SVP RESPONDENT NEEDS AT LEAST TWO EXPERT WITNESSES

by: Tom Watson (2006)

During SVPA legal proceedings, a potential respondent (defendant) is faced with two Contract State Evaluators who get paid a great deal of money to testify against him. Section 6601 of the Welfare and Institutions Code ("WIC") provides in subsection (g):

> (g) Any independent professional who is designated by the Director of Corrections or the Director of Mental Health for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

WIC § 6603, subsection (a) provides**:**

> (a) A person subject to this article shall be entitled to a trial by jury, to the assistance of counsel, to the right to retain experts or professional persons to perform an examination on his or her behalf, and to have access to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall appoint counsel to assist him or her, and, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf.

Thus, there is a statutory right to a defense expert in SVP commitment cases. Note the specific language which gives "the right to retain experts or professional persons..." Specifically note the use of the plural experts and persons for those who are able to pay for and retain such experts or persons. However, also note the use of the singular "an expert" for those who are indigent.

This, of course, creates a parity problem for those who are indigent compared to "rich people." The trial becomes more unfair for the indigent respondent. The prosecution will have two experts to testify against the respondent while the indigent respondent will have only one expert on his side. He is plain and simply out numbered.

Most public defenders attempt to provide only one expert for their clients. However, it is imperative that an SVP respondent has a minimum of two experts. For this reason every SVP respondent must attempt to convince his attorney that he cannot receive a fair trial unless he has parity with the prosecution in the number of expert witnesses. This is also true of all other ancillary services, but the expert witnesses are the most important.

It seems that every public defender faced with a request for two experts will cry about how there isn't any money in his budget. That he has only been allocated enough funds for one expert.

For this reason, I am providing a generic argument that can be used to convince the public defender to hire two experts, or it can be tailored for use as an argument for a *Marsden Motion*. What ever you do, get this request on the court record if your attorney fails to provide two experts. This is a very viable Ineffective Assistance of Counsel claim on appeal.

RESPONDENT/DEFENDANT IS ENTITLED TO EXPERT WITNESSES

The very premise of our adversary system of Justice is that partisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free. *Evits v. Lucey*, (1985) 469 U. S. 387, 394, 105 S. Ct. 830, 835, 83 L. Ed. 2d 281.), quoting *Herring v. New York*, (1975) 422 U. S. 853, 862, 95 S. Ct. 2550, 2555, 45 L. Ed. 2d 593.) To achieve full and fair partisan advocacy, both sides must have equal resources. For the indigent defendant to be faced with the full panoply of the state's resources, and yet be denied similar resources, whatever the reason, that defendant has been denied a fair trial.

The First Amendment's right of access to the courts, the Sixth Amendment's right to effective assistance of counsel, and the fourteenth Amendment's Equal Protection and Due Process Clauses, require that indigent defendants have access to the same resources as all other defendants, and access to the same resources as the prosecution. When these same resources are not available to an indigent defendant, that defendant does not receive a fair trial.

The American Bar Association ("ABA") readopted "**THE TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM**" ("ABA PRINCILPES") on February 5, 2002. ABA PRINCIPLE Number (8) in part requires,

> "**There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.** There should be parity of workload, salaries and other resources (such as benefits, technology, facilities, legal research, support staff, paralegals, investigators, and access to forensic services and experts) between prosecution and public defense. [23] " (orig. emphasis).---
>
> Footnote 23 cites longstanding ABA Standards for these requirements.

In *Wiggins v. Smith*, (2003) 123 S. Ct. 2527, 2536-2537, the U.S. Supreme Court quoted its holdings in *Strickland v. Washington, supra,* (1984) 466 U.S. 668, at 688, and *Williams v. Taylor, supra,* (2000) 529 U.S. 362, at 369, while reaffirming their intent to utilize the ABA Standards "'as guidelines to determine what is reasonable.' [citation]"

> "The ABA Guidelines provide that investigation into mitigating evidence 'should comprise efforts to discover **all reasonably available** mitigating evidence to rebut any aggravating evidence that may be introduced by the prosecutor.'" (*Ibid.,* orig. emphasis.)

