



Aurora Mayor and City Council
15151 E. Alameda Parkway
Aurora, CO 80012

December 11, 2023

Re: Aurora City Council's Proposal to Privatize the Public Defender

Dear Mayor Coffman and Councilmembers,

The National Association for Public Defense (NAPD) urges you to continue to provide high-quality public defense through the Aurora Public Defender's Office.

The office has proven its effectiveness: high rates of case dismissals and acquittals, and systemic advocacy to improve the fairness and accuracy of the justice system for everyone.¹ In other words, it is serving the role set out for it in the United States and Colorado Constitutions to protect the rights of people accused of crimes.

The Council is now considering if Aurora can outsource public defense to contractors to receive the same quality of services for a considerably lower cost. It cannot. This approach will dismantle the quality and independence of public defense and make criminal trials less fair.

Contracts may work for smaller cities. But in places with higher case volumes, like Aurora, contracts incentivize attorneys to low-bid their services and cut corners on their constitutional duties to investigate and prepare each case. Contracts also make defense attorneys answerable to the executive branch, which deprives them of the independence they need to advocate for necessary resources and policy changes.

Independence is an "indispensable element" of quality representation, according to the U.S. Supreme Court and national standards.² Colorado law

¹ Michael Abeyta, "Attack on the poor or the pursuit of efficiency? Aurora considering getting rid of public defenders," CBS News Colorado (December 8, 2023), <https://www.cbsnews.com/colorado/news/aurora-considering-getting-rid-public-defenders/>.

² Ferri v. Ackerman, 444 U.S. 193, 204 (1979). See American Bar Association, *Ten Principles of a Public Defense Delivery System*, Principle 1: Independence (2023), https://www.americanbar.org/groups/legal_aid_indigent_defense/indigent_defense_systems_improvement/standards-and-policies/ten-principles-pub-def/principle-1/; National Association for Public Defense, *Foundational Principles*, Principle 2: Public Defense Must Be Independent of Judicial and Political Control (2017), <https://publicdefenders.us/resources/foundational-principles/>.

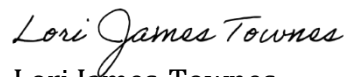
thus requires each municipality to “provide independent indigent defense for each indigent defendant.”³ Aurora has a public defense oversight commission that “shall ensure that indigent clients are represented independently.”⁴

Closing a public defender office that has been an outspoken critic of illegal law enforcement practices looks like the type of retaliation that independent systems are meant to protect against. Aurora should be proud of the quality of justice it provides and not seek to silence or shortchange it.

Sincerely,



Cydni J. Sanchez
President, Board of Directors



Lori James-Townes
Executive Director

CC:

Interim City Manager Jason Batchelor
Presiding Judge Shawn Day
Public Defender Commission
Chief Public Defender Elizabeth Cadiz

Via email

³ Colo. Rev. Stat. Sec. 13-10-114.5(3)(a).

⁴ Aurora City Code Sec. 50-166.