



King County

Committee of the Whole

STAFF REPORT

Agenda Item:	4-8	Name:	Patrick Hamacher, Amy Tsai, Nick Wagner
Proposed No.:	2013-0108, 2013-0109, 2013-0210, 2013-0211, 2013-0212	Date:	April 24, 2013
Invited:	<ul style="list-style-type: none">• Dave Chapman, Director, Office of Public Defense• Dwight Dively, Director, Office of Performance, Strategy and Budget (PSB)• Sheryl Willert, Attorney, Williams, Kastner and Gibbs (Special Deputy Prosecuting Attorney for public defense legal advice)• David Boerner, Attorney, Seattle University School of Law (outside counsel)		

SUBJECT

Two ordinances reorganizing the Office of Public Defense and providing funding to finance the reorganization.

SUMMARY

As a result of the Dolan lawsuit, the County Executive has proposed changes to the structure for county public defense services. Currently, the County contracts with four non-profit public defense organizations. The Executive's proposal would create a new County Department of Public Defense.

Proposed Ordinance 2013-0108 would create the Department of Public Defense and the Public Defense Advisory Board.

Proposed Ordinance 2013-0109 would provide a supplemental appropriation of \$4.9 million (net \$3.1 million) to various capital projects and operating budgets to effectuate the transition to a new model for provision of public defense services.

BACKGROUND

The following background is a condensed summary of the background on indigent defense, the Dolan lawsuit, and the proposed ordinances from previous staff reports in this Committee. **In addition, proposed charter amendments are discussed.**

Lawsuit Drives Public Defense Changes

Today, King County contracts with four private, nonprofit corporations for the provision of most public defense services. In January 2006, a class action lawsuit was filed against King County, alleging that the employees of these agencies were county employees and that King County had a duty to enroll them in the Public Employees' Retirement System (PERS). In a ruling upheld by the Washington State Supreme Court, the trial court held that the nonprofits were "arms and agencies" of King County, making the employees of those nonprofits employees of King County for purposes of PERS enrollment.

In April 2012, King County began making employer contributions to PERS for those employees and the employees' PERS contributions have been deducted from the salaries paid to them by each public defender organization. In March 2013, the Council approved a settlement agreement between King County and the Plaintiffs which must now go through a judicial approval process before it can become effective. The settlement agreement would recognize the plaintiffs as county employees on July 1, 2013, with full benefits, but leaves up to King County how public defense would be structured.

Pending and Related Legislation

PO 2013-0108 (Public Defense Department) – In response to the Court ruling and settlement, the County Executive has proposed the creation of a Department of Public Defense with two major Divisions, one that would handle the bulk of cases and calendar assignments and another that would primarily handle conflict cases. PO 2013-0108 would also establish a Public Defense Advisory Board to make recommendations to the department director on department policies, operations and matters of budget. The advisory board would issue biannual reports, including a review of the Executive's proposed annual public defense budget.

PO 2013-0109 (Supplemental) – There is a supplemental budget request for transition costs to effectuate the proposed public defense model. PO 2013-0109 would provide a supplemental appropriation of \$4.9 million from the General Fund, with a net cost of \$3.1 million after removing the double-counting of an internal transfer from the General Fund to some of the projects.

Motion 13886 (Transition Plan) – Adopted April 8, 2013, Motion 13886 requests that the Executive transmit legislation to the County Council to cover the transition from the current model to a new public defense structure.

PO 2013-0210, -0211, -0212 – Three ordinances were introduced on April 18 that are alternative forms of a charter amendment that would create a Department of Public Defense within the executive branch and a process for selecting a County Public Defender to head the department. The amendments differ primarily in the method of selecting the County Public Defender: appointment by a Public Defense Oversight Commission, election by county voters, or appointment by the Executive, subject to confirmation by the Council.

ANALYSIS

This is the fourth hearing on the proposed ordinances for public defense. The proposed ordinances are not yet ready for action.

On March 20, 2013, Council staff identified six main areas of analysis that will be fleshed out over the course of several Committee of the Whole briefings. Those areas include:

- 1) Alternatives – Are there alternative models that should be considered?
- 2) Timeframe – Is the timeframe for migration reasonable?
- 3) Independence – Does the proposed model adequately address the issue of independence of the public defense system?
- 4) Conflicts – Is the proposed model sufficient to handle case conflicts?
- 5) Annualized budget – Is the proposed departmental budget and FTE request reasonable? (Particularly given the unknown status of outside contracts)
- 6) One-time budget – Are the supplemental requests for one-time costs reasonable?

Additional analysis of alternative models is included in this staff report. This staff report also discusses three proposed charter amendment ordinances.

The Executive transition plan requested in Motion 13886 has not yet been transmitted and will be discussed in a future staff report. The motion recognizes the need for a transition plan on July 1 that can ensure the uninterrupted delivery of public defense services by the county until a public defense structure to be adopted by the Council can be fully implemented. **As was noted in the April 17 staff report, many transition issues remain to be resolved or analyzed, including, for example:**

- **leasing of space**
- **information technology equipment**
- **case management system logistics**
- **status of bargaining (labor negotiations for pay and layoff process)**
- **which employees are joining the county**
- **status of non-county contracts with the state, Seattle and tribes**
- **status of social justice programs run by the defender agencies**
- **future status or role of the non-profit agencies,**
- **how to implement an interim model that complies with Dolan and does not foreclose public defense structure options for the Council's decision-making,**
- **how the interim chief defender will be selected, and**

- **most importantly, ensuring the smooth continuation of existing cases and continued ability to handle case conflicts.**

Alternative Models

Due to Councilmember questions regarding Public Defender Districts and Public Corporations, the April 17 staff report provided a detailed description of these two structures. A short restatement of the characteristics of a Public Defender District and Public Corporation is presented below, each followed by additional analysis.

Public Defender Districts

Public defender districts (PDD) have the following characteristics:

- The public defender is appointed by a committee consisting of a superior court judge, a practicing attorney and a member of the county commission or council from each participating county (RCW 36.26.030).
- The term of the Public Defender must coincide with the elected term of the prosecuting attorney (RCW 36.26.040).
- The Public Defender must make an annual report to each County Council of the district (RCW 36.26.050).
- Expenses for services rendered or costs incurred are recorded and charged to the responsible jurisdiction, with some cost sharing allowed, and expenditures are subject to Chapter 36.40 RCW (county budgets) and other statutes relating to county or city expenditures (RCW 36.26.050).
- Public Defender compensation is set by the County Council (or Board of Commissioners), and for single-county districts may not exceed the compensation of the County Prosecutor (RCW 36.26.060).

Benefits

Benefits of the PDD model include:

- Independence - Public defender districts achieve some measure of independence by having a selection committee, due to having three individuals representing separate interests of government involved in the selection process instead of being subject to the will of one. Although, as was noted in previous staff reports, having a judge and member of the Council as part of that committee runs counter to the ABA's suggestion for achieving independence.
- Charter amendment not required for selection process - It is the only non-Executive-appointed selection process for a term of years that does not require a charter amendment for the selection process. The public defender district state statute is silent on termination provisions and collective bargaining. Any change that makes the position not at-will or that removes collective bargaining power from the Executive normally would require a charter amendment. Further legal analysis would be required to determine whether a charter amendment would be required for either of these two issues. **However, selection of this alternative**

would allow for immediate implementation. If the additional policies (termination provisions and collective bargaining) were determined to be desirable, then the associated charter amendment could be proposed to the voters at a later date.

Challenges

The composition of the selection committee is less than ideal for independence purposes but is reported by the Spokane Public Defender as workable for that office. The benefit of avoiding a charter amendment for the selection process will largely be obviated if a charter amendment is required for other aspects of the PDD structure.

Public Corporations

State law authorizes cities and counties to create public corporations by ordinance to perform public functions with liabilities limited to the assets and properties of the corporation.

The defender agencies have proposed that an administrative County Office of Public Defense would enter into service agreements with multiple public corporation boards for the provision of public defense services. These public corporations would be created by ordinance. The public corporation as proposed by the defender agencies would have the following characteristics:

- Each public corporation would have its own executive director chosen by its board.
 - Board members would be appointed by the County Executive from nominations made by the bar associations, other specified organizations and the defender offices, subject to confirmation by the County Council.
 - The County Council would be authorized to remove a board member or an entire board for cause, including a finding of failure to discharge duties.
- The employees of the public corporation would simultaneously be county employees and employees of the public corporation.
- The public corporations would manage the individual and systemic advocacy functions of their offices consistent with their independent professional judgment.
 - The public corporations would negotiate the terms and conditions of employment with their staff (if represented).
 - The public corporations would direct and supervise the legal and advocacy work done by the office.
 - The County and State would have the authority to audit the corporations' performance, but with regard to individual and systemic advocacy and the exercise of professional judgment, the audit would be limited to ensuring that the board is exercising meaningful oversight and that the corporations are exercising their independent judgment.
- The charters could specify that the corporations adhere to risk management protocols, e.g., regarding nondiscriminatory hiring, firing and working conditions.

At the April 17 meeting, staff identified remaining questions as follows:

1. Can a public corporation legally be formed for the purpose of performing a county's constitutionally required obligations?
2. Can public corporations legally exist with a joint-employee status, and if so, what would that joint-employee status look like?
3. Would a charter amendment be required?
4. Under a public corporation model, would the Council retain sufficient oversight to be able to satisfy the county's constitutional duty to provide effective indigent representation?
5. Would the public corporation model provide a level of independence and conflicts management that meets the county's needs in the most efficient manner (compared to other alternatives) and at a reasonable cost? (This is a policy question, but one that must be informed by legal analysis.)

These questions will be addressed in executive session, but a general discussion is included here.

1. Can a public corporation legally be formed for the purpose of performing a county's constitutionally required obligations?

Legal counsel has been asked to evaluate whether state law permits the county to form a public corporation for the purpose of providing constitutionally required public defense services.

Staff have found no examples of public defense services that are provided by public corporations. In fact, prior to the Dolan litigation, the use of private non-profit corporations to provide indigent defense in King County was atypical and considered innovative. This makes it highly unlikely that there are any public defense systems in the country built on a public corporation type of model that would be analogous to King County's post-Dolan situation. Therefore, this analysis compares the proposed model to other uses of the public corporation model in Washington State.

Historically, the public corporation state statute was enacted to authorize cities, towns and counties to participate in and implement federally assisted programs, including revenue sharing.¹ Under the current RCW, the purpose of public corporations (commonly referred to as Public Development Authorities, or PDAs) is to improve the administration of authorized federal grants or programs, improve governmental efficiency and services, or improve the general living conditions in the urban areas. RCW 35.21.730.

The Municipal Research and Services Center (MRSC) notes that in the opinion of many municipal attorneys, a public corporation created under RCW 35.21.730, et seq. is best used for unusual endeavors, which for a variety of reasons, the parent municipality would not want to undertake itself.² The Municipal Research and Services Corporation (MRSC) has identified 55 PDAs dating back to 1972 (see Attachment 8 to this staff

¹ According to the Municipal Research and Services Center (mrsc.org).

² <http://www.mrsc.org/subjects/econ/ed-pda.aspx>

report). Almost all of them have themes of economic development of locales. Seattle and King County primarily use PDAs for cultural development activities. A few have formed PDAs for regional capital projects such as the Valley Communications Center facility for regional 9-1-1 services, and the South Correctional Entity Facility for construction of a regional jail facility.

One of the purposes of a public corporation is to insulate the county from liability incurred by the public corporation. It is unclear whether the county could adopt an ordinance that limits the liability of the public corporations to the assets and properties of such public corporation in order to prevent recourse to the county, as is required by RCW 35.21.730(5), since the public corporations would be performing a duty that the county has a constitutional and state mandate to provide.

Therefore, since a PDA appears to have never been created for public defense services and diverges from the typical uses of the PDA statute by Washington State jurisdictions, and because it is unclear how the PDA requirements regarding limitations of liability would be implemented by the county, legal counsel has been asked to analyze whether a PDA for public defense is within the permissible scope of RCW 35.21.730.

2. Can public corporations legally exist with a joint-employee status, and if so, what would that joint-employee status look like?