The Supreme Court does not limit its rationale to that one particular ABA Standard, but, instead, infers that the court will utilize all ABA Standards as a gauge to judge an attorney's performance. One could thus presume that a public defender who failed to meet the American Bar Association's **THE TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM**, would **not** have provided effective assistance of counsel.

In the present case, defense counsel will be ineffective in his assistance if he fails to demand equal resources. Parity, Equal Protection, and Due Process would have the defense be allowed not only one expert, but the same number of experts as the prosecution is provided for use at

trial. Presently, the respondent is outnumbered at least two to one, and this alone will deny him a balanced and fair trial.

It is unknown to the Respondent herein what, if any, effort defense counsel actually made towards securing defense experts. However, it is clearly established that a right to experts exists in California.

In general, *Penal Code* §987.8 provides for reimbursement of the costs of legal assistance. In *Corenevsky v. Superior Court*, (1984) 36 Cal. 3d 307, 204 Cal. Rptr. 165, the court considered the extent to which an indigent defendant in a non-capital case has a right to ancillary defense services at public expense. In that case, the county board of supervisors refused to authorize payment for certain experts who had been appointed by the superior court. The State Supreme Court held that the trial court had the authority to order, and the auditor had the duty to disburse, funds for the requested services.

The defendant's right to court-ordered ancillary defense services, and the county's obligation to pay for them, have both a statutory and constitutional basis. It may be inferred from *Evidence Code* §§730 and 731(a) and *Government Code* §29603, relating to expert expenses, from *Penal Code* §987.8(f)(1) (now 987.8(p)(1), relating to an indigent's right to legal assistance, and from the constitutional right to the effective assistance of counsel. (*Id.*, 36 Cal. 3d at 318, 319.)

Under the separation of powers doctrine, only the trial court has the authority to determine whether a reasonable need for defense services has been shown. The county may challenge court orders in court, but cannot review or modify them. (*Id.*, 36 Cal. 3d at 325.) Counties are responsible for providing ancillary services, even in absence of statute, under constitutional guarantees of due process and right to counsel. (*Los Angeles v. Commission on State Mandates*, (1995) 32 Cal. App. 4th 805, 815, 38 Cal. Rptr. 2d 304.)

In *People v. Gunnerson*, (1977) 74 Cal. App. 3d 370, 378, 141 Cal. Rptr. 488, it was held to bean abuse of discretion to deny appointment of a cardiologist to assist in advising defendant, and likely to testify as an expert on cause of death.

The indigent's constitutional right to counsel includes the right to have such expert assistance to counsel as may be necessary for preparation of a defense; hence, in a proper case, the court must appoint an expert at public expense, under its inherent power, regardless of the absence of express statutory authority. (*People v. Worthy*, (1980) 109 Cal. App. 3d 514, 517, 520-521, 167 Cal. Rptr. 402.)

This is true even when a defendant has a paid attorney, but has run out of money, or the attorney's fees were paid by a third party. In *Tran v. Superior Court*, (2001) 92 Cal. App. 4th 1149, 1153, 112 Cal. Rptr. 2d 506, the court held that it was an abuse of discretion for the trial court to deny funding for necessary ancillary services to an indigent whose attorney fee was paid by relatives, and was in an amount greater than the ordinary and customary charges in the community. Although *Tran* was a capital murder case to which *Penal Code* §987.9 applies, the court also cited §987.8, the general statute governing ancillary services, and the court's rationale was not limited to capital cases.

TEN PRINCIPLES

Of a Public Defense Delivery System

February 2002

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TEN PRINCIPLES

Of a Public Defense Delivery System

February 2002

Approved by American Bar Association House of Delegates, February 2002. The American Bar Association recommends that jurisdictions use these Principles to assess promptly the needs of public defense delivery systems and clearly communicate those needs to policy makers.

