



CONFLICT FREE REPRESENTATION IN MUNICIPAL COURT

SB 18-203

On January 20, 2020, SB 18-203 requires municipalities to provide “independent defense counsel” to every indigent defendant charged with a crime when the possible penalty includes a jail sentence.

In Commerce City that includes most municipal ordinance violations and 16 traffic violations.



Independent indigent defense requires that a nonpartisan entity, independent of the municipal court and municipal officials, oversee or evaluate indigent defense counsel.



To satisfy the requirements of SB 18-203

1. The city may contract with the Office of Alternate Defense Counsel
2. The city may contract with a legal aid clinic at any Colorado Law School accredited by the American Bar Association
3. Establish a local or regional independent indigent defense commission



Office of the Alternate Defense Counsel

Required to submit a request for services on or before September 1, 2018.

The OADC shall inform applicants on or before May 1, 2019 if they have the resources and if they can commit to providing services during the next calendar year (2020).

The request and response needs to be repeated each year thereafter.



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- The OADC contract requires the municipality to be financially responsible for all services rendered and expenses incurred by the indigent defense attorney.
 - The OADC may, but is not required to, evaluate the performance of attorneys providing indigent defense at the request of any municipality.



A legal aid clinic at a Colorado Law School accredited by the American Bar Association

- The Sturm College of Law at Denver University located at 2255 E. Evans Ave in Denver
- The University of Colorado Law School located at 2450 Kittredge Loop Drive in Boulder

The law school legal aid clinics refuse to provide services due to travel distances, transportation costs and scheduling issues that conflict with classes



A local or regional Independent Indigent Defense Commission.....●

- The commission has the responsibility and exclusive authority to appoint indigent defense counsel.
- The commission retains sole authority to supervise the attorney and discharge him/her for cause.



A commission consists of:

- At least 3 attorneys, each with substantial experience in criminal defense in Colorado within the previous 5 years and is not affiliated with the municipality.
- Selected by the Chief Municipal Judge, in consultation with the Colorado Criminal Defense Bar, the Office of Alternate Defense Counsel or the Office of the State Public Defender



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- All commission members must be approved by the Office of the Alternate Defense Counsel



Options

1. Submit a request to the OADC by September 1 of this year, to provide defense attorney services and/or evaluation and wait until May to see if we are accepted
2. Contract with a legal aid clinic at a local accredited law school
3. Establish a Local Independent Indigent Commission
4. Partner with other municipalities to establish a Regional Independent Indigent Commission



Additional Option

To eliminate the need for court appointed attorneys the city council could:

- a) Eliminate jail as a possible penalty for all municipal violations
- b) Cancel all arrest warrants
- c) Refer all criminal charges to State Court
- d) Empower the Municipal Court to address traffic violations and civil code enforcement violations only.



Questions?