Staff have found no examples of a dual employment status used by any other public agency, including defense agencies. As a result of the Dolan outcome and settlement, the defender agency proposal would have employees of the public corporation simultaneously be county employees and employees of the public corporation. This characteristic adds a very complex layer to implementation of this model, to merge the county employee system with an independently run public corporation. Discussion of the position to be taken in collective bargaining and related legal advice are subjects for executive session. Some of the background and issues posed are identified in this staff report.

Under the defender agencies' public corporation proposal, the public corporation boards would a) negotiate working conditions (if employees were represented) and b) direct and supervise the legal and advocacy work done by the office. The defender agency proposal suggested that a charter amendment to Section 890 Employee Representation and Section 550 Career Service Positions would likely be required.

(a) Negotiating working conditions

Section 890 of the King County Charter states that, except with respect to bargaining by the county with employees of the department of public safety pursuant to Section 898 of the county charter, the Executive is the bargaining agent of the county.

If the public corporation boards were given the responsibility of negotiating working conditions, this would require a charter amendment. All of the proposed charter amendments discussed below would make the County Public Defender the county's

bargaining agent for collective bargaining with the employees of the Department of Public Defense concerning working conditions other than compensation and benefits, which would be bargained by the Executive.

The idea behind giving the public defense entity the authority to bargain working conditions would be to promote independence, with public defense attorneys working under conditions that allow them to represent their clients effectively as dictated by their best professional judgment. The King County Charter allocates bargaining authority this way for the Sheriff's Office (King County Charter Sections 890 and 898). This is also how bargaining occurs for the Prosecuting Attorney's Office, which operates under state law (RCW 36.27).

Whether collective bargaining powers should be given to a public defense entity is a policy question that would be informed by legal analysis discussed in executive session. A legal analysis could speak to what working conditions would be mandatory subjects of bargaining, which can then be analyzed for their impact on independence.

(b) Direct supervision of individual and systemic advocacy

In order to determine what it means to supervise an employee, one must first look to county personnel requirements.

A county employee is either career service or exempt (K.C.C. 3.12.030). Employees who are not career service are at-will employees (K.C.C. 3.12.010(Y)). Under Section 550 of the King County Charter, all employees are career service except for positions specifically listed by Section 550 (excluded from career service are positions such as all elected officers, all employees of the Council, the chief officer of each Executive department, the members of all boards and commissions, and employees working less than half-time).

Therefore, under the current charter, all employees of the public corporation who are county employees would be career service employees. Career service employees have the rights, working conditions and benefits specified in Chapter 3.12 of the King County Code (K.C.C. 3.12.050). Some aspects of career service employees include, for example, the following:

- Recruitment, selection and promotion must be competitive and based on merit (K.C.C. 3.12.050).
- Appointments are done by the Executive, department directors and division managers, who have the power to remove and are also responsible for the merit evaluation of all employees under that authority (K.C.C. 3.12.080).
- A career service employee may be disciplined by the appointing authority for reasons enumerated in the code or for any other just cause. Disciplinary action shall be the primary responsibility of the appointing authority and may include but is not limited to reduction in rank or pay, suspension without pay, and/or discharge of the employee from county employment (K.C.C. 3.12.270).
- There are reduction in force protections (K.C.C. 3.12.300).

- Career service employees may be removed only for cause except for retirement or lay-off provisions of Chapter 3.12 (K.C.C. 3.12.310).

Whether these aspects of career service are incompatible with assigning direct supervision of public corporation/county employees to the public corporation is a legal question, but at least on their face some such as the disciplinary provision appear to be. Legal analysis is also required in order to identify the full range of career service provisions incompatible with direct supervision by a public corporation, what changes to the charter and county code would be needed in order to effectuate such direct supervision, and also whether such changes are legally possible.

3. Would a charter amendment be required?

If the public corporation model changed the collective bargaining powers of the Executive or the career service status of the county employees, a charter amendment would be required. Whether such a charter amendment would be legally feasible (to carve out an exception to career service requirements for public corporation employees and alter the Executive's bargaining powers) is a question for executive session.

4. Under a public corporation model, would the Council retain sufficient oversight to be able to satisfy the county's constitutional duty to provide effective indigent representation?

Councilmembers have raised questions regarding the ability of the Council to fulfill its fiduciary and oversight responsibilities under the various public defense alternatives being considered, particularly as the amount of delegation of authority for the sake of independence increases.

Although the public corporation model is modeled after the current non-profit model of four agencies with independent boards, one main difference is that, in the past, the county treated the non-profit entities as independent contractors. Now that they are considered arms and agencies of the county under Dolan, it is a legal question whether this creates potentially a need to exert greater oversight.

For example, as was noted in the April 17 staff report, the defender agency proposal discussed the limitation of liabilities provided to counties forming public corporations, under RCW 35.21.730(5). Since the employees of the public corporations would be County employees in accordance with *Dolan*, the proposal states that it is not clear that this statutory provision would effectively shield the County from all liability, but that the County and the public corporations could identify and mitigate those risks through training supplemented by insurance, if necessary and available, e.g. for professional liability in the practice of law.

The public corporation proposal would limit the county's oversight function to audits that the board is exercising meaningful oversight and that the corporations are exercising their independent judgment. Whether that level of oversight is sufficient is a question for executive session.

It is worth noting that the public corporation is subject to general laws regulating local governments, including, but not limited to, the requirement to be audited by the state auditor, open public record requirements, the prohibition on using its facilities for campaign purposes, the open public meetings law, the code of ethics for municipal officers, and the local government whistleblower law. It is a legal question the extent to which the Council would have responsibility to ensure compliance with these requirements.

5. Would the public corporation model provide a level of independence and conflicts management that meets the county's needs in the most efficient manner (compared to other alternatives) and at a reasonable cost?

As discussed above, the purpose of public corporations is to improve the administration of authorized federal grants or programs, improve governmental efficiency and services, or improve the general living conditions in the urban areas. RCW 35.21.730. Thus, a common reason for forming a PDA is when the jurisdiction believes the services can be offered more efficiently via a PDA than in-house.

Many (if not all) PDAs do not rely on General Fund operating revenue as a primary source of revenue. For example, 4Culture draws largely on hotel-motel tax revenue. In Seattle, each PDA depends upon rental income of its facility as a major source of operating revenue.³ Because the public corporation would rely on appropriations from the county general fund made as part of the county budget process, its ability to maintain independence would be determined in part by the ability of the board and managerial staff of the public corporations to effectively lobby the Council for funding, just as is the case with any other public defense structure. In this case, the defense agency proposal proposes that the board would be terminable by the Council for cause.

The ability of a public corporation model versus an in-house model to handle conflicts is a subject for executive session. The ability of each structure to handle conflicts could have an impact on costs of each system.

A public corporation for public defense is unlikely to have cheaper administrative operational costs than an in-house model. Although the defender agencies' proposal includes the possibility of finding efficiencies in shared training and other opportunities, ultimately it creates four separate structures with four boards, versus the in-house model of one entity with up to four divisions (four being more analogous to the public corporation proposal, although the Executive's proposal identified two).

Charter Amendments

Three approaches to creating a Department of Public Defense by charter amendment have been introduced for the committee to consider. They are Proposed Ordinances 2013-0210, 2013-0211, and 2013-0212. The amendments differ primarily in the method by which the department head—the County Public Defender—would be selected:

³ Jones, D., Acting Seattle City Auditor, Audit Indicators for City-chartered Public Development Authorities (PDAs), 6/25/09.

(1) appointment by a public defense oversight commission (2013-0210); (2) election by county voters (2013-0211); or (3) appointment by the Executive, subject to confirmation by the Council (2013-0212).

Flowcharts describing each amendment at a conceptual level are Attachments 9, 10, and 11 to this staff report. A detailed summary of each amendment (and of the anticipated implementing ordinance, which has been drafted but not yet introduced) is attached to this staff report (Attachments 12, 13, and 14), but the key features can be described as follows:

1. The Commission Appointment amendment (2013-0210) provides for the County Public Defender to be appointed by a Public Defense Oversight Commission, the members of which would be appointed by the County Council. The Council would prescribe the membership of the oversight committee by ordinance. In its current form, the draft implementing ordinance sets the number of commission members at seven and provides that one member will represent each of the following:

- a. The state association of criminal defense attorneys;
- b. The state office of public defense;
- c. The state bar association;
- d. The county bar association;
- e. An organization that advocates on behalf of persons with mental illness and developmental disabilities;
- f. An organization that advocates on behalf of military veterans; and
- g. An organization that advocates on behalf of juveniles.

The Council would appoint the commission members, but would be required to choose from among three candidates recommended by each of the entities represented on the commission.

The Commission would appoint the County Public Defender to an initial term of four years, could reappoint for additional four-year terms, and could remove the County Public Defender for cause, which the Council could define by ordinance. Under the implementing ordinance in its current form, appointment and reappointment of the County Public Defender would require a simple majority of the commission members; removal would require a supermajority.

2. The Election amendment (2013-0211) provides for the County Public Defender to be elected by county voters. This would make the defender an independent county elective officer like the Sheriff or the Prosecuting Attorney. Unlike the other two amendments, this amendment includes no provision for a group to oversee or advise the Department of Public Defense, since there is no corresponding group that oversees or advises the Prosecuting Attorney's Office. Removal of an elected County Public Defender would require the same grounds and procedures as for removal of the Prosecuting Attorney (or any other county elected official), which include removal by recall election. In addition, the Defender would serve subject to the same grounds for vacancy in office that apply to all county elective offices, including recall, conviction of a felony, crime involving moral turpitude, unlawful destruction of court records, or other crime pertinent to his office; declaration of incompetency by a court of competent

jurisdiction; absence from the county for a period of more than thirty days without the permission of a majority of the county council; or failure to fulfill or continue to fulfill the qualifications for office.

3. The Executive Appointment amendment (2013-0212) provides for the County Public Defender to be appointed by the County Executive, subject to confirmation by the Council; however, the Executive would be required to make the appointment from among three candidates recommended by a Public Defense Advisory Committee. Under the implementing ordinance in its current form, the advisory committee would have the same membership and be appointed in the same manner as the Public Defense Oversight Committee that would be created by the Commission Appointment charter amendment.

The Executive would appoint the County Public Defender to an initial term of four years and could reappoint for additional four-year terms, again subject to confirmation by the Council; however, the Executive would not be authorized to remove the County Public Defender. Only the Council would be authorized to do so, only for cause (which the Council could define by ordinance), and only by the affirmative votes of at least six Councilmembers.

In their current form, all three charter amendments provide that to be eligible for appointment or election, the County Public Defender must be admitted to practice law in Washington and have at least ten years of experience as an attorney primarily practicing criminal defense. All the amendments would permit the Council to establish additional qualifications for the County Public Defender.

All of the amendments would make the County Public Defender the county's bargaining agent for collective bargaining with the employees of the Department of Public Defense concerning working conditions other than compensation and benefits, which would be bargained by the Executive. This division of bargaining authority would be similar to the division of authority between the Executive and the Sheriff.

Next Steps

As noted above, the proposed ordinances are not yet ready for Committee action. The next staff report will continue analysis of the six issue areas, with an emphasis on the migration plan.

At the May 1st Committee meeting, the analytical focus will be on various aspects of the budget requests. Councilmembers should be aware that the committee will not have legal representation that day and therefore there will be no executive session. However, staff and legal counsel will continue to work on Councilmember questions as they arise.

ATTACHMENTS

1. Proposed Ordinance 2013-0108
2. Proposed Ordinance 2013-0109
3. Transmittal letter
4. Fiscal notes
5. Proposed Ordinance 2013-0210
6. Proposed Ordinance 2013-0211
7. Proposed Ordinance 2013-0212
8. MRSC List of known PDAs
9. Flowchart PO 2013-0210
10. Flowchart PO 2013-0211
11. Flowchart PO 2013-0212
12. Summary PO 2013-0210
13. Summary PO 2013-0211
14. Summary PO 2013-0212

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KING COUNTY

Attachment 1

Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

April 22, 2013

Ordinance

Proposed No. 2013-0108.1

Sponsors Patterson

1 AN ORDINANCE approving the organization and operations
2 of the department of public defense within the executive
3 branch with a department of public defense advisory board to
4 support the director of the department of public defense and the
5 independence of the legal practice of public defense; amending
6 Ordinance 11955, Section 6, as amended, and K.C.C. 2.16.130,
7 Ordinance 8257, Section 2, as amended, and K.C.C. 2.60.020,
8 Ordinance 10167, Section 1, as amended, and K.C.C. 2.60.054,
9 adding a new section to K.C.C. Title 4A, adding a new section
10 to K.C.C. chapter 2.60 and repealing Ordinance 8257, Section
11 6, and K.C.C. 2.60.070.

