

Ordinance No. 109743

88:0:18

AN ORDINANCE authorizing the Mayor to enter into agreements with King County and with public defense organizations for the screening, assigning and provision of indigent defense services in the Seattle Municipal Court in 1981.

*Pass as Amended - PJPW  
2/25/81*

COMPTROLLER FILE NUMBER 290585

Council Bill No. 102088

INTRODUCED: <u>FEB 17 1981</u>	BY: EXECUTIVE REQUEST
REFERRED: <u>FEB 17 1981</u>	<u>LABOR AND COMMUNITY SERVICES</u>
REFERRED: <u>2-17-81</u>	<u>PERSONNEL AND PROPERTY MANAGEMENT</u>
REPORTED:	SECOND READING: <u>MAR 02 1981</u>
THIRD READING: <u>MAR 02 1981</u>	SIGNED: <u>MAR 02 1981</u>
PRES. TO MAYOR: <u>MAR 02 1981</u>	APPROVED:
RETD. TO CITY CLERK:	PUBLISHED:
VETOED BY MAYOR:	VETO PUBLISHED:
PASSED OVER VETO:	VETO SUSTAINED:

ORDINANCE 109743

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3 AN ORDINANCE authorizing the Mayor to enter into agreements  
4 with King County and with public defense organizations  
5 for the screening, assigning and provision of indigent  
6 defense services in the Seattle Municipal Court in 1981.

7 WHEREAS, the King County Office of Public Defense has been  
8 coordinating the City of Seattle's indigent defense  
9 services since 1978; and

10 WHEREAS, direct services to indigent defendants in Municipal  
11 Court have been effectively provided by a number of  
12 recognized private, non-profit public defense organizations  
13 and by the private bar; and

14 WHEREAS, the City of Seattle will need these services in 1981  
15 in order to fulfill a constitutional obligation to provide  
16 certain indigent defendants with effective representation;  
17 Now, Therefore,

18 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

19 Section 1. The Mayor is authorized to enter into agreements  
20 substantially in the form of the attached documents, with  
21 King County to interview clients, determine their indigency  
22 and assign criminal defense counsel; with private attorneys,  
23 and with Associated Counsel for the Accused, the Defender  
24 Association, Eastside Defender Association and University  
25 District Defender Services, for the provision of services as  
26 described in the attached.

27 Section 2. The Comptroller is authorized to draw and the  
28 Treasurer to pay the necessary warrants to King County, to  
the defense organizations named above, and to private attorneys  
as contemplated in the attached.

Section 3. Submission and execution of the agreements  
authorized in Section 1, and any other acts consistent with  
the authority and prior to the effective date of this ordinance  
are hereby ratified and confirmed.

(To be used for all Ordinances except Emergency.)

Section <sup>4</sup>..... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 2<sup>nd</sup> day of March, 1981,  
and signed by me in open session in authentication of its passage this 2<sup>nd</sup> day of  
March, 1981.

*Carl J. ...*  
President of the City Council.

Approved by me this 11<sup>th</sup> day of March, 1981.  
*Charles Royer*  
Mayor.

Filed by me this 11<sup>th</sup> day of March, 1981.

Attest: *G. ... Hill*  
City Comptroller and City Clerk.

(SEAL)

Published.....  
By: *Theresa ...*  
Deputy Clerk.

INDIGENT DEFENSE SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1981, between The City of Seattle, a municipal corporation of the State of Washington (referred to as "City"), and The Defender Association \_\_\_\_\_, and a private, non-profit corporation located at \_\_\_\_\_, 623 Second Avenue, Seattle, Washington \_\_\_\_\_, referred to as "Contractor."

WHEREAS, the City has a continuing need to provide qualified counsel to represent indigent defendants charged with violations of City criminal ordinances, including representation by members of the private bar:

WHEREAS, Contractor is an established private, non-profit organization dedicated to providing criminal defense services to indigents;

NOW, THEREFORE, in consideration of the mutual agreement contained herein, IT IS AGREED:

