially indigent and sometimes difficult clients, to the table. Offering difficult clients a waiver of appearance in exchange for regular and productive contact has helped move case loads. Hawaii has an unusual approach to clients with multiple cases and combining all cases with global offers can also help resolve case loads:

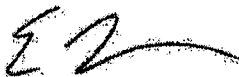
On the management side, I have a lot of experience with creating and using templates and forms in PDF format which eliminates the need to hand write them. Word templates for motions, supporting arguments, certificate of service and declarations also help streamline heavy caseloads and work product. As an engineer and lawyer, I have years of experience setting up directory structures where a user can easily query and find information including motions, case law and client files.

My claim to fame in leadership came as an engineer. In 2001 I petitioned for and received FHWA permission to use and collect research data on a new traffic signal device called the Flashing Yellow Arrow (FYA). Research consultants reviewed my experimental use at several traffic signals over the years and I made several trips to Washington DC as a member of the National Committee for Uniform Traffic Control

Devices. I convinced the majority of about 50 traffic signal engineers across the US to endorse my request. My legal experience coupled with my traffic engineering background gave me an edge when trying to convince conservative traffic engineers entrenched in old ideas, to try something new. In 2014 FHWA issued an interim approval for the FYA and will include FYA in the next version of the Manual on Uniform Traffic Control Devices. I now see FYA across the country including Maui. Oahu remains hesitant to try FYA but I am working with local engineers to answer questions and ease concerns for trying something new.

I look forward to an interview if you find my skill set appealing.

Sincerely,



Eric Lee Niemeyer, Attorney at Law

Eric Lee Niemeyer, PE

Education	<p>2001 – 2005 Concord Law School Juris Doctor Long Beach, California (Correspondence)</p> <p>1985 – 1992 Oregon Institute of Technology BSCET, ASEET Klamath Falls, Oregon</p> <p>Bachelor of Science in Civil Engineering Technology (1992) Associate of Science in Electronics Engineering Technology (1988)</p>
Professional Experience	<p>2016-Present Self-Employed Defense Attorney</p> <p>Represented criminal defendants accused of felonies and misdemeanors from arraignment to jury verdict, along with probation violations. Filed and argued dozens of pre-trial motions.</p> <p>2020 - 2021 Honolulu, HI JTMC Operations Engineer</p> <p>2015 - 2020 Springfield, OR Traffic Operations Engineer</p> <p>2014 - 2015 Southern Oregon Public Defenders</p> <p>2007 - 2014 Siskiyou County Public Defender</p> <p>Represented indigent criminal defendants accused of misdemeanors and felonies from arraignment to jury verdict. Filed and argued motions and writs including Demurrers, Mandate, Speedy Trial (both pre and post accusation), 995 (motion to set aside holding order), Suppression, Bail Reduction, Withdraw Plea, Coram Nobis, Statutory and Common Law motions to dismiss, Limine and Continuances.</p> <p>1995 – 2007 Jackson County, Oregon Traffic Engineer</p>
Professional Memberships	<p>National Committee on Uniform Traffic Control Devices (NCUTCD)</p>
Licenses	<p>Licensed Attorney and Professional Engineer in California, Hawaii and Oregon</p>

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