12 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

13 SECTION 1. Ordinance 11955, Section 6, as amended, and K.C.C. 2.16.130 are
14 each hereby amended to read as follows:

15 A. The department of community and human services is responsible to manage
16 and be fiscally accountable for the community services division, mental health, chemical
17 abuse and dependency services division (~~(, the office of public defense)~~) and the
18 developmental disabilities division.

19 B. The duties of the community services division shall include the following:

20 1. Working in partnership with communities and other funders to develop,
21 support and provide human services which emphasize prevention, early intervention, and
22 community education, and which strengthen individuals, families and communities in
23 King County;

24 2. Managing programs which increase family self-sufficiency, enhance youth
25 resiliency, reduce community violence and strengthen communities. The division shall
26 also manage programs which address housing and community development needs, and
27 help implement improvements identified in subarea and neighborhood plans for low and
28 moderate income communities and population. Such programs are to include, but not be
29 limited to, providing employment and training for youth and adults and providing
30 assistance to indigent veterans and their families as authorized by chapters 41.02 and
31 73.08 RCW. This division shall administer the county's federal housing and community
32 development funds and other housing and community development programs;

33 3. Developing housing and community development policies and programs to
34 implement the growth management policies throughout King County to provide
35 affordable housing to low and moderate income residents; and

36 4. Duties regarding the women's advisory board specified in K.C.C. 2.30.040.

37 C. The duties of the mental health, chemical abuse and dependency services
38 division shall include the following:

39 1. Managing and operating a system of mental health services for acutely
40 disturbed, seriously disturbed and chronically mentally ill children and adults;

41 2. Managing and operating a twenty-four-hour crisis response system, including
42 civil commitment as a last resort;

43 3. Providing treatment and rehabilitation service for alcoholism and for other
44 drug addictions under federal and state laws and King County ordinances;

45 4. Selecting appropriate agencies for the provision of mental health services
46 developing, implementing and monitoring the provision and outcomes of contracted
47 services;

48 5. Being responsible for resource management of a comprehensive mental
49 health system including provision of staff support to appropriate advisory boards, and
50 serving as liaison to federal, state, and other governments and relevant organizations in
51 carrying out planning and allocation processes;

52 6. Ensuring the continuing availability of appropriate treatment services for
53 eligible individuals with a single diagnosis of a mental illness or a substance use or
54 dependency disorder; and

55 7. Developing and maintaining a continuum of appropriate treatment services
56 for eligible individuals with dual diagnoses of both a mental illness and a substance use
57 or dependency disorder.

58 D. (~~The duties of the office of public defense shall include those duties specified~~
59 ~~in K.C.C. chapter 2.60.~~

60 E.)) The duties of the developmental disabilities division shall include the
61 following:

62 1. Managing and operating a system of services for persons with developmental
63 disabilities in accordance with relevant state statutes and county policies and to provide
64 staff support to the King County board for developmental disabilities; and

65 2. Negotiating, implementing and monitoring contracts with community
66 agencies for the provision of developmental disabilities services.

67 SECTION 2. Ordinance 8257, Section 2, as amended, and K.C.C. 2.60.020 are
68 each hereby amended to read as follows:

69 A. There is hereby established (~~((within the department of community and human~~
70 ~~services the))~~) a department of public defense within the executive branch. The duties of
71 the department of public defense shall include:

72 1. Provide publicly financed legal defense services constitutionally required to
73 the indigent and the near indigent person in all matters when there may be some factual
74 likelihood that a person may be deprived of their liberty under the laws of the state of
75 Washington or King County, including, but not limited to, a violation of any law of the
76 state of Washington or ordinance of King County, juvenile and dependency matters,
77 mental illness and similar commitment proceedings, revocations and habeas corpus
78 proceedings when they arise in King County;

79 2. Provide such legal defense services available in an efficient manner that
80 assures adequate representation at reasonable cost to the county;

81 3. Investigate and determine eligibility for publically financed legal defense
82 services. Indigent determination is controlled by RCW 10.101 et al. In addition, the
83 department of public defense shall secure reimbursement from eligible persons, including
84 the parents of juveniles represented by attorneys assigned by the department of public
85 defense, where such persons can afford to pay some or all of the cost to King County of
86 providing them such legal defense services;

87 4. Assign cases to one of the two divisions of the department staffed by
88 attorneys who shall represent the highest percentage possible of all caseloads with
89 unavoidable conflicts of interest in complex cases that may involve multiple defendants
90 or multiple charges or other special circumstances being the cases receiving
91 representation by assigned counsel; and

92 5. Establish and maintain a list of department credentialed lawyers on an
93 assigned counsel panel who wish to participate in the defense of persons eligible under
94 the public defense program.

95 B. A ((public)) director of the ((office)) department of public defense shall be
96 appointed by the ((county)) executive and approved by the ((county)) council. The
97 ((county)) executive shall consult with county, state, and federal representatives of the
98 criminal justice system during the recruitment and selection of the appointee. The duties
99 of the director of the department of public defense shall include:

100 1. Manage the department of public defense;

101 2. Ensure the department of public defense employs the needed technical and
102 public defense expertise to ensure effective delivery of public defense services;

103 3. Represent the executive in all forums where the defense perspective is
104 required;

105 4. Ensure that the American Bar Association Ten Principles for a Public
106 Defense System guide the development, management and department standards for legal
107 defense representation;

108 5. Follow the Washington State Supreme Court Standards for Indigent Defense
109 in establishing caseload limits for attorneys;

110 6. Develop and maintain appropriate standards and guidelines for the
111 qualification and experience level of public defense attorneys and paraprofessionals;

112 7. Establish a reasonable fee for legal defense services, subject to the approval
113 of the court, made available, at a client's expense, to a person charged in King County
114 with a felony of public notoriety when the court finds that the defendant is unable to
115 employ adequate private counsel as a result of such public notoriety; and

116 8. Consult with a public defense advisory board and receive its
117 recommendations on department policies, operations, and matters of budget.

118 SECTION 3. There is hereby added to K.C.C. Title 4A a new section to read as
119 follows:

120 The processing fee for a defendant requesting counsel at public expense under
121 K.C.C. chapter 2.60 is twenty-five dollars. All processing fee payments received shall be
122 credited to the county current expense fund.

123 SECTION 4. Ordinance 10167, Section 1, as amended, and K.C.C. 2.60.054 are
124 each hereby amended to read as follows:

125 A. A defendant requesting counsel at public expense shall pay a processing fee of
126 twenty five dollars as reimbursement to ~~((King))~~ the ((C))county for the administrative
127 costs and expenses incurred in the processing of the application. The processing fees is
128 payable at the time the request for public counsel is made to the ~~office~~ department of
129 public defense. Processing fees are not refundable, even if the defendant is determined to
130 be not eligible for counsel at public expense. A defendant will not be denied counsel
131 because the defendant cannot pay the processing fee. All processing fee payments
132 received shall be credited to the county current expense fund.

133 B. To be eligible to receive legal defense services through the public defense
134 program at no cost, the person must be financially unable to obtain adequate
135 representation without substantial hardship to the person and the person's family and
136 there must be some factual likelihood that the person will be deprived of his or her
137 liberty. If a person has some resources available that can be used to secure representation
138 but not sufficient resources to pay the entire costs of private legal services without
139 substantial hardship to the person and the person's family, the department of public
140 defense shall determine how much the person shall pay for the legal defense services
141 provided through the department of public defense.

142 C. The department of public defense may provide its services to other
143 municipalities in King County on a reimbursable basis and is authorized to negotiate
144 appropriate contractual agreements therefor.

145 SECTION 5. Ordinance 8257, Section 6, and K.C.C. 2.60.070 are each hereby
146 repealed.

147 NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 2.60 a
148 new section to read as follows:

149 A. There is created a King County department of public defense advisory board
150 to support the director of the department of public defense and the independence of the
151 legal practice of public defense within the executive branch.

152 B. The board shall review the activities and plans of the department of public
153 defense and make recommendations to the director of public defense, and advise the
154 director on matters of concern to the practice of public defense in King County.

155 C. The board shall consist of seven members. Board members shall be
156 nominated by the executive and confirmed by the council. The board shall establish its
157 own rules of procedure and choose its own chairperson.

158 D. The board's members shall be representative of the King County criminal
159 defense community and shall include:

- 160 1. One member representing the Washington state Bar Association;
- 161 2. One member representing the King County Bar Association;
- 162 3. One member representing a minority bar association with representation
163 revolving among these groups each membership term;
- 164 4. One member shall be a judge retired from the King County superior or
165 district court;
- 166 5. One member from the faculty of a law school in Washington state; and
- 167 6. Two members shall be associated with community organizations that serve
168 the indigent population of King County.

169 E. Members of the board shall serve two-year terms and until their successors are
170 nominated and confirmed. Beginning in 2013, initial member representatives in
171 designated in subsection D.1, 3. and 5. of this section shall be appointed for one-year
172 terms, and member representatives designated in subsection D.2, 4. and 6. of this section
173 shall be appointed for two-year terms. The terms of designated representative members
174 shall coincide with the terms of the persons who are vacating those seats. Members of
175 the board shall not be compensated for the performance of their duties as members of the
176 board, but may be paid subsistence rates and mileage in the amounts consistent with
177 county policy.

178 F. The board shall meet at least once every two months and shall issue a report to
179 the executive and council at least twice each calendar year on the state of King County
180 public defense. One of the reports shall consist of the board's review of the executive
181 proposed annual budget for public defense.

182 G. Any reporting to the council under this subsection shall be made in the form
183 of a paper and electronic copy of the report filed with the clerk of the council, who shall
184 forward electronic copies to all councilmembers and the lead staff of the budget and
185 fiscal management committee or its successor.

186 H. The board shall exercise those powers and authorities, and incur those duties,
187 responsibilities and liabilities as are provided for by K.C.C. chapter 2.28.

188

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, ____.

Dow Constantine, County Executive

Attachments: None



Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

April 22, 2013

Ordinance

Proposed No. 2013-0109.1

Sponsors Patterson

1 AN ORDINANCE making a net supplemental
2 appropriation of \$3,157,000 to various general fund
3 agencies and \$1,779,000 to various non-general fund
4 agencies and amending the 2013/2014 Biennial Budget
5 Ordinance, Ordinance 17476, Sections 43, 49, 49 and 63, as
6 amended, and Attachment B, as amended.

7 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

8 SECTION 1. From the general fund there is hereby appropriated a net total of
9 \$3,157,000 from various general fund agencies.

10 From various non-general funds there is hereby appropriated a net total of
11 \$1,779,000 from various non-general fund agencies, amending the 2013/2014 Biennial
12 Budget Ordinance, Ordinance 17476.

13 SECTION 2. Ordinance 17476, Section 43, as amended, is hereby amended by
14 adding thereto and inserting therein the following:

15 GENERAL GOVERNMENT GF TRANSFERS - From the general fund there is
16 hereby appropriated to

17 General government GF transfers \$1,779,000

18 SECTION 3. Ordinance 17476, Section 49 is hereby amended to read as follows:

19 ((OFFICE)) DEPARTMENT OF PUBLIC DEFENSE - From the general fund
20 there is hereby appropriated to:

21	((Office)) <u>Department</u> of public defense	\$41,481,187
----	--	--------------

22 The maximum number of FTEs for ((office)) department of public defense
23 shall be:

24 ER1 Expenditure Restriction:

25 Of this appropriation, \$300,000 shall not be encumbered or expended until the
26 executive transmits a letter to the council certifying that the ((office)) department of
27 public defense participated in developing a report identifying long-range strategies for
28 achieving efficiencies in the criminal justice system, as directed in section 19, Proviso P5,
29 of this ordinance, which is relating to the office of performance, strategy and budget.

30 The executive must file the letter required by this proviso in the form of a paper
31 original and an electronic copy with the clerk of the council, who shall retain the original
32 and provide an electronic copy to all councilmembers, the council chief of staff and the
33 lead staff to the budget and fiscal management committee or its successor.

