



City of Seattle

City Budget Office

Date: April 30, 2014

TO: Councilmembers Bruce Harrell, Nick Licata, and Sally Bagshaw
Public Safety, Civil Rights and Technology Committee

From: Linda Taylor-Manning, City Budget Office

Subject: Indigent Public Defense Agreement: May 7, 2014 Committee Meeting

This proposed Council Bill authorizes the City Budget Office (CBO) to enter into an interlocal agreement (ILA) with King County for the provision of indigent public defense legal services at Seattle Municipal Court (SMC).

Background:

The following data illustrate the current scope of staffing and funding in 2013 to represent indigent defendants at SMC:

➤ Cases Opened	7,790
➤ Actual Expenditures	\$5,662,000
➤ Staffing	30 attorneys 17 support staff 5 overhead staff (director, accounting, personnel)

Since 2005, the City has contracted for public defense services with local non-profit law firms as specified in Ordinance 122602. However, these law firms are no longer able to provide public defense services to the City. In 2006, Kevin Dolan, an employee of the Associated Counsel for the Accused, filed a class action suit against King County seeking membership in the state retirement system (PERS). In August 2011, the Washington Supreme Court ruled in Dolan's favor that the "...employees of the agencies are also county employees for the purposes of PERS." King County implemented the settlement by creating an in-house Department of Public Defense. Effective July 1, 2013, all staff of the four agencies became King County employees. This included those employees representing defendants in SMC. The non-profit law firms the City and County contracted with in the past no longer have staff, equipment or facilities.

In May of last year, CBO briefed the Public Safety, Civil Rights and Technology Committee chair on a short-term solution where CBO allowed the agencies to assign their contracts to King County for the remaining term of the contract (which ends June 30, 2014). This agreement between the agencies and King County took effect on July 1, 2013. The County has provided public defense services at SMC at the current contract amounts the City was paying to the agencies. The same attorneys who staffed the SMC courtrooms continue to work there, and the transition has been very smooth.

City Budget Office
600 Fourth Avenue, 6th Floor
PO Box 94747
Seattle, WA 98124-4747

Tel (206) 615-1962
Fax (206) 223-0022

Key Provisions of the Indigent Defense Council Bill and ILA:

Given that the current contracts with the agencies (which have been delegated to King County) end June 30, 2014 and implementing any other approach would take a year or more, the Mayor is proposing a short-term ILA with King County. The proposed Council Bill authorizes an 18 month ILA with King County with an option to extend the agreement for an additional 24 months.

The proposed legislation will add to the previous ordinance related to public defense (most significantly #122602). Legislation key points:

- Authorize the City to contract with King County (the current legislation restricts the City to contracting only with non-profit agencies) without a request for proposal process.
- Authorize CBO to execute an ILA with King County, substantially in the form of Exhibit 1.
- This legislation allows CBO to adjust caseload limits in order to comply with Washington State Supreme Court standards that will take effect in January 2015. The new standards are still under review but may require some minor adjustments to the City's caseload standards.

The proposed ILA with King County is similar to the contracts the City had with the non-profit agencies. ILA key points:

- Continues to uphold the Washington State Bar Association 18 Standards for Indigent Defense Services.
- Continues caseload limits at 380 case credits per attorney.
- Allows CBO and the County to adjust caseload limits to conform to statute, ordinance, Washington Supreme Court standards, or court rule.
- No additional appropriation authority is required in 2014.

Other Options Considered:

1. Establish an Office of Public Defense within City government: The City could bring public defense services in-house (similar to King County's current model). This option would require a transition period to identify and build out space, purchase and setup equipment and hire staff. *There are significant upfront costs to accommodate approximately 40-45 FTEs. Further, with only misdemeanor cases, the in-house model may not attract the quality staffing needed to provide rigorous defense.*
2. Contract with either non-profit or for-profit law firms in the community: Current Seattle ordinance dictates that law firms providing public defense services be non-profits chosen through a Request for Proposal process. In previous RFP's, a minimum qualification was five years of criminal defense practice in Washington State. *The four non-profit law firms the City and County contracted with in the past no longer have staff, equipment or facilities. Likely, there are no other existing non-profit law firms meeting these criteria. Another challenge is avoiding the complications of the Dolan decision mentioned earlier.*

CC: Ben Noble, CBO Director
Catherine Cornwall, CBO Budget Lead