1. Basic Services: Contractor's staff attorneys, or Rule 9 legal Interns will represent in Seattle Municipal Court proceedings, those indigent defendants to whom Contractor has been assigned by the King County Office of Public Defense ("OPD") in accordance with the attached contract, or those defendants to whom contractor has been directly assigned by a Municipal Court Judge. Contractor must notify OPD of direct assignments.
2. Definitions and Scope: The following definitions control the scope of services and interpretation of this agreement:
  - (a) Indigent means a person who is determined to be indigent by a Municipal Court Judge or the King County Office of Public Defense, and who is determined by OPD or the Court to be eligible for appointed counsel.
  - (b) Case means one defendant and one transaction, although it may include multiple charges arising out of the same transaction.
  - (c) Represent means to provide the range of services associated with effective legal advocacy, including but not limited to interviews of persons arrested or charged by the City with violating criminal statutes or ordinances, counseling, pretrial hearings, probation revocation hearings, investigations, efforts to secure bail or release on personal recognizance, consultation with relatives and employees, trial advocacy, pre-sentence report preparation (where applicable), sentencing and other post-trial hearings associated with the case.  
  
Indigent defendants not previously assigned counsel will be represented for the daily arraignment ("Gerstein") calendar by Associated Counsel for the Accused. Representation at other arraignments is included within the scope of services to be provided by the Contractor in case.
3. Compensation: City agrees to pay Contractor:
  - (a) \$123.00 for each case in which the Contractor represents an assigned indigent defendant in Municipal Court.
  - (b) \$25.00 per hour for nighttime advice, lineups or questionings that do not result in a charge being filed, or for which a full case credit is not given.

4. Billings: Fifteen (15) days after the last working day of each month, the Contractor will submit an invoice to the City Comptroller billing the City for those cases in which Contractor has commenced representation during the proceeding month. The City will compare invoices for these cases with a report received from the County Office of Public Defense, and pay Contractor either (a) an amount representing the sum of those cases in which the OPD has certified that Contractor is providing representation, or (b) an amount representing the sum of those cases for which Contractor has billed the City; whichever is lower. Contractor must notify OPD of direct assignments from the bench so that those assignments will be included in OPD's report to the City.
5. Records: Contractor shall keep appropriate time records, and submit monthly closed-case reports to the Comptroller, containing monthly summaries of time expended. The City and its designated representatives shall have access to all legal and financial records maintained by Contractor, for purposes of City evaluations and audits. The City will maintain the confidentiality of case files examined in connection with any evaluation or audit.
6. Attorneys' Independence: Nothing in this agreement shall be construed to impair or inhibit the exercise of independent professional judgment by an attorney employed by the Contractor. The Contractor may return assigned cases to the Office of Public Defense for reassignment when it appears that there is a conflict of interest as to one or more co-defendants or other persons represented by Contractor's counsel, or when withdrawal is approved in accordance with the law.
7. Subcontracts and Assignments: Contractor shall not enter into any subcontract for, nor make any assignment or delegation of, the services identified in this agreement, without the prior written approval of the City.
8. Discrimination and Affirmative Action: In accordance with City ordinances governing discrimination and affirmative action by contractors:
  - A. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, marital status, national origin, ancestry, sexual orientation, political ideology, or the presence of any sensory, mental or physical handicap, unless based upon bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, race, color, sex, age, marital status, or national origin, ancestry, sexual orientation, political ideology, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting office, setting forth the provisions of this nondiscrimination clause.

- B. The Contractor will, prior to commencement and during the term of this Contract, furnish to the Director of Human Rights (as used herein Director means the Director of the Human Rights Department or his/her designee) upon the request and on such form as may be provided by the Director therefor (forms attached) a report of the affirmative action taken by the Contractor in implementing the terms of this provision, and will permit access to his/her records of employment, employment advertisements, application forms, other pertinent data and records by the Director for the purpose of investigation to determine compliance with this provision.
  - C. If upon investigation, the Director finds probable cause to believe that the Contractor has failed to comply with any of the terms of the provision, the Contractor and the contracting authority shall give the Contractor all opportunity to be heard, after ten (10) days' notice. If the City concurs in the finding of the Director, it may suspend the Contract and/or withhold any funds due or to become due to the Contractor, pending compliance by the Contractor with the terms of this provision.
  - D. Failure to comply with any of the terms of this provision shall be a material breach of this Contract.
  - E. The foregoing provision shall be inserted in all subcontracts for work covered by this Contract.
  - F. Contractor will make every reasonable effort to utilize women's business enterprises and minority business enterprises in the solicitation and award of subcontracts, consultant, purchasing, service, construction and remodeling contracts.
9. Compliance with Laws: The Contractor shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this agreement.
10. Applicable Law, Venue and Dispute Resolution: This agreement shall be construed and interpreted in accordance with the laws of the State of Washington. Settlement of questions of interpretation, or other disputes arising under the terms of this Contract, will be referred to an arbitration panel composed of one person appointed by the City, one person by the Contractor, and one person appointed by the first two individuals appointed. In the event the arbitration panel is unable to convene or to render a decision, the matter will be referred to an arbitrator appointed by the American Arbitration Association ("AAA") under the rules then pertaining of that organization. A decision by the arbitration panel or by an AAA arbitrator shall be final and binding on all parties. The venue of any court action brought under or to enforce this agreement shall be in the Superior Court for King County.