34 P1 PROVIDED THAT:

35 Of this appropriation, ((~~\$20,000,000~~)) \$16,000,000 shall be expended or
36 encumbered only for public defense services in the first half of 2013 provided by the non-
37 profit independent agencies with which the county presently contracts, supplemented by
38 assigned counsel, currently on a contract cycle of July 1 through June 30. Should the
39 executive wish to reorganize or restructure the delivery of public defense services, a
40 proposal and rationale for restructuring, with background information, must be presented
41 to the council with sufficient time in advance of the proposed effective date for the new

structure for the council to review and approve or reject the proposal after study and a public hearing.

Prior to submitting a proposal to reorganize or restructure the delivery of public defense services, the council requests the executive to consult with interested parties, including the current non-profit agencies providing public defense services, labor unions representing employees of those agencies, bar leaders, and other governments currently served by the same non-profit agencies that provide service to the county.

SECTION 4. Ordinance 17476, Section 49, as amended, is hereby amended by adding thereto and inserting therein the following:

DEPARTMENT OF PUBLIC DEFENSE - From the general fund there is hereby appropriated to:

Department of public defense	\$1,378,000
The maximum number of additional FTEs for department of public defense shall be:	275.00

SECTION 5. Ordinance 17476, Section 63, as amended, is hereby amended by adding thereto and inserting therein the following:

CAPITAL IMPROVEMENT PROGRAM - From the several capital improvement project funds there are hereby appropriated and authorized to be disbursed the following amounts for the specific projects identified in Attachment A to this ordinance.

Fund	Fund Name	2013
3771	KCIT CAPITAL PROJECTS	\$1,529,000
3951	BUILDING REPAIR AND REPLACEMENT	\$250,000

66 SECTION 6. Attachment A to this ordinance hereby amends Attachment B to
67 Ordinance 17476, as amended, by adding thereto and inserting therein the projects listed
68 in Attachment A to this ordinance.

69 SECTION 7. Sections 3 and 4 of this ordinance take effect on the effective date

70 of the ordinance creating the department of public defense. (Proposed Ordinance 2013-
71 XXXX).
72

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, ____.

Dow Constantine, County Executive

Attachments: A. General government Capital Improvement Program

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General Government Capital Improvement Program

ATTACHMENT A

Fund Title	Project	Project Name	2013	2014	2015	2016	2017	2018	Grand Total
3771/KCIT Capital Projects									
	1120359	KCIT/OPD	780,000						780,000
	1120358	KCIT/OPD	749,000						749,000
3771/KCIT Capital Projects			1,529,000						1,529,000
3951/Building Repair and Replacement									
	1120507	DES FMD OPD Transition	150,000						150,000
	1120508	DES FMD OPD Planning	100,000						100,000
3951/Building Repair and Replacement			250,000						250,000
Grand Total			1,779,000						1,779,000

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February 15, 2013

The Honorable Larry Gossett
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Gossett:

This letter transmits a report in response to a proviso contained within the 2013/2014 Adopted Budget Ordinance 17476, Section 49, P1; an ordinance with proposed King County Code revisions; and a supplemental budget ordinance.

The proviso directs that:

“Should the executive wish to reorganize or restructure the delivery of public defense services, a proposal and rationale for restructuring, with background information, must be presented to the council with sufficient time in advance of the proposed effective date for the new structure for the council to review and approve or reject the proposal after study and a public hearing.”

The enclosed Creation of a County Public Defense Agency Proviso Response report includes a proposal and rationale for restructuring and provides information regarding outreach to key stakeholders. Three key elements provide the foundation of the restructure:

1. Creation of a new Executive branch department of public defense, reporting to the County Executive, which can increase the voice and role of public defense within the criminal justice system.
2. Creation of two separate legal services divisions within the new department to prevent conflicts of interest in complex cases that may involve multiple defendants or multiple charges or other special circumstances. The divisions will be staffed by attorneys who will represent the highest percentage possible of all caseloads with conflict cases receiving representation by assigned counsel.

3. Creation of a Public Defense Advisory Board to support the director of the Department of Public Defense and the independence of the legal practice of public defense within the Executive branch.

For nearly 40 years the County has provided public defenders for those accused of crimes but unable to pay an attorney. These defense attorneys and staff have earned King County a national reputation for excellence and we are proud of their work.

Historically, defense services have been contracted out to private, non-profit corporations. For the last seven years, King County has been defending a class action lawsuit on behalf of the employees of these private agencies seeking to obtain public retirement benefits. The state Supreme Court ruled that the defense firms had become, in its words, “arms and agencies” of the County, and that their employees were therefore public employees for the purposes of retirement benefits. In December 2012, King County and the attorneys representing the *Dolan* class reached agreement on a proposed settlement resolving these and related claims. The settlement must be approved by the King County Council and by Pierce County Superior Court Judge John R. Hickman. On January 14, 2013, I transmitted the *Dolan* settlement to the Council with my recommendation for approval.

Among other things, the settlement provides that all individuals who are employed by the public defense non-profit corporations on June 30, 2013 will be recognized as King County employees with full benefits starting July 1, 2013. These dates coincide with the date by which the current contracts with the public defense non-profit corporations expire. The proposed settlement leaves up to King County how this requirement of the proposed settlement will be implemented. After careful thought and analysis, I have determined that it is in the best interests of the public defense function, its clients and our King County employees to implement this provision of the settlement through creation of a County department of public defense. It is not tenable to have hundreds of County employees working for – and hired, trained, managed, disciplined, promoted and fired by – several private entities.

The enclosed report and King County Code amendments therefore propose a County public defense agency staffed by King County employees as the mechanism to implement the proposed settlement. The proposal is designed around the American Bar Association’s Ten Principles of a Public Defense Delivery System (see Attachment A) including the three principles below:):

1. Independence from political influence;
2. Support for a quality workforce and performance; and
3. Maximizing resources, value, and operational efficiency.

In developing this proposal, David Chapman, Director of the Office of Public Defense (OPD), led our efforts to gather stakeholder input on public defense models, principles, and operational issues. Initial outreach in December 2012 included the directors of the four private public defense organizations, public defense attorneys with the agencies and the assigned counsel panel, the affected union, and the courts. Outreach expanded in 2013 to include labor, bar leaders, other governments served by the public defense organizations that contract with King County, and counsel experienced with law firm mergers. Among the issues raised were concerns about independence, case conflicts, adequate client representation during the transition, and personnel issues.

I sincerely appreciate the time and effort stakeholders have spent providing their input. Their input has significantly enhanced the County's planning efforts as reflected in the attached proposals. While I am confident that this proposal will allow us to meet the basic requirements for providing public defense through a County department by July 1, our planning recognizes that certain components of this transition will take several months beyond that to fully implement.

The enclosed supplemental budget ordinance reflects the detailed operational planning done to date by County departments including human resources, facilities, and information technology. That planning work is continuing as we study current facility use and information technology systems. The current transition plan calls for attorneys and staff to remain in their current locations on July 1, 2013 and to transition to two divisions over time.

I have directed the OPD Director to continue to work with County staff, nonprofit agency management and staff, and external advisors to address concerns and plan a thoughtful transition to the new organizational structure.

The report and ordinances attached support the Justice and Safety Goal of the King County Strategic Plan to "Support safe communities and accessible justice systems for all," and specifically Strategy 2.a: "Ensure the availability of public defenders for those who need them." The proposal also supports the Financial Sustainability and Quality Workforce goals of the Strategic Plan.

I am proud to welcome public defenders as County employees. This is a new reality that requires a different model for the employees and for the County government. I know the Council shares my commitment that public defense in King County will continue to meet the highest standards of service and be delivered in a way that is client-centered, independent, and cost-effective. Thank you for your consideration of this important legislation.

If you have any questions, please contact David Chapman, Director, Office of Public Defense, at 206-263-2174.

Sincerely,

Dow Constantine
King County Executive

Enclosures

cc: King County Councilmembers
 ATTN: Michael Woywod, Chief of Staff
 Anne Noris, Clerk of the Council
Carrie S. Cihak, Chief Advisor, Policy and Strategic Initiatives, King County
 Executive Office
Dwight Dively, Director, Office of Performance, Strategy and Budget
Jackie MacLean, Director, Department of Community and Human Services (DCHS)
David Chapman, Director, Office of Public Defense, DCHS
The Honorable Dan Satterberg, Prosecuting Attorney
The Honorable Richard McDermott, Presiding Judge, Superior Court
The Honorable Corinna Harn, Presiding Judge, District Court

FISCAL NOTE

Attachment 4

Ordinance/Motion No. 00-

Title: OPD Transition Supplemental Budget

Affected Agency and/or Agencies: Office of Public Defense

Note Prepared By: Krishna Duggirala

Note Reviewed By: Krista Camenzind

Impact of the above legislation on the fiscal affairs of King County is estimated to be: 250,000

Revenue to:

Fund/Agency	Fund	Revenue	Current Year	1st Year	2nd Year	3rd Year
	Code	Source				
Building Repair & Replacement	3951	GF Transfer	250,000			
TOTAL						

Expenditures from:

Fund/Agency	Fund	Department	Current Year	1st Year	2nd Year	3rd Year
	Code					
Building Repair & Replacement	3951		250,000	0	0	0
TOTAL			250,000			

Expenditures by Categories

	Current Year	1st Year	2nd Year	3rd Year
DES FMD OPD Planning/1120508	100,000	0	0	0
DES FMD OPT Transition/1120507	150,000	0	0	0
		0	0	0
TOTAL	250,000			

Footnotes:

Currently, the non-profit public defense organization have offices throughout King County. When the individuals in those organizations become County employees on July 1, 2013, they will remain in their current work locations. In the long-term, the various offices in downtown Seattle will need to be consolidated into one location. The OPD transition supplemental request includes \$100,000 to fund planning for the long-term relocation and consolidation of the Seattle offices (project 1120508). The state of the current leased space is not fully known to the County at this time and \$150,000 is requested as a contingency in case tenant improvements are needed in those spaces (Project 1120507). Such improvements might include up-grades for ADA compliance and/or the need to make physical barriers for people performing County vs. non-County work. Tenant Improvement funds will not be expended without prior approval by OPD and PSB.

FISCAL NOTE**Attachment 4**

Ordinance/Motion No. 00-
 Title: KCIT-OPD Network Improvements
 Affected Agency and/or Agencies: Office of Public Defense
 Note Prepared By: Junko Keesecker
 Note Reviewed By: Krista Camenzind

Impact of the above legislation on the fiscal affairs of King County is estimated to be:

Revenue to:

Fund/Agency	Fund	Revenue	Current Year	1st Year	2nd Year	3rd Year
	Code	Source				
3771/KCIT OPD	3771	GF Transfer	780,000			
TOTAL						

Expenditures from:

Fund/Agency	Fund	Department	Current Year	1st Year	2nd Year	3rd Year
	Code					
3771/KCIT OPD/1120359	3771	N/A	780,000			
TOTAL						

Expenditures by Categories

	Current Year	1st Year	2nd Year	3rd Year
56990 CIP Expenditures	780,000			
TOTAL				

Note

When the County begins providing public defense services directly on July 1, 2013, it is anticipated that some of the computers used by public defenders currently will need to be replaced. All of the computers, new or existing, will need to be configured to work on the County network and additional servers and network support may be needed. Because the County has limited knowledge of the existing computer inventory, this request assumes that 1/3 of the existing machines, roughly 100, will be replaced in 2013. The request also includes the staff time needed to configure all public defense computers for the County network, some network and server costs, and a 15% contingency. As more information about the computer inventory is learned, cost estimates will be adjusted.