INTRODUCTION

The *ABA Ten Principles of a Public Defense Delivery System* were sponsored by the ABA Standing Committee on Legal and Indigent Defendants and approved by the ABA House of Delegates in February 2002. The Principles were created as a practical guide for governmental officials, policymakers, and other parties who are charged with creating and funding new, or improving existing, public defense delivery systems. The Principles constitute the fundamental criteria necessary to design a system that provides effective, efficient, high quality, ethical, conflict-free legal representation for criminal defendants who are unable to afford an attorney. The more extensive ABA policy statement dealing with indigent defense services is contained within the ABA Standards for Criminal Justice, *Providing Defense Services* (3d ed. 1992), which can be viewed on-line (black letter only) and purchased (black letter with commentary) by accessing the ABA Criminal Justice Section homepage at http://www.abanet.org/crimjust/home.html.

ACKNOWLEDGMENTS

The Standing Committee on Legal Aid and Indigent Defendants is grateful to everyone assisting in the development of the *ABA Ten Principles of a Public Defense Delivery System*. Foremost, the Standing Committee acknowledges former member James R. Neuhard, Director of the Michigan State Appellate Defender Office, who was the first to recognize the need for clear and concise guidance on how to design an effective system for providing public defense services. In 2000, Mr. Neuhard and Scott Wallace, Director of Defender Legal Services for the National Legal Aid and Defender Association, jointly produced a paper entitled "The Ten Commandments of Public Defense Delivery Systems," which was later included in the Introduction to Volume I of the U.S. Department of Justice's Compendium of Standards for Indigent Defense Systems. The *ABA Ten Principles of a Public Defense Delivery System* are based on this work of Mr. Neuhard and Mr. Wallace.

Special thanks go to the members of the Standing Committee and its Indigent Defense Advisory Group who reviewed drafts and provided comment. Further, the Standing Committee is grateful to the ABA entities that provided invaluable support for these Principles by co-sponsoring them in the House of Delegates, including: Criminal Justice Section, Government and Public Sector Lawyers Division, Steering Committee on the Unmet Legal Needs of Children, Commission on Racial and Ethnic Diversity in the Profession, Standing Committee on Pro Bono and Public Services. We would also like to thank the ABA Commission on Homelessness and Poverty and the ABA Juvenile Justice Center for their support.

L. Jonathan Ross
Chair, Standing Committee on
Legal Aid and Indigent Defendants

ABA TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM

Black Letter

1 **The public defense function, including the selection, funding, and payment of defense counsel, is independent.**

2 **Where the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar.**

3 **Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel.**

4 **Defense counsel is provided sufficient time and a confidential space within which to meet with the client.**

5 **Defense counsel's workload is controlled to permit the rendering of quality representation.**

6 **Defense counsel's ability, training, and experience match the complexity of the case.**

7 **The same attorney continuously represents the client until completion of the case.**

8 **There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.**

9 **Defense counsel is provided with and required to attend continuing legal education.**

10 **Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.**

ABA TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM

With Commentary

1 The public defense function, including the selection, funding, and payment of defense counsel,[1] is independent. The public defense function should be independent from political influence and subject to judicial supervision only in the same manner and to the same extent as retained counsel.[2] To safeguard independence and to promote efficiency and quality of services, a nonpartisan board should oversee defender, assigned counsel, or contract systems.[3] Removing oversight from the judiciary ensures judicial independence from undue political pressures and is an important means of furthering the independence of public defense.[4] The selection of the chief defender and staff should be made on the basis of merit, and recruitment of attorneys should involve special efforts aimed at achieving diversity in attorney staff.[5]

2 Where the caseload is sufficiently high,[6] the public defense delivery system consists of both a defender office[7] and the active participation of the private bar. The private bar participation may include part-time defenders, a controlled assigned counsel plan, or contracts for services.[8] The appointment process should never be *ad hoc*,[9] but should be according to a coordinated plan directed by a full-time administrator who is also an attorney familiar with the varied requirements of practice in the jurisdiction.[10] Since the responsibility to provide defense services rests with the state, there should be state funding and a statewide structure responsible for ensuring uniform quality statewide.[11]