11. Indemnification: The Contractor hereby agrees to save harmless and defend the City from all claims and liability due to the negligent acts, errors, or omissions of themselves, their agents and/or employees in performing the work contemplated or required by this agreement. The City shall not be obligated or liable to the Contractor or to any other party for any claim arising in connection with this agreement except for negligence that is solely and entirely the fault of the City.

The Contractor shall be solely responsible for the professional quality of all services furnished by the Contractor under this agreement.

12. No Waiver: Neither the City's review, approval or acceptance of, nor payment for, any of the services required under this agreement shall be construed to operate as a waiver of any of its rights under this agreement or of any cause of action arising out of the performance of this agreement, and the Contractor shall be and remain liable to the City in accordance with applicable law for all damages to the City caused by the Contractor's negligent performance of any of the services furnished under this agreement.
13. Rights Cumulative: The rights and remedies of the City provided for under this agreement are in addition to any other rights and remedies provided by law.
14. Professional Liability Insurance: The Contractor shall secure and maintain in full force and effect during the term of this agreement a policy of professional liability insurance providing coverage of at least \$500,000, annual total against professional liability or errors and omissions in connection with the work to be performed by the Contractor under this agreement. The Contractor shall furnish evidence of such insurance to the City in such forms and at such times as the City shall reasonably require.
15. Other Insurance: Prior to the execution of this agreement, the Contractor shall at its own expense obtain and file with the City evidence of a policy of general comprehensive liability insurance (including contractual and automobile coverages), which policy is subject to approval by the City Attorney as to company, form and coverage, and which policy must fully protect the City from any and all claims and risks in connection with any activity performed by the Contractor by virtue of this agreement, except for professional liability which is covered elsewhere in this agreement. Such policy must specifically name the City as an additional insured thereunder and provided the following minimum coverages:

Minimum Limits:

Personal Injury and Property Damage - combined single limit. \$100,000 per occurrence, \$300,000 annual aggregate.

Said general comprehensive liability insurance policy and subsequent renewals must be maintained in full force and effect at the Contractor's sole expense throughout the entire term of this agreement and such policy or an endorsement thereto must contain the following provisions (to provide the degree of indicated protection to the City):

"The City of Seattle is an additional insured for all coverages provided by this policy of general comprehensive insurance and shall be fully and completely protected to the extent provided in said policy for any and every injury, death, damage and loss of any sort sustained by any person, organization or corporation in connection with any activity performed by the Contractor (except for professional liability) by virtue of the provisions of that agreement between the City of Seattle and entitled Agreement No. \_\_\_\_\_, dated \_\_\_\_\_, 19\_\_\_\_\_.

"The coverages provided by this policy to the City or any other named insured shall not be terminated, reduced or otherwise changed in any respect without providing at least thirty (30) days prior written notice to the City of Seattle."

Failure of the Contractor to comply with any of the terms of the insurance provisions of paragraphs 11-15, inclusive, shall be considered a material breach of this agreement and cause for its immediate termination.

16. Term: This agreement is effective from January 1, 1981, through December 31, 1982. Contractor agrees to faithfully and diligently complete cases pending after the term of this agreement, or after new Municipal Court cases are no longer being assigned by the Office of Public Defense.
17. Amendments: This agreement may be amended at any time by mutual written agreement of the parties.
18. Ratification: Any acts made consistent with this agreement and prior to the effective dates of the ordinance authorizing this agreement, are hereby ratified and confirmed.
19. Severability: If any one or more paragraphs, clauses, sentences, or parts of this Contract shall for any reason be adjudged invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held invalid, and an invalidity of any paragraph, clause or provision of this Contract, in any one or more instances or circumstances, shall not be taken to affect or prejudice in any way its validity in any other instances.