FISCAL NOTE**Attachment 4**

Ordinance/Motion No. 00-
 Title: KCIT-OPD Case Management Project
 Affected Agency and/or Agencies: Office of Public Defense
 Note Prepared By: Junko Keesecker
 Note Reviewed By: Krista Camenzind

Impact of the above legislation on the fiscal affairs of King County is estimated to be:

Revenue to:

Fund/Agency	Fund	Revenue	Current Year	1st Year	2nd Year	3rd Year
	Code	Source				
3771/KCIT OPD	3771	GF Transfer	749,000			
TOTAL			749,000			

Expenditures from:

Fund/Agency	Fund	Department	Current Year	1st Year	2nd Year	3rd Year
	Code					
3771/KCIT OPD/1120358	3771	N/A	749,000			
TOTAL			749,000			

Expenditures by Categories

	Current Year	1st Year	2nd Year	3rd Year
56990 CIP Expenditures	749,000			
TOTAL	749,000			

Notes

Currently, each of the four non-profit public defense organizations operates its own case management system. When the County takes over direct management of defense cases on July 1, 2013, a single case management system will be needed. This request will fund requirements gathering, selection of one of the four existing systems as an interim system for all attorneys, license, data migration and training. Depending on the ability of the case management system selected as an interim solution to

FISCAL NOTE**Attachment 4**

Ordinance/Motion No. 00-
 Title: OPD Transition Supplemental Budget
 Affected Agency and/or Agencies: Office of Public Defense
 Note Prepared By: Krishna Duggirala
 Note Reviewed By: Krista Camenzind

Impact of the above legislation on the fiscal affairs of King County is estimated to be: 3,157,000

Revenue to:

Fund/Agency	Fund	Revenue	Current Year	1st Year	2nd Year	3rd Year
	Code	Source				
TOTAL						

Expenditures from:

Fund/Agency	Fund	Department	Current Year	1st Year	2nd Year	3rd Year
	Code					
General Fund - OPD	000000010	A95000	1,378,000	0	0	0
General Fund - GF Transfers	000000010	A69500	1,779,000			
TOTAL			3,157,000			

Expenditures by Categories

	Current Year	1st Year	2nd Year	3rd Year
¹ Personnel for onboarding	416,000	0	0	0
² Supplies for additional staff	103,000	0	0	0
³ 20% Contingency	104,000	0	0	0
⁴ Vehicle Purchase	755,000	0	0	0
⁵ GF Transfer to KCIT	1,529,000	0	0	0
⁶ GF Transfer to FMD	250,000	0	0	0
TOTAL	3,157,000			

Footnotes:

¹ In preparation for individuals at the non-profit public defense organizations becoming County employees on July 1, 2013, dedicated resources from HRD, including staff and consultants, will be needed. Additionally, OPD will hire some management positions before July 1 to prepare for the transition.

²Supplies budget is estimated costs of startup supplies, such as business cards, nameplate and office supplies.

³Contingency is calculated on the above 2 items.

⁴ OPD estimates that it will need 30 cars for social workers and investigators who spend significant time in the field. OPD offices located in Kent and First Hill will not be able to access central motor pool and will need vehicles at their locations. Vehicles will be needed in downtown Seattle because heavy use makes the motor pool inadequate to meet the need. The vehicles will be paid for in the OPD budget and then transferred to King County Fleet Administration.

⁵ Transfer to King County Information & Technology (KC IT) is for a single case management system and includes its system data migration, testing and training of personnel after deployment. This amount also includes costs associated with required computers & printers purchase, installation/set-up for to meet immediate needs.



KING COUNTY

Attachment 5

Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

April 22, 2013

Ordinance

Proposed No. 2013-0210.1

Sponsors Patterson

1 AN ORDINANCE adding a new Section 350.20.60,
2 entitled "Department of Public Defense," to the King
3 County Charter, creating a department of public defense
4 and an appointed office with the title of "county public
5 defender"; adding a new Section 350.20.065 to the King
6 County Charter, creating a public defense oversight
7 commission; adding a new Section 899 to the King County
8 Charter, designating the county public defender as the
9 county's bargaining agent for all issues concerning
10 employees of the department of public defense except for
11 compensation and benefits; amending Section 350.20 of the
12 King County Charter; amending Section 890 of the King
13 County Charter; submitting the same to the voters of the
14 county for their ratification or rejection at the November
15 2013 general election; and requiring the county public
16 defender and the county executive to submit a joint
17 proposal to the council for legislation to facilitate
18 implementation of the collective bargaining provisions of
19 the charter amendment if it is approved by the voters.

20 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

21 SECTION 1. There shall be submitted to the qualified voters of King County for
22 their approval and ratification or rejection, at the next general election to be held in this
23 county occurring more than forty-five days after the enactment of this ordinance, an
24 amendment to the King County Charter, amending Section 350.20 of the King County
25 Charter, adding a new Section 350.20.60 and a new Section 350.20.65 to the King
26 County Charter, amending Section 890 of the King County Charter and adding a new
27 Section 899 to the King County Charter, as set forth below:

28 **Section 350.20 Executive Departments**

29 The executive departments shall consist of the department of assessments, the
30 department of judicial administration, the department of elections, the department of
31 public defense and those agencies of the executive branch which are primarily engaged in
32 the execution and enforcement of ordinances and statutes concerning the public peace,
33 health and safety and which furnish or provide governmental services directly to or for
34 the residents of the county.

35 **Section 350.20.60. Department of Public Defense.**

36 The department of public defense shall be administered by the county public
37 defender, who shall perform the indigent public defense duties specified by general law,
38 including the federal and state constitutions, and shall be overseen by the public defense
39 oversight commission. The department of public defense shall be subject to the career
40 service personnel system and shall utilize the services of the administrative offices and
41 the executive departments, but it shall not be abolished or have its duties, as established
42 in this section, decreased by the county council or the county executive. The

responsibilities of the department of public defense shall include providing legal counsel and representation to indigent individuals in legal proceedings, including those in the superior and district courts for King County and in appeals from those courts, to the extent required under the sixth amendment to the United States Constitution or Article I, Section 22, of the Constitution of the state of Washington.

The county public defender shall administer the department of public defense. The county public defender shall be appointed by the public defense oversight commission to a term of four years, unless removed earlier by the commission. The commission may reappoint the county public defender to additional four-year terms. To be eligible for appointment or reappointment, the county public defender must be admitted to practice law in the state of Washington and have at least ten years of experience as a practicing attorney specializing in criminal defense. The county council may establish by ordinance additional qualifications for the county public defender. The county public defender shall receive compensation as provided by ordinance.

Section 350.20.65. Public Defense Oversight Commission.

The public defense oversight commission shall appoint the county public defender, both initially and to fill any vacancy in the office, and shall oversee the department of public defense. The commission may reappoint the county public defender to additional four-year terms. The commission may remove the county public defender during his or her term of office only for cause, which the county council may define by ordinance. Appointment and reappointment of the county public defender shall require the affirmative votes of at least four members of the commission. Removal shall require

65 five affirmative votes. The commission's duties, membership, process and qualifications
66 for appointment, rules and procedures shall be prescribed by ordinance.

67 **Section 890. Employee Representation.**

68 The county council may enact an ordinance providing for collective bargaining by
69 the county with county employees covered by the personnel system. If an ordinance
70 providing for collective bargaining is enacted, it shall not be subject to the veto power of
71 the county executive; and, except with respect to bargaining by the county with
72 employees of the department of public safety pursuant to Section 898 of this charter and
73 with the employees of the department of public defense pursuant to Section 1030 of this
74 charter, it shall designate the county executive as the bargaining agent of the county.

75 Any agreement reached as a result of negotiations by the county bargaining agent with
76 county employees shall not have the force of law unless enacted by ordinance.

77 **Section 899. Collective Bargaining for the Department of Public Defense.**

78 The county council may enact an ordinance providing for collective bargaining by
79 the county with employees of the department of public defense. The county executive
80 shall not have veto power over this ordinance. If such an ordinance is enacted, it shall
81 designate the county public defender as the bargaining agent of the county on all matters
82 concerning employees of the department of public defense except for compensation and
83 benefits, which shall be negotiated by the county executive as provided in Section 890 of
84 this charter. Any agreement reached as a result of negotiations by the county public
85 defender or the county executive with employees of the department of public defense
86 shall not have the force of law unless enacted by ordinance.

87 SECTION 2. The clerk of the council shall certify the proposition to the director
88 of the elections department, in substantially the following form, with such additions,
89 deletions or modifications as may be required by the prosecuting attorney:

90 Shall the King County Charter be amended to create an appointed office of
91 county public defender, a department of public defense, and a public
92 defense oversight commission, and designate the county public defender
93 as the county's bargaining agent for all issues concerning employees of the
94 department of public defense except for compensation and benefits, which
95 would continue to be bargained by the county executive?

96 SECTION 3. Within ninety days after the county public defender takes office
97 pursuant to the charter amendment in section 1 of this ordinance, the county executive
98 and the county public defender shall submit to the county council a joint proposal for
99 legislation establishing a process of consultation and collaboration between the executive
100 and the public defender in advance of collective bargaining negotiations concerning
101 employees of the department of public defense. The process shall be designed to
102 promote successful implementation of the charter amendment by identifying and
103 resolving any disagreements between the executive and the public defender concerning
104 the division of bargaining authority, the positions to be taken on issues expected to arise
105 during collective bargaining or other matters that have the potential to interfere with
106 collective bargaining. The process shall provide that the executive and the public
107 defender shall promptly submit a confidential, detailed, written report to the chair of the
108 county council and the chair of the council's labor policy committee describing any such
109 disagreement that the executive and the public defender are unable to resolve. The

110 process shall further provide that neither the executive nor the public defender shall
111 propose or agree to the inclusion of language in any collective bargaining agreement
112 concerning employees of the department of public defense without conferring with one
113 another.
114

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, ____.

Dow Constantine, County Executive

Attachments: None



KING COUNTY

Attachment 6

Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

April 22, 2013

Ordinance

Proposed No. 2013-0211.1

Sponsors Patterson

1 AN ORDINANCE adding a new Section 350.20.60,
2 entitled "Department of Public Defense," to the King
3 County Charter, creating a department of public defense
4 and an elective office with the title of "county public
5 defender"; adding a new Section 899 to the King County
6 Charter, designating the county public defender as the
7 county's bargaining agent for all issues concerning
8 employees of the department of public defense except for
9 compensation and benefits; amending Section 350.20 of the
10 King County Charter; amending Section 680.10 of the King
11 County Charter; amending Section 890 of the King County
12 Charter; submitting the same to the voters of the county for
13 their ratification or rejection at the November 2013 general
14 election; and requiring the county public defender and the
15 county executive to submit a joint proposal to the council
16 for legislation to facilitate implementation of the collective
17 bargaining provisions of the charter amendment if it is
18 approved by the voters.

19 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

20 **SECTION 1.** There shall be submitted to the qualified voters of King County for
21 their approval and ratification or rejection, at the next general election to be held in this
22 county occurring more than forty-five days after the enactment of this ordinance, an
23 amendment to the King County Charter, amending section 350.20 of the King County
24 Charter, adding a new section 350.20.60 to the King County Charter, amending section
25 680.10 of the King County Charter, amending section 890 of the King County Charter
26 and adding a new Article 10, including new sections 1010, 1020, and 1030, to the King
27 County Charter, as set forth below:

28 **Section 350.20. Executive Departments.**

29 The executive departments shall consist of the department of assessments, the
30 department of judicial administration, the department of elections, the department of
31 public defense and those agencies of the executive branch which are primarily engaged in
32 the execution and enforcement of ordinances and statutes concerning the public peace,
33 health and safety and which furnish or provide governmental services directly to or for
34 the residents of the county.

35 **Section 350.20.60. Department of Public Defense.**

36 The department of public defense shall be administered by the county public
37 defender, who shall perform the indigent public defense duties specified by general law,
38 including the federal and state constitutions. The department of public defense shall be
39 subject to the career service personnel system and shall utilize the services of the
40 administrative offices and the executive departments, but it shall not be abolished or have
41 its duties, as established in this section, decreased by the county council or the county
42 executive. The responsibilities of the department of public defense shall include

43 providing legal counsel and representation to indigent individuals in legal proceedings,
44 including those in the superior and district courts for King County and in appeals from
45 those courts, to the extent required under the sixth amendment to the United States
46 Constitution or Article I, Section 22, of the Constitution of the state of Washington.

47 **Section 649. County Public Defender, Term of Office and Compensation.**

48 The county public defender shall be elected as a nonpartisan office by the voters
49 of the county. The first election for county public defender shall be the general election in
50 2014, and the person elected shall take office on January 1, 2014. The term of office of
51 the first elected county public defender shall end on December 31, 2018. Subsequent
52 elections of the county public defender shall occur at the general election in 2018 and
53 every four years thereafter. To be eligible for election, the county public defender must
54 be admitted to practice law in the state of Washington and have at least ten years of
55 experience as an attorney practicing primarily criminal defense. The county council may
56 establish by ordinance additional qualifications for the county public defender. The
57 county public defender shall receive compensation as provided by ordinance.