3 Clients are screened for eligibility,[12] and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel. Counsel should be furnished upon arrest, detention, or request,[13] and usually within 24 hours thereafter.[14]

4 Defense counsel is provided sufficient time and a confidential space within which to meet with the client. Counsel should interview the client as soon as practicable before the preliminary examination or the trial date.[15] Counsel should have confidential access to the client for the full exchange of legal, procedural, and factual information between counsel and client.[16] To ensure confidential communications, private meeting space should be available in jails, prisons, courthouses, and other places where defendants must confer with counsel.[17]

5 Defense counsel's workload is controlled to permit the rendering of quality representation. Counsel's workload, including appointed and other work, should never be so large as to interfere with the rendering of quality representation or lead to the breach of ethical obligations, and counsel is obligated to decline appointments above such levels.[18] National caseload standards should in no event be exceeded,[19] but the concept of workload (i.e., caseload adjusted by factors such as case complexity, support services, and an attorney's nonrepresentational duties) is a more accurate measurement.[20]

6 **Defense counsel's ability, training, and experience match the complexity of the case.** Counsel should never be assigned a case that counsel lacks the experience or training to handle competently, and counsel is obligated to refuse appointment if unable to provide ethical, high quality representation.[21]

7 **The same attorney continuously represents the client until completion of the case.** Often referred to as "vertical representation," the same attorney should continuously represent the client from initial assignment through the trial and sentencing.[22] The attorney assigned for the direct appeal should represent the client throughout the direct appeal.

8 **There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.** There should be parity of workload, salaries and other resources (such as benefits, technology, facilities, legal research, support staff, paralegals, investigators, and access to forensic services and experts) between prosecution and public defense.[23] Assigned counsel should be paid a reasonable fee in addition to actual overhead and expenses.[24] Contracts with private attorneys for public defense services should never be let primarily on the basis of cost; they should specify performance requirements and the anticipated workload, provide an overflow or funding mechanism for excess, unusual, or complex cases,[25] and separately fund expert, investigative, and other litigation support services.[26] No part of the justice system should be expanded or the workload increased without consideration of the impact that expansion will have on the balance and on the other components of the justice system. Public defense should participate as an equal partner in improving the justice system.[27] This principle assumes that the prosecutor is adequately funded and supported in all respects, so that securing parity will mean that defense counsel is able to provide quality legal representation.

9 **Defense counsel is provided with and required to attend continuing legal education.** Counsel and staff providing defense services should have systematic and comprehensive training appropriate to their areas of practice and at least equal to that received by prosecutors.[28]

10 **Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.** The defender office (both professional and support staff), assigned counsel,or contract defenders should be supervised and periodically evaluated for competence and efficiency.[29]

NOTES

[1] "Counsel" as used herein includes a defender office, a criminal defense attorney in a defender office, a contract attorney, or an attorney in private practice accepting appointments. "Defense" as used herein relates to both the juvenile and adult public defense systems.

[2] National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, Chapter 13, *The Defense* (1973) [hereinafter "NAC"], Standards 13.8, 13.9; National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States* (1976) [hereinafter "NSC"], Guidelines 2.8, 2.18, 5.13; American Bar Association Standards for Criminal Justice, *Providing Defense Services* (3rd ed. 1992) [hereinafter "ABA"], Standards 5-1.3, 5-1.6, 5-4.1; *Standards for the Administration of Assigned Counsel Systems* (NLADA 1989) [hereinafter "Assigned Counsel"], Standard 2.2; NLADA *Guidelines for Negotiating and Awarding Contracts for Criminal Defense Services*, (1984) [hereinafter "Contracting"], Guidelines II-1, 2; National Conference of Commissioners on Uniform State Laws, *Model Public Defender Act* (1970) [hereinafter "Model Act"], § 10(d); Institute for Judicial Administration/American Bar Association, *Juvenile Justice Standards Relating to Counsel for Private Parties* (1979) [hereinafter "ABA Counsel for Private Parties"], Standard 2.1(D).

