



MASHPEE WAMPANOAG TRIBAL COURT  
MASHPEE WAMPANOAG TRIBE

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**ADMINISTRATIVE ORDER #36**

**Interim Public Defender Program**

The purpose of this Administrative Order is to establish an Interim Public Defender program in the Mashpee Wampanoag Tribal Court.

The Administrative Order was developed in conjunction with student Angela Turner and Nicole Friederichs, Practitioner in Residence, of the Suffolk Law Scholl Human Rights and Indigenous Peoples Clinic. The Court and the Elders Judiciary Committee express their gratitude for their invaluable assistance.

**IT IS SO ORDERED** this 14<sup>th</sup> day of November, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Mills", written over a horizontal line.

Hon. Robert F. Mills, Chief Justice  
Mashpee Wampanoag Supreme Court

**1. Mashpee Wampanoag Tribal Judiciary Public Defender Program**

- a. The purpose of the Mashpee Wampanoag Tribal Judiciary Public Defender Program is to meet the legal representation needs of indigent persons before Tribal Court.
- b. An indigent person is one who cannot afford the expense of legal counsel in a court proceeding according to the Federal Poverty Guidelines and agreed upon by the Tribal Court Judiciary. (Note: see #2)
- c. In criminal cases, an indigent defendant may be assigned a public defender as long as funds are available.

**2. Determination of Indigency**

- a. A person is eligible for a public defender if his or her income, after taxes, does not exceed 200% of the current Federal Poverty Guide Line.

**3. Public Defender Fee**

- a. A defendant provided a public defender under this administrative order must pay a \$200 public defender fee, to the Tribal Court, before the case is disposed. The presiding judge may order the fee to be paid in installments over the course of the representation. Fees are to be paid via tribal court website payment, bank check or cash.

**4. Request for Public Defender**

- a. To request a public defender, a person must complete the Request for Indigency and Affidavit of Indigency form and file it with the Tribal Court clerk or probation officer on the day of arraignment.
- b. Any defendant who submits an Affidavit of Indigency form will be subject to the pains and penalties of perjury.

**5. Duration of Representation**

- a. The assigned public defender must begin representation at the earliest possible stage in the proceeding and must continue representation through any post-conviction motion.

**6. Public Defender Eligibility**

- a. An attorney who would like to be part of the public defender program must (1) be a member of the Tribal Court Bar under Administrative Order 20 – Admission to Tribal Court Bar, and (2) enter into a contract with the Tribal Judiciary for each matter.

**7. Public Defender Compensation**

- a. Public defenders will be compensated \$100 per hour.

- b. Compensation will be capped at \$2,000 per case, however, upon the request from the Public Defender the presiding judge in a particular matter may allow that amount to be exceeded for cause shown.

**8. Supervision of Public Defenders**

- a. A supervisor of the public defenders may be appointed by the Chief Judge of the Judiciary.
- b. The supervisor's duties may include but are not limited to:
  - 1. Ensuring the public defenders meet the requirements set out in Section 5 (6);
  - 2. Providing ongoing legal training and mentoring of all public defenders;
  - 3. Regularly reviewing case and performance information to ensure that all public defenders are competent and effective;
  - 4. Monitoring case load to ensure the public defenders can complete all required tasks of defense, and
  - 5. Ensuring the public defenders receive their contracted wages and resolve any payment issues.
- c. The supervisor will receive a limited caseload to ensure he or she can effectively supervise.