58 **Section 680.10. Designation, Appointment and Election to Fill Vacancy.**

59 Immediately upon commencing their terms of office, the county executive, county
60 assessor, county director of elections ~~((and))~~, county sheriff and county public defender
61 shall each designate one or more employees who serve as a deputy or assistant in such
62 office to serve as an interim official in the event of a vacancy in the elective office of the
63 county executive, county assessor, county director of elections ~~((or))~~, county sheriff or
64 county public defender, respectively.

65 Except for a designation made by the metropolitan county council, a designation
66 of an interim official shall only be effective if the county executive, county assessor,
67 county director of elections ~~((and))~~, county sheriff and county public defender, each for
68 his or her elective office~~((;))~~; complies with the following procedure; commits the
69 designation to writing; identifies the order of precedence if more than one county officer
70 or employee is designated; signs the written designation; has the written designation
71 notarized; files the written designation with the county office responsible for records; and
72 provides a copy of the written designation to the chair of the metropolitan county council.
73 The county executive, county assessor, county director of elections ~~((and))~~, county sheriff
74 and county public defender may, at any time, amend such designation by complying with
75 the same procedure established for making the designation.

76 In the event the county executive, county assessor, county director of elections
77 ~~((or))~~, county sheriff or county public defender neglects or fails to make such a
78 designation within seven calendar days of commencing his or her term of office, the
79 metropolitan county council may by ordinance designate one or more employees who
80 serve as a deputy or assistant in such office to serve as an interim official in the event of a
81 vacancy in the elective office of the county executive, county assessor, county director of
82 elections ~~((or))~~, county sheriff or county public defender, respectively. A designation
83 made by the metropolitan county council shall be effective upon adoption of the
84 ordinance therefor and may be amended by ordinance; provided that a designation by the
85 county executive, county assessor, county director of elections ~~((or))~~, county sheriff or
86 county public defender which occurs subsequent to the adoption of an ordinance shall
87 take precedence over the designation by ordinance.

88 The designated county officer or employee shall immediately upon the occurrence
89 of a vacancy serve as the interim official and shall exercise all the powers and duties of
90 the office granted by this charter and general law until an acting official is appointed as
91 provided in this section.

92 The metropolitan county council shall, after being ~~((appraised))~~ apprised of a
93 vacancy in the elective office of county executive, county assessor, county director of
94 elections ~~((or))~~, county sheriff or county public defender, fill the vacancy by the
95 appointment of an employee who served as a deputy or assistant in such office at the time
96 the vacancy occurred as an acting official to perform all necessary duties to continue
97 normal office operations. The acting official shall serve until the vacancy is filled by
98 appointment pursuant to general law for nonpartisan county elective offices.

99 A vacancy in an elective county office shall be filled at the next primary and
100 general elections which occur in the county; provided that an election to fill the vacancy
101 shall not be held if the successor to the vacated office will be elected at the next general
102 election as provided in Sections 640 and 645 of this charter. The term of office of an
103 officer who has been elected to fill a vacancy shall only be for the unexpired portion of
104 the term of the officer whose office has become vacant and shall commence as soon as he
105 or she is elected and qualified.

106 A majority of the county council may temporarily fill a vacancy by appointment
107 until the vacancy has been filled by election or the successor to the office has been
108 elected and qualified.

109 **Section 890. Employee Representation.**

110 The county council may enact an ordinance providing for collective bargaining by
111 the county with county employees covered by the personnel system. If an ordinance
112 providing for collective bargaining is enacted, it shall not be subject to the veto power of
113 the county executive; and, except with respect to bargaining by the county with
114 employees of the department of public safety pursuant to Section 898 of this charter and
115 with the employees of the department of public defense pursuant to Section 1020 of this
116 charter, it shall designate the county executive as the bargaining agent of the county. Any
117 agreement reached as a result of negotiations by the county bargaining agent with county
118 employees shall not have the force of law unless enacted by ordinance.

119 **Section 899. Collective Bargaining for the Department of Public Defense.**

120 The county council may enact an ordinance providing for collective
121 bargaining by the county with employees of the department of public defense.
122 The county executive shall not have veto power over this ordinance. If such an
123 ordinance is enacted, it shall designate the county public defender as the
124 bargaining agent of the county on all matters concerning employees of the
125 department of public defense except for compensation and benefits, which shall
126 be negotiated by the county executive as provided in Section 890 of this charter.
127 Any agreement reached as a result of negotiations by the county public defender
128 or the county executive with employees of the county public defender shall not
129 have the force of law unless enacted by ordinance.

130 SECTION 2. The clerk of the council shall certify the proposition to the director
131 of the elections department, in substantially the following form, with such additions,
132 deletions or modifications as may be required by the prosecuting attorney:

133 Shall the King County Charter be amended to create an elective office of
134 county public defender and a department of public defense and designate
135 the county public defender as the county's bargaining agent for all issues
136 concerning employees of the department of public defense except for
137 compensation and benefits, which would continue to be bargained by the
138 county executive?

139 SECTION 3. Within ninety days after the county public defender takes office
140 pursuant to the charter amendment in section 1 of this ordinance, the county executive
141 and the county public defender shall submit to the county council a joint proposal for
142 legislation establishing a process of consultation and collaboration between the executive
143 and the public defender in advance of collective bargaining negotiations concerning
144 employees of the department of public defense. The process shall be designed to
145 promote successful implementation of the charter amendment by identifying and
146 resolving any disagreements between the executive and the public defender concerning
147 the division of bargaining authority, the positions to be taken on issues expected to arise
148 during collective bargaining or other matters that have the potential to interfere with
149 collective bargaining. The process shall provide that the executive and the public
150 defender shall promptly submit a confidential, detailed, written report to the chair of the
151 county council and the chair of the council's labor policy committee describing any such
152 disagreement that the executive and the public defender are unable to resolve. The
153 process shall further provide that neither the executive nor the public defender shall
154 propose or agree to the inclusion of language in any collective bargaining agreement

155 concerning employees of the department of public defense without conferring with one
156 another.
157

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, ____.

Dow Constantine, County Executive

Attachments: None



KING COUNTY

Attachment 7

Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

April 22, 2013

Ordinance

Proposed No. 2013-0212.1

Sponsors Patterson

1 AN ORDINANCE adding a new Section 350.20.60,
2 entitled "Department of Public Defense," to the King
3 County Charter, creating a department of public defense
4 and an appointed office with the title of "county public
5 defender"; adding a new Section 350.20.065 to the King
6 County Charter, creating a public defense advisory
7 committee; adding a new Section 899 to the King County
8 Charter, designating the county public defender as the
9 county's bargaining agent for all issues concerning
10 employees of the department of public defense except for
11 compensation and benefits; amending Section 350.20 of the
12 King County Charter; amending Section 890 of the King
13 County Charter; submitting the same to the voters of the
14 county for their ratification or rejection at the November
15 2013 general election; and requiring the county public
16 defender and the county executive to submit a joint
17 proposal to the council for legislation to facilitate
18 implementation of the collective bargaining provisions of
19 the charter amendment if it is approved by the voters.

20 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

21 SECTION 1. There shall be submitted to the qualified voters of King County for
22 their approval and ratification or rejection, at the next general election to be held in this
23 county occurring more than forty-five days after the enactment of this ordinance, an
24 amendment to the King County Charter, amending Section 350.20 of the King County
25 Charter, adding a new Section 350.20.60 and a new Section 350.20.65 to the King
26 County Charter, amending Section 890 of the King County Charter and adding a new
27 Section 899 to the King County Charter, as set forth below:

28 **Section 350.20. Executive Departments.**

29 The executive departments shall consist of the department of assessments, the
30 department of judicial administration, the department of elections, the department of
31 public defense and those agencies of the executive branch which are primarily engaged in
32 the execution and enforcement of ordinances and statutes concerning the public peace,
33 health and safety and which furnish or provide governmental services directly to or for
34 the residents of the county.

35 **Section 350.20.60. Department of Public Defense.**

36 The department of public defense shall be administered by the county public
37 defender, who shall perform the indigent public defense duties specified by general law,
38 including the federal and state constitutions, and shall be overseen by the public defense
39 advisory committee. The department of public defense shall be subject to the career
40 service personnel system and shall utilize the services of the administrative offices and
41 the executive departments, but it shall not be abolished or have its duties, as established
42 in this section, decreased by the county council or the county executive. The

43 responsibilities of the department of public defense shall include providing legal counsel
44 and representation to indigent individuals in legal proceedings, including those in the
45 superior and district courts for King County and in appeals from those courts, to the
46 extent required under the sixth amendment to the United States Constitution or Article I,
47 Section 22, of the Constitution of the state of Washington.

48 The county public defender shall be appointed by the county executive, subject to
49 confirmation by the county council, to a term of four years, unless removed earlier by the
50 county council for cause, including but not limited to the grounds for vacancy for elective
51 office under Section 680 of this charter and such other grounds as the council may
52 prescribe by ordinance. The county executive shall appoint the county public defender
53 from among three candidates recommended by the public defense advisory committee.
54 The county executive may reappoint the county public defender to additional four-year
55 terms, subject to confirmation by the county council. To be eligible for appointment, the
56 county public defender must be admitted to practice law in the state of Washington and
57 have at least ten years of experience as an attorney primarily practicing criminal defense.
58 The county council may establish by ordinance additional qualifications for the county
59 public defender. Confirmation of the appointment and reappointment of the county
60 public defender shall require the affirmative votes of at least five members of the county
61 council. Removal shall require six affirmative votes. The county public defender shall
62 receive compensation as provided by ordinance.

63 **Section 350.65. Public Defense Advisory Committee.**

64 The public defense advisory committee shall oversee the department of public
65 defense and, in the event of a vacancy in the office of county public defender,

66 recommend three candidates from whom the county executive shall make an appointment
67 to fill the vacancy, subject to confirmation by the county council. The committee's
68 duties, membership, process and qualifications for appointment, rules and procedures,
69 shall be prescribed by ordinance.

70 **Section 890. Employee Representation.**

71 The county council may enact an ordinance providing for collective bargaining by
72 the county with county employees covered by the personnel system. If an ordinance
73 providing for collective bargaining is enacted, it shall not be subject to the veto power of
74 the county executive; and, except with respect to bargaining by the county with
75 employees of the department of public safety pursuant to Section 898 of this charter and
76 with the employees of the department of public defense pursuant to Section 899 of this
77 charter, it shall designate the county executive as the bargaining agent of the county.
78 Any agreement reached as a result of negotiations by the county bargaining agent with
79 county employees shall not have the force of law unless enacted by ordinance.

80 **Section 899. Department of Public Defense Employee Collective Bargaining.**

81 The county council may enact an ordinance providing for collective bargaining by
82 the county with employees of the department of public defense. The county executive
83 shall not have veto power over this ordinance. If such an ordinance is enacted, it shall
84 designate the county public defender as the bargaining agent of the county on all matters
85 concerning employees of the department of public defense except for compensation and
86 benefits, which shall be negotiated by the county executive as provided in Section 890 of
87 this charter. Any agreement reached as a result of negotiations by the county public

88 defender or the county executive with employees of the department of public defense
89 shall not have the force of law unless enacted by ordinance.

90 SECTION 2. The clerk of the council shall certify the proposition to the director
91 of the elections department, in substantially the following form, with such additions,
92 deletions or modifications as may be required by the prosecuting attorney:

93 Shall the King County Charter be amended to create an appointed office of
94 county public defender, a department of public defense, and a public
95 defense advisory committee, and designate the county public defender as
96 the county's bargaining agent for all issues concerning employees of the
97 department of public defense except for compensation and benefits, which
98 would continue to be bargained by the county executive?