[3] NSC, *supra* note 2, Guidelines 2.10-2.13; ABA, *supra* note 2, Standard 5-1.3(b); Assigned Counsel, *supra* note 2, Standards 3.2.1, 2; Contracting, *supra* note 2, Guidelines II-1, II-3, IV-2; Institute for Judicial Administration/ American Bar Association, *Juvenile Justice Standards Relating to Monitoring* (1979) [hereinafter "ABA Monitoring"], Standard 3.2.

[2] Judicial independence is "the most essential character of a free society" (American Bar Association Standing Committee on Judicial Independence, 1997).

[5] ABA, *supra* note 2, Standard 5-4.1

[6] "Sufficiently high" is described in detail in NAC Standard 13.5 and ABA Standard 5-1.2. The phrase generally can be understood to mean that there are enough assigned cases to support a full-time public defender (taking into account distances, caseload diversity, etc.), and the remaining number of cases are enough to support meaningful involvement of the private bar.

[7] NAC, *supra* note 2, Standard 13.5; ABA, *supra* note 2, Standard 5-1.2; ABA Counsel for Private Parties, *supra* note 2, Standard 2.2. "Defender office" means a full-time public defender office and includes a private nonprofit organization operating in the same manner as a full-time public defender office under a contract with a jurisdiction.

[8] ABA, *supra* note 2, Standard 5-1.2(a) and (b); NSC, *supra* note 2, Guideline 2.3; ABA, *supra* note 2, Standard 5-2.1.

[9] NSC, *supra* note 2, Guideline 2.3; ABA, *supra* note 2, Standard 5-2.1.

[10] ABA, *supra* note 2, Standard 5-2.1 and commentary; Assigned Counsel, *supra* note 2, Standard 3.3.1 and commentary n.5 (duties of Assigned Counsel Administrator such as supervision of attorney work cannot ethically be performed by a non-attorney, citing ABA Model Code of Professional Responsibility and Model Rules of Professional Conduct).

[11] NSC, *supra* note 2, Guideline 2.4; Model Act, *supra* note 2, § 10; ABA, *supra* note 2, Standard 5-1.2(c); *Gideon v. Wainwright*, 372 U.S. 335 (1963) (provision of indigent defense services is obligation of state).

[12] For screening approaches, see NSC, *supra* note 2, Guideline 1.6 and ABA, *supra* note 2, Standard 5-7.3.

[13] NAC, *supra* note 2, Standard 13.3; ABA, *supra* note 2, Standard 5-6.1; Model Act, *supra* note 2, § 3; NSC, *supra* note 2, Guidelines 1.2-1.4; ABA Counsel for Private Parties, *supra* note 2, Standard 2.4(A).

[14] NSC, *supra* note 2, Guideline 1.3.

[15] American Bar Association Standards for Criminal Justice, *Defense Function* (3rd ed. 1993) [hereinafter "ABA Defense Function"], Standard 4-3.2; *Performance Guidelines for Criminal Defense Representation* (NLADA 1995) [hereinafter "Performance Guidelines"], Guidelines 2.1-4.1; ABA Counsel for Private Parties, *supra* note 2, Standard 4.2.

16 NSC, *supra* note 2, Guideline 5.10; ABA Defense Function, *supra* note 15, Standards 4-3.1, 4-3.2; Performance Guidelines, *supra* note 15, Guideline 2.2.

17 ABA Defense Function, *supra* note 15, Standard 4-3.1.

18 NSC, *supra* note 2, Guideline 5.1, 5.3; ABA, *supra* note 2, Standards 5-5.3; ABA Defense Function, *supra* note 15, Standard 4-1.3(e); NAC, *supra* note 2, Standard 13.12; Contracting, *supra* note 2, Guidelines III-6, III-12; Assigned Counsel, *supra* note 2, Standards 4.1, 4.1.2; ABA Counsel for Private Parties, *supra* note 2, Standard 2.2(B)(iv).

