



VIII. DEputh Director, Writs and Litigation

IX. Representative, ex officio ARDINC

**4. Public Defender Pilot Program fund**

A fund shall be established which shall be used to cover all costs, including but not limited to salaries, office rental, equipment and other items needed to effectively implement these rules. For the first (2 phases? 18 months?) 75% of the funds necessary to administer this program shall come from ARDINC, with the Supreme Court providing the balance. If the Pilot Program is successful, a transitional plan shall be formulated to transfer funding responsibility to the national government

**5. Eligibility for Services, Right to representation, services and facilities**

A needy person who is being detained by a law enforcement officer without charge or judicial process, or who is charged with having committed or is being detained under a conviction of a serious crime, is entitled:

(i) To be represented by an attorney to the same extent as a person having his own counsel; and

(ii) To be provided with the necessary services and facilities of representation. Any such necessary services and facilities of representation that exceed ???per item must receive prior approval from the court after a hearing involving the parties. The court may conduct the hearing outside the presence of the public prosecutor, but only to the extent necessary to preserve privileged or confidential information.

(iii) the board shall establish maximum income levels for persons requesting public defender services, which shall be progressive in nature, considering such factors as number of dependants, and the defendant's realistic ability to retain counsel at his own cost.

**6. Notice of rights; representation provided**

(a) If a person who is being detained by a law enforcement officer without charge or judicial process, or who is charged with having committed or is being detained under a conviction of a serious crime, is not represented by an attorney under conditions in which a person having his own counsel would be entitled to be so represented, the law enforcement officer, Court Registrar or court concerned shall:

(b) Clearly inform him of the right of a person to be represented by an attorney and of a needy person to be represented at public expense; and

(c) If the person detained or charged does not have an attorney and does not knowingly, voluntarily and intelligently waive his right to have an attorney when detained or

charged, notify the charged individual of his right to have an attorney at government expense, and provide the accused with the form to request a public defender.

(d) Prior to an applicant's first appearance before the Court, the Court Registrar shall review the application and make a determination if the defendant is eligible for public defender services. If the Registrar determines that an individual is not eligible for public defender services, the defendant may appeal that decision to the presiding Judge. The Judge's decision in the matter shall be final.

(e) If the defendant qualifies for Public Defender services, the Registrar shall provide the Public Defender's office with a copy of the case file, and note their appearance on behalf of the defendant.

(f) No court hearings shall be held concerning the defendant without the Public Defender appearing on behalf of the defendant.

(g) Each court registrar shall develop a process for ensuring that the public defender assigned to that court receives the initial case file, and copies of any subsequent filings in a timely manner.

(h) Each court Registrar shall ensure that information concerning the availability of public defender services is conspicuously posted throughout the courthouse, and that applications for public defender services are readily available to the public.

## 7. Implementation

The Public Defender Pilot Program shall be implemented in phases, subject to change by the Board as circumstances dictate.

### **A. PHASE ONE- anticipated duration???(6-9 months?)**

(1) The stipendiary lawyers in the Kathmandu valley region, presently 5, will assume temporary duties of Public Defenders. Two additional attorneys will also be hired by the Board, one to provide representation in the Kathmandu District Court, the other, a more senior attorney to act as chief Public Defender. All contracts during phase one shall be for a duration of ? months +/-

(2) The Chief Public Defender (hereinafter CPD) shall manage the Public Defenders office, provide assistance to PD's as needed, and liaise with the Public Defender Board. The lawyers shall be compensated at a level similar to that of Public Prosecutors with similar backgrounds and experience.

(3) During Phase one, The Public Defender Board (PDB) shall establish minimum qualifications for PD's to be hired in Phase two.

**B. Phase 2 Anticipated duration one year**

(1) At the beginning of phase 2, qualified attorneys shall be hired with one-year contracts to serve as Public Defenders pursuant to these Rules. The hiring process shall be competitive, and managed by the PDB.

(2) The Board shall arrange for a certification and training program for all Public Defenders.

(3) The Board shall prepare a report summarising the effectiveness of the program, and make appropriate recommendations for improvement.