99 SECTION 3. Within ninety days after the county public defender takes office
100 pursuant to the charter amendment in section 1 of this ordinance, the county executive
101 and the county public defender shall submit to the county council a joint proposal for
102 legislation establishing a process of consultation and collaboration between the executive
103 and the public defender in advance of collective bargaining negotiations concerning
104 employees of the department of public defense. The process shall be designed to
105 promote successful implementation of the charter amendment by identifying and
106 resolving any disagreements between the executive and the public defender concerning
107 the division of bargaining authority, the positions to be taken on issues expected to arise
108 during collective bargaining or other matters that have the potential to interfere with
109 collective bargaining. The process shall provide that the executive and the public
110 defender shall promptly submit a confidential, detailed, written report to the chair of the

111 county council and the chair of the council's labor policy committee describing any such
112 disagreement that the executive and the public defender are unable to resolve. The
113 process shall further provide that neither the executive nor the public defender shall
114 propose or agree to the inclusion of language in any collective bargaining agreement
115 concerning employees of the department of public defense without conferring with one
116 another.
117

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, ____.

Dow Constantine, County Executive

Attachments: None

Attachment 8. MRSC List of Known PDAs in Washington State as of March 2011 (sorted by County and then alphabetically by Name – PDAs within King County are shaded)

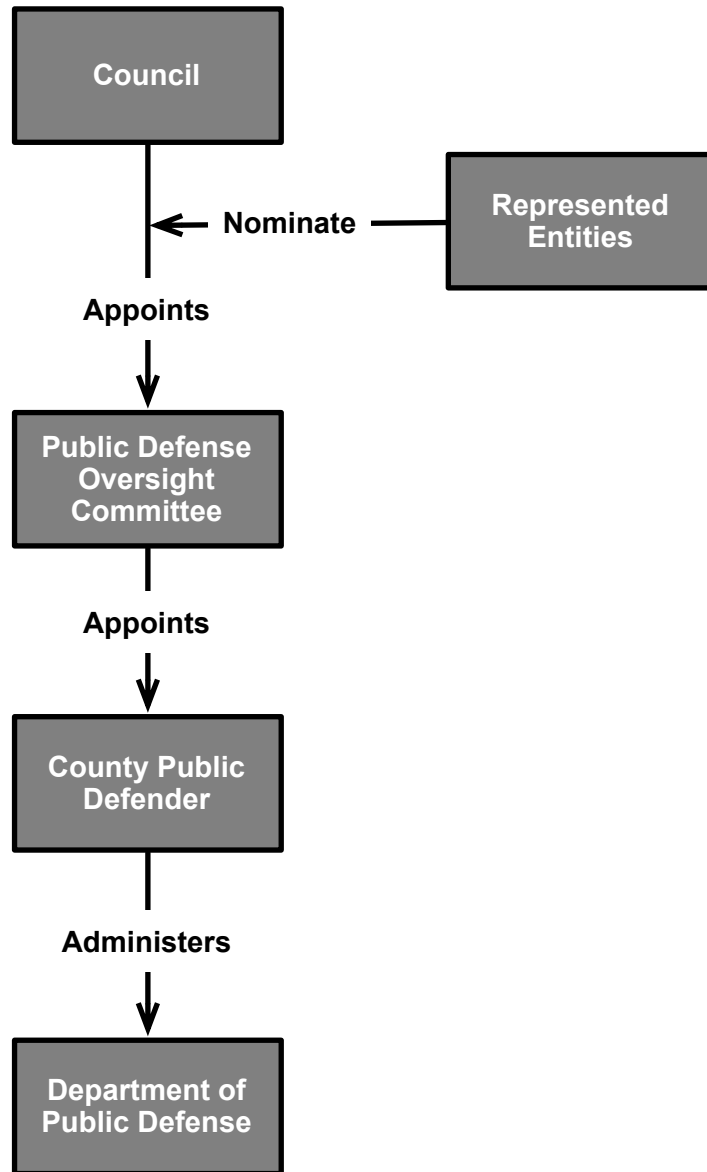
Name of PDA	Date Created	Purpose	Place
Ritzville Public Development Authority	2001		Adams County
Washtucna Public Development Authority	2002	Economic development	Washtucna, Adams County
Mission Ridge Public Development Authority (Inactive)	2000	To development Mission Ridge ski area	Chelan County
Hurricane Ridge Public Development Authority (dissolved 2006)	2000 - 2006	Acquire and manage the National Park Service's Hurricane Ridge Lodge concession in Olympic National Park; operated ski facility	Port Angeles & Clallum County
Port Angeles Harbor Works Public Development Authority (dissolved 2010)	2008 - 2010	Cleanup and redevelopment of the Rayonier Mill property, and to participation in assessment of hazardous waste and potential remediation measures in Port Angeles Harbor	Port Angeles and Port of Port Angeles Clallam County
City Center Redevelopment Authority (Vancouver)	2006	Facilitate the redevelopment of property within the Vancouver City Center Vision plan area	Vancouver, Clark County
Downtown Redevelopment Authority (Vancouver)	1997	Oversees development and assembly of projects in the Vancouver hotel and convention center project (amended 2/06)	Vancouver, Clark County
Vancouver Area Development Authority Dissolved 2006	1987	Vehicle to rehabilitate 21 historic houses comprising Officers Row; completed 2001	Vancouver, Clark County
Republic Public Development Authority	2003	Industrial Park	Republic, Ferry County
Grays Harbor Historical Seaport Authority	1986	Build and operate: the Lady Washington and the Columbia Rediviva; a maritime museum to promote tourism and economic development; and to provide educational programs	Aberdeen, Grays Harbor County
Grays Harbor Public Development Authority - Satsop Business Park	1998	Oversee the creation of the Satsop Redevelopment Park	Grays Harbor County
Bellevue Convention Center Authority	1988	Operate Meydenbauer Center	Bellevue, King County
Burke-Gilman Place Public Development Authority	1983	Health care education and housing facilities	Seattle, King County
Capitol Hill Housing Improvement Program - Capitol Hill Housing	1984	Preserve, improve, and restore affordable homes	Seattle, King County
Historic Seattle Preservation and Development Authority - Historic Seattle	1973	Preservation and enhancement of historic heritage of City of Seattle	Seattle, King County
Kent Downtown Public Market Development Authority (dissolved 6-03)	1998-2003	Acquisition, renovation of historic lumberman's barn	Kent, King County

King County Cultural Development Authority - 4Culture	2002	Evolved from the Office of Cultural Resources; arts, heritage, historic preservation, and public art	King County
Museum Development Authority of Seattle - Seattle Art Museum	1985	Provide capital funds and construct, manage, and operate downtown Seattle Art Museum	Seattle, King County
Museum of Flight Authority - Museum of Flight	1985	Develop public air and space museum	King County
Seattle Chinatown International District Preservation/Development Authority	1975	Preserve cultural and ethnic characteristics of the International District	Seattle, King County
Seattle Elevated Transportation Company (dissolved 6-03)	1997-2003	Develop monorail; replaced by city transportation authority	Seattle, King County
Seattle Indian Services Commission	1972	Umbrella organization for agencies for providing services, activities and programs for Indian residents of Seattle	Seattle, King County
Pacific Hospital Preservation and Development Authority	1981	The PHPDA currently supports health care access through three major programs	Seattle, King County
Pike Place Market Preservation and Development Authority - Pike Place Market	1973	Preserve and redevelop Pike Place Market Historical District and surrounding area	Seattle, King County
Kitsap County Community Development Corporation	2002	Stimulate economic development	Kitsap County
Poulsbo Public Development Authority (Dissolved 2002)	1990 - 2002	Community education center for marine sciences	Poulsbo, Kitsap County
Ellensburg Business Development Authority	1994	Provides economic development services for the City of Ellensburg and manages the Incubator and Airport Buildings	Ellensburg, Kittitas County
East Lewis County Public Development Authority	1996		Lewis County
Harrington Public Development Authority Facebook	2003	Economic development: create infrastructure and opportunities for economic diversification	Harrington, Lincoln County
NW Regional Public Development Authority (Lincoln County, Almira, Creston, Wilbur)	2001		Lincoln County
Odessa Public Development Authority	2000	Develop the community through the creation of jobs	Lincoln County
Reardan Area Public Development Authority	2006	Management Audubon Lakes Wildlife Viewing Area	Lincoln County
Sprague Public Development Authority	2004		Sprague, Lincoln County
North Beach Public Development Authority dba North Beach Water. North Beach Water District formed in 2008.	2004 - 2008	Operate water utility until water district can be formed	Pacific County
Foss Waterway Development Authority	1996	Oversee property development and marketing of the publicly-owned Foss	Tacoma, Pierce County

		Waterway property	
Tacoma Community Redevelopment Authority		Administers loans to a variety of clients	Tacoma, Pierce County
Anacortes Downtown Development Authority	1986	Facilitating economic development, job creation and employment opportunities	Anacortes, Skagit County
Anacortes Public Development Authority	2002	Community renewal agency under Ch. 35.81	Anacortes, Skagit County
Hamilton Public Development Authority	2004	Assist moving town facilities, infrastructure, and residences out of floodway; facilitate economic development, and social service functions	Skagit County
Skagit Emergency Medical Service Commission (Medic One)	2003	Provide county-wide EMS services	Skagit County
Wind River Public Development Authority Wind River Nursery Redevelopment	2003	To promote, develop and market the former Wind River Nursery site in Stabler	Skamania County
Spokane Forestry Project Public Development Authority	2001	Administer community forestry project	Spokane, Spokane County
Spokane Parking Public Development Authority		Manage and regulate public parking facilities	Spokane, Spokane County
Spokane Volunteers Public Development Authority	2001	Improve the general living condition; administer federal funds	Spokane, Spokane County
United Native Americans of Spokane Public Development Authority		Improve the general living condition; administer federal funds	Spokane, Spokane County
Bellingham Public Development Authority	2008	Assist with development of downtown, Old Town, and waterfront	Bellingham, Whatcom County
Garfield Public Development Authority	2005	Residential and commercial development in the Town of Garfield	Garfield, Whitman County
Tekoa Public Development Authority	2005		Whitman County
St. John Public Development Authority	2006	Senior housing - Community Pride Senior Living	
Uniontown Community Development Association	2001	Assists with increasing the sustainable economic capacity and activity in Uniontown	Uniontown
South Correctional Entity Facility (SCORE)	2009	Build and operate jail in south King County	Auburn, Burien, Des Moines, Federal Way, Renton, SeaTac, and Tukwila
Southwest Hood Canal Public Development Authority	2004	Promote economic, cultural, and recreational development of the Southwest Hood Canal region	Mason
Twisp Public Development Authority	2008	Development of Town Center Properties	Okanogan County
Valley Communications Center Development Authority - Valley Communications Center		To building Regional 9-1-1 Center	Kent, Federal Way, Tukwila

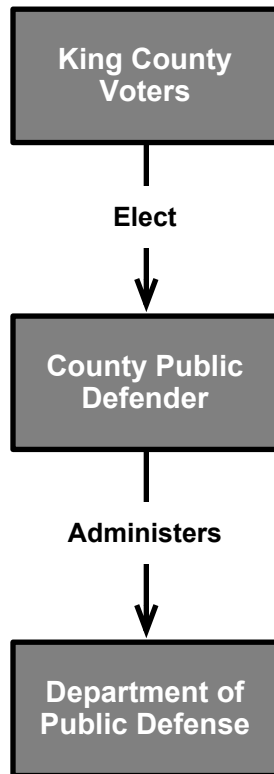
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Appointment by Commission