THE CITY OF SEATTLE

BY Charles Royer  
Mayor

CONTRACTOR: THE DEFENDER ASSOCIATION

BY Paul K. Helman

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ORDINANCE \_\_\_\_\_

AN ORDINANCE authorizing the Mayor to enter into agreements with King County and with public defense organizations for the screening, assigning and provision of indigent defense services in the Seattle Municipal Court in 1981.

WHEREAS, the King County Office of Public Defense has been coordinating the City of Seattle's indigent defense services since 1978; and

WHEREAS, direct services to indigent defendants in Municipal court have been effectively provided by a number of recognized private, non-profit public defense organizations and by the private bar; and

WHEREAS, the City of Seattle will need these services in 1981 in order to fulfill a constitutional obligation to provide certain indigent defendants with effective representation;

Now, Therefore

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Mayor is authorized to enter into agreements substantially in the form of the attached documents, with King County to interview clients, determine their indigency and assign criminal defense counsel; and with Associated Counsel for the Accused, the Defender Association, Eastside Defender Association and University District Defender Services, for the provision of services as described in the attached.

Section 2. The Comptroller is authorized to draw and the Treasurer to pay the necessary warrants to King County, to the defense organizations named above, and to private attorneys as contemplated in the attached contracts.

Section 3. Submission and execution of the agreements authorized in Section 1, and any other acts consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

[Private attorney form letter contract]

Date: \_\_\_\_\_

Client: \_\_\_\_\_  
(called "the Client")

Case charges: \_\_\_\_\_

P. Bruce Wilson  
Public Defender  
1914 Smith Tower  
Seattle, WA 98104

Dear Mr. Wilson:

I accept your referral and will represent the Client in the Seattle Municipal Court on the charges listed in accord with the Code of Professional Responsibility and applicable court rules. My representation includes where pertinent seeking bail or release on personal recognizance, appearance in court at pre-trial hearings or upon sentencing and other post-trial matters, and, in my judgment, appropriate preparation or discussions with the City Prosecutor. I will keep appropriate time records and submit closed-case reports to you. I will not assign, subcontract, or delegate any of my duties without your prior written consent.

If I feel the defense of my client needs investigative work or an expert witness, I will discuss with you seeking those services and payment of the costs. I may request re-assignment of this case if a conflict-of-interest should appear or other events develop that make my withdrawal appropriate; if so, I will give you as much advance notice as I can reasonably provide, and cooperate fully with the attorney replacing me. I will not charge my client anything for the services provided but will seek compensation from The City of Seattle through you on the forms supplied.

You have told me that the City will pay me for my professional services \$22.00 per hour with a minimum charge of \$75.00 per case. The maximum payment shall be Five Hundred Dollars per case unless the judge of the Seattle Municipal Court hearing the case certifies to you in writing that a greater payment is justified. Payment is conditioned upon your approval of my report and its submission to the City. You may examine my office records to determine the validity of my billing, but the attorney-client privilege shall apply to safeguard the confidentiality of client communications to me.

P. Bruce Wilson  
Page two

I maintain in full force and effect a policy of professional liability insurance providing coverage of at least \$250,000 against professional liability or errors and omissions in connection with the work performed under this agreement.

Upon your approval, this letter constitutes our agreement.

Yours very truly,

---

Attorney at Law

Approved:

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P. BRUCE WILSON  
Office of the Public Defense

SWORN STATEMENT FOR COMPLIANCE WITH  
SECTION 4, ORDINANCE 101432

State of Washington)  
County of King ) ss.

The Undersigned, being first duly sworn, on oath states on behalf of the contractor (contractor, as used herein includes: consultants, vendors, lessees, concessions, franchises, suppliers, permits, services) as follows:

- A. Contractor hereby designates \_\_\_\_\_  
(name)  
\_\_\_\_\_  
(title)

as the person who has been charged with the responsibility for securing compliance with such contract provisions, and reporting progress in connection with the affirmative action to be undertaken herewith.