19 Numerical caseload limits are specified in NAC Standard 13.12 (maximum cases per year: 150 felonies, 400 misdemeanors, 200 juvenile, 200 mental health, or 25 appeals), and other national standards state that caseloads should "reflect" (NSC Guideline 5.1) or "under no circumstances exceed" (Contracting Guideline III-6) these numerical limits. The workload demands of capital cases are unique: the duty to investigate, prepare, and try both the guilt/innocence and mitigation phases today requires an average of almost 1,900 hours, and over 1,200 hours even where a case is resolved by guilty plea. *Federal Death Penalty Cases: Recommendations Concerning the Cost and Quality of Defense Representation* (Judicial Conference of the United States, 1998). *See also* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases (1989) [hereinafter "Death Penalty"].

20 ABA, *supra* note 2, Standard 5-5.3; NSC, *supra* note 2, Guideline 5.1; *Standards and Evaluation Design for Appellate Defender Offices* (NLADA 1980) [hereinafter "Appellate"], Standard 1-F.

21 Performance Guidelines, *supra* note 15, Guidelines 1.2, 1.3(a); Death Penalty, *supra* note 19, Guideline 5.1.

22 NSC, *supra* note 2, Guidelines 5.11, 5.12; ABA, *supra* note 2, Standard 5-6.2; NAC, *supra* note 2, Standard 13.1; Assigned Counsel, *supra* note 2, Standard 2.6; Contracting, *supra* note 2, Guidelines III-12, III-23; ABA Counsel for Private Parties, *supra* note 2, Standard 2.4(B)(i).

23 NSC, *supra* note 2, Guideline 3.4; ABA, *supra* note 2, Standards 5-4.1, 5-4.3; Contracting, *supra* note 2, Guideline III-10; Assigned Counsel, *supra* note 2, Standard 4.7.1; Appellate, *supra* note 20 (*Performance*); ABA Counsel for Private Parties, *supra* note 2, Standard 2.1(B)(iv). *See* NSC, *supra* note 2, Guideline 4.1 (includes numerical staffing ratios, e.g.: there must be one supervisor for every 10 attorneys, or one part-time supervisor for every 5 attorneys; there must be one investigator for every three attorneys, and at least one investigator in every defender office). *Cf.* NAC, *supra* note 2, Standards 13.7, 13.11 (chief defender salary should be at parity with chief judge; staff attorneys at parity with private bar).

24 ABA, *supra* note 2, Standard 5-2.4; Assigned Counsel, *supra* note 2, Standard 4.7.3.

25 NSC, *supra* note 2, Guideline 2.6; ABA, *supra* note 2, Standards 5-3.1, 5-3.2, 5-3.3; Contracting, *supra* note 2, Guidelines III-6, III-12, and *passim*.

26 ABA, *supra* note 2, Standard 5-3.3(b)(x); Contracting, *supra* note 2, Guidelines III-8, III-9.

27 ABA Defense Function, *supra* note 15, Standard 4-1.2(d).

28 NAC, *supra* note 2, Standards 13.15, 13.16; NSC, *supra* note 2, Guidelines 2.4(4), 5.6-5.8; ABA, *supra* note 2, Standards 5-1.5; Model Act, *supra* note 2, § 10(e); Contracting, *supra* note 2, Guideline III-17; Assigned Counsel, *supra* note 2, Standards 4.2, 4.3.1, 4.3.2, 4.4.1; NLADA *Defender Training and Development Standards* (1997); ABA Counsel for Private Parties, *supra* note 2, Standard 2.1(A).

29 NSC, *supra* note 2, Guidelines 5.4, 5.5; Contracting, *supra* note 2, Guidelines III-16; Assigned Counsel, *supra* note 2, Standard 4.4; ABA Counsel for Private Parties, *supra* note 2, Standards 2.1 (A), 2.2; ABA Monitoring, *supra* note 3, Standards 3.2, 3.3. Examples of performance standards applicable in conducting these reviews include NLADA Performance Guidelines, ABA Defense Function, and NLADA/ABA Death Penalty.

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