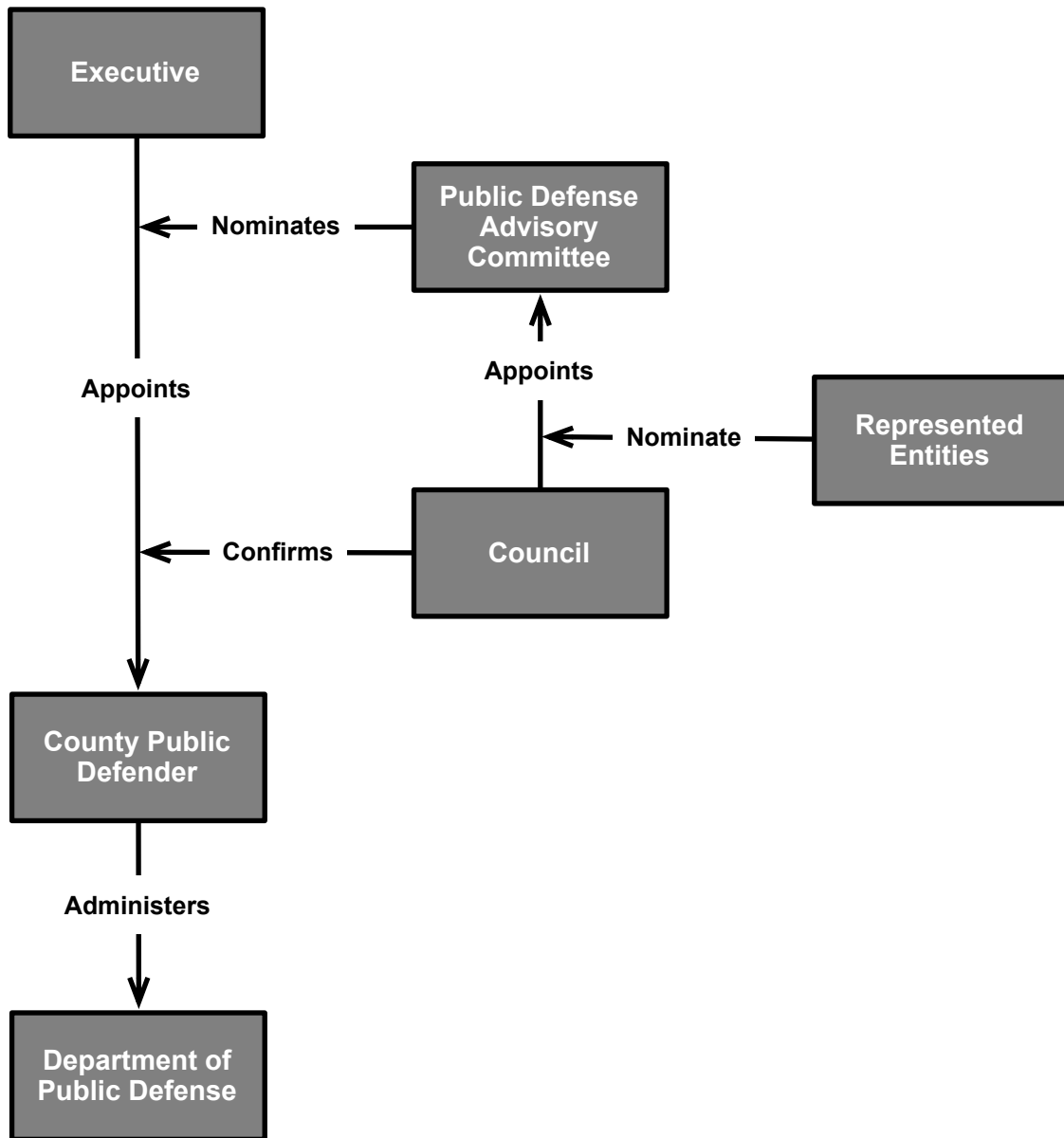
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Election



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Appointment by Executive



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Commission appointment – charter amendment

1. Creates new Department of Public Defense (DPD) within executive branch.
2. Creates new office of County Public Defender (CPD).
3. Creates new Public Defense Oversight Commission (PDOC).
4. DPD responsibilities include “providing legal counsel and representation to indigent individuals in legal proceedings, including those in the superior and district courts for King County and in appeals from those courts, to the extent required under the sixth amendment to the United State Constitution or Article 1, Section 22, of the Constitution of the State of Washington.”
5. CPD:
 - a. Administers the DPD;
 - b. Bargains with DPD employees concerning working conditions other than compensation and benefits, and must consult with executive for that purpose and submit joint proposal to council for legislation re. joint bargaining.
 - c. To be eligible for appointment or reappointment, must be admitted to practice law in Washington and have at least ten years of experience as an attorney primarily practicing criminal defense. – Council may establish additional qualifications.
6. PDOC:
 - a. Has membership prescribed by ordinance;
 - b. Appoints the CPD to a term of four years, may reappoint for additional four-year terms, and may remove for cause, which may be defined by ordinance;
 - c. Acts by simple majority, except council may prescribe supermajority requirement for removing CPD for cause;
 - d. Oversees the DPD.
7. Council shall:
 - a. Prescribe membership of PDOC by ordinance;
 - b. Appoint members to the PDOC;
 - c. Set compensation of CPD by ordinance.
8. Council may, by ordinance:
 - a. Define cause for removal of CPD;
 - b. Set a PDOC supermajority requirement for removal for cause;
 - c. Establish additional qualifications of CPD.
9. Entities represented on PDOC must recommend three candidates for each appointment of their representative.

Commission appointment – companion ordinance

1. CPD qualifications;
 - a. Admitted to practice law in Washington;
 - b. At least 10 years as attorney primarily practicing criminal defense;
 - c. Not convicted of a crime;
 - d. Not been found to have engaged in misconduct under Washington Rules of Professional Conduct or stipulated to such a finding.
2. CPD to be compensated at same rate as county prosecuting attorney.
3. Cause for removal of CPD includes:
 - a. Grounds for vacancy of elective office under charter Section 680¹;
 - b. Failure to obtain or maintain admission to practice law in Washington;
 - c. Failure to have, at the time of appointment, at least 10 years of experience as an attorney primarily practicing criminal defense;
 - d. Conviction of a crime;
 - e. A finding or stipulation of misconduct under the Washington Rules of Professional Conduct.
4. PDOC:
 - a. Shall consist of seven members—one representative each of:
 - i. State association of criminal defense attorneys;
 - ii. State office of public defense;
 - iii. State bar association;
 - iv. County bar association;
 - v. Organization that advocates on behalf of persons with mental illness and developmental disabilities;
 - vi. Organization that advocates on behalf of military veterans; and
 - vii. Organization that advocates on behalf of juveniles.
 - b. Each member to have substantial experience and expertise relevant to the work of DPD and an ability and willingness to commit the time necessary to attend meetings and participate effectively.
 - c. Majority of members to have substantial experience in providing indigent defense representation.
 - d. To the extent practicable, should reflect the diversity of DPD clients.

¹ “An elective county office shall become vacant upon the incumbent’s death; resignation; recall; conviction of a felony, crime involving moral turpitude, unlawful destruction of court records, or other crime pertinent to his office; declaration of incompetency by a court of competent jurisdiction; absence from the county for a period of more than thirty days without the permission of a majority of the county council; or failure to fulfill or continue to fulfill the qualifications for office; provided, however, that an elective county office shall not become vacant as the result of a criminal conviction or declaration of incompetency until the conviction or declaration has become final and is no longer subject to appeal.”

- e. "No member may hold elective public office, be a candidate for elective public office, or serve as a prosecuting attorney or a court employee while serving on the commission."
- f. Appointed by council; may be reappointed; five votes required for appointment or reappointment.
- g. Individual member can be removed by council if "unable or unwilling to participate effectively in the work of the commission" or "engages in misconduct that undermines the member's effectiveness as a commission member." Six votes required for removal.
- h. Staggered seven-year terms.
- i. Initial terms:
 - i. State bar association: one year;
 - ii. County bar association: two years;
 - iii. State office of public defense: three years;
 - iv. State association of criminal defense attorneys: four years;
 - v. Organization that advocates on behalf of persons with mental illness and developmental disabilities: five years;
 - vi. Organization that advocates on behalf of military veterans: six years; and
 - vii. Organization that advocates on behalf of juveniles: seven years.
- j. Designation of CPD as county's bargaining agent for working conditions other than compensation and benefits.

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Elected PD – charter amendment

1. Creates new Department of Public Defense (DPD) within executive branch.
2. Creates new, elective office of County Public Defender (CPD).
3. DPD responsibilities include “providing legal counsel and representation to indigent individuals in legal proceedings, including those in the superior and district courts for King County and in appeals from those courts, to the extent required under the sixth amendment to the United State Constitution or Article 1, Section 22, of the Constitution of the State of Washington.”
4. CPD:
 - a. Administers the DPD;
 - b. Bargains with DPD employees concerning working conditions other than compensation and benefits, and must consult with executive for that purpose and submit joint proposal to council for legislation re. joint bargaining.
 - c. To be eligible for appointment or reappointment, must be admitted to practice law in Washington and have at least ten years of experience as an attorney primarily practicing criminal defense. – Council may establish additional qualifications.
 - d. Would be subject to removal from office by operation of law under charter Section 680, or by recall under charter section 670, like any other elected county official.
5. Council shall set compensation of CPD by ordinance
6. Council may establish, by ordinance, additional qualifications of CPD

Executive appointment – Companion ordinance

1. CPD qualifications;
 - a. Admitted to practice law in Washington;
 - b. At least 10 years as attorney primarily practicing criminal defense;
 - c. Not convicted of a crime;
 - d. Not been found to have engaged in misconduct under Washington Rules of Professional Conduct or stipulated to such a finding.
2. CPD to be compensated at same rate as county prosecuting attorney.
3. Designation of CPD as county’s bargaining agent for working conditions other than compensation and benefits.

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Executive appointment – charter amendment

1. Creates new Department of Public Defense (DPD) within executive branch.
2. Creates new office of County Public Defender (CPD).
3. Creates new Public Defense Advisory Committee (PDAC).
4. DPD responsibilities include “providing legal counsel and representation to indigent individuals in legal proceedings, including those in the superior and district courts for King County and in appeals from those courts, to the extent required under the sixth amendment to the United State Constitution or Article 1, Section 22, of the Constitution of the State of Washington.”
5. CPD:
 - a. Administers the DPD;
 - b. Bargains with DPD employees concerning working conditions other than compensation and benefits, and must consult with executive for that purpose and submit joint proposal to council for legislation re. joint bargaining.
 - c. To be eligible for appointment or reappointment, must be admitted to practice law in Washington and have at least ten years of experience as an attorney primarily practicing criminal defense. – Council may establish additional qualifications.
6. Executive:
 - a. Shall appoint CPD to a term of four years from among three candidates recommended by the PDAC.
 - b. May reappoint CPD to additional four-year terms.
7. PDAC:
 - a. Has membership prescribed by ordinance;
 - b. Recommends CPD candidates for consideration by executive;
 - c. Acts by simple majority.
 - d. Oversees the DPD.
8. Council shall:
 - a. Prescribe membership of PDAC by ordinance;
 - b. Appoint members to the PDAC;
 - c. Set compensation of CPD by ordinance.
9. Council may:
 - a. Define, by ordinance, cause for removal of CPD;
 - b. Remove the CPD for cause (requires at least six affirmative votes);
 - c. Establish, by ordinance, additional qualifications of CPD.
10. Entities represented on PDAC must recommend three candidates for each appointment of their representative.

Executive appointment – Companion ordinance

1. CPD qualifications;
 - a. Admitted to practice law in Washington;
 - b. At least 10 years as attorney primarily practicing criminal defense;
 - c. Not convicted of a crime;
 - d. Not been found to have engaged in misconduct under Washington Rules of Professional Conduct or stipulated to such a finding.
2. CPD to be compensated at same rate as county prosecuting attorney.
3. Cause for removal of CPD includes:
 - a. Grounds for vacancy of elective office under charter Section 680¹;
 - b. Failure to obtain or maintain admission to practice law in Washington;
 - c. Failure to have, at the time of appointment, at least 10 years of experience as an attorney primarily practicing criminal defense;
 - d. Conviction of a crime;
 - e. A finding or stipulation of misconduct under the Washington Rules of Professional Conduct.
4. PDAC:
 - a. Shall consist of seven members—one representative each of:
 - i. State association of criminal defense attorneys;
 - ii. State office of public defense;
 - iii. State bar association;
 - iv. County bar association;
 - v. Organization that advocates on behalf of persons with mental illness and developmental disabilities;
 - vi. Organization that advocates on behalf of military veterans; and
 - vii. Organization that advocates on behalf of juveniles.
 - b. Each member to have substantial experience and expertise relevant to the work of DPD and an ability and willingness to commit the time necessary to attend meetings and participate effectively.
 - c. Majority of members to have substantial experience in providing indigent defense representation.
 - d. To the extent practicable, should reflect the diversity of DPD clients.

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- e. "No member may hold elective public office, be a candidate for elective public office, or serve as a prosecuting attorney or a court employee while serving on the commission."
 - f. Appointed by council; may be reappointed; five votes required for appointment or reappointment.
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 - vi. Organization that advocates on behalf of military veterans: six years; and
 - vii. Organization that advocates on behalf of juveniles: seven years.
5. Designation of CPD as county's bargaining agent for working conditions other than compensation and benefits.