- B. Contractor shall cooperate fully with the Seattle Department of Human Rights while making every "good faith" effort to comply with the affirmative action requirements set forth in this sworn statement and Ordinance 101432. The Department of Human Rights will be kept fully informed in writing of all the contractor's affirmative actions taken during the contract's term and of any refusals by unions or others to cooperate with the contractor's affirmative action plan.
- C. Contractor shall conduct a work force analysis which will identify job classifications wherein underrepresented persons (minorities and women) are underutilized in proportion to their representation in the available work force. This analysis shall be made separately for minorities and women.
- D. Contractor shall correct deficiencies of underrepresented persons at all levels of the work force by considering underrepresented persons to fill new positions and vacancies. This will require the development of goals and timetables for use during the next twelve months in order to accomplish affirmative action objectives.
- E. Contractor shall insure that equal opportunity of employment for underrepresented persons results during the term of this contract by taking (at a minimum) the following affirmative actions:
1. Provide written notification to organizations that are active in securing equal employment opportunities when position openings occur. Send a copy of such announcements to the Human Rights Department.
  2. Conduct constant recruitment efforts with organizations, schools, and/or training establishments concerned with securing employment for underrepresented persons.

SWORN STATEMENT (continued)

3. Make specific efforts to encourage present underrepresented persons who are employees to recruit friends and relatives.
4. Sponsor, utilize and provide training/educational opportunities for the advancement of underrepresented persons employed by your firm.
5. Provide equal employment opportunity for after-school and summer employment to underrepresented young persons.
6. Notify pertinent employment referral agencies that your firm provides equal employment opportunities. Include such a statement in any advertising conducted when filling vacancies.
7. Give notice to his supervisors and other employees of the terms of the affirmative actions to be undertaken.
8. In the event that contractor already has an affirmative action plan which includes goals and timetables, said document may be submitted for review in lieu of implementing items one (1) through seven (7) of Section E.

Contractor \_\_\_\_\_

Company Name \_\_\_\_\_

By: \_\_\_\_\_  
(name) (title)

subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 19 \_\_

\_\_\_\_\_  
Notary Public in and for the State of Washington

Residing at \_\_\_\_\_

City of Seattle  
 Department of Human Rights  
 Contract Compliance Division

ESTIMATED PROJECTED EMPLOYMENT PROFILE

Contractor \_\_\_\_\_

Doing Business at \_\_\_\_\_ Phone: \_\_\_\_\_  
 (Address)

City \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

EEO Officer for this project \_\_\_\_\_

Type of Contract work \_\_\_\_\_

Tentative length of Contract \_\_\_\_\_

Total number of employees expected to work on project: \_\_\_\_\_  
 Male Female

Total number MINORITIES expected to work on project: \_\_\_\_\_  
 Male Female

List below skills of minority utilization on this project.

OCCUPATIONS	Black		Asian		American Indian		Spanish American	
	M	F	M	F	M	F	M	F
Principals								
*								
*								
*								
*								
*								
*								
*								
Trainee Positions								

\* List Skills

How many Seattle City Contracts are now held by Contractor? \_\_\_\_\_

Names and trades\* of all sub contractors, if any, to be used on project.

SUB - PROFESSIONALS	ADDRESS	PHONE	PROFESSION

\* Trades: Electrical, Cement, Iron, etc.

City of Seattle  
 Department of Human Rights  
 Contract Compliance Division

**LOCAL MANPOWER REPORT**

Contractor \_\_\_\_\_ Amount of Contract \_\_\_\_\_  
 Address \_\_\_\_\_ Project Name \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Starting Date \_\_\_\_\_  
 EEO Officer \_\_\_\_\_ Est. Completion Date \_\_\_\_\_  
 Telephone Number \_\_\_\_\_ Prepared by \_\_\_\_\_  
 Location of Project \_\_\_\_\_ Date of Report \_\_\_\_\_  
 Awarding Authority \_\_\_\_\_

OCCUPATIONS	Total Empl.		Total Min.		Black		Asian		Amer. Indian		Span. Amer.		Appren.		On the Job Trainee	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Officials (Managers)																
Professionals																
Technicians																
Sales Workers																
Office/Clerical																
Skilled Craftsmen																
Others:																
*																
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\* Identify Trade  
 Affirmative action taken or proposed to increase minority/female representation in permanent work force:  
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