



Justice... Professionalism... Service... Since 1886

April 6, 2009

The Honorable Dow Constantine
Chair, Metropolitan King County Council
516 Third Avenue, Room 1200
Seattle, Washington 98104

Dear Mr. Chairman:

As requested by the Council (2009 Budget Appropriation Ordinance 16312), the King County Bar Association provides the following input concerning issues related to appropriations for our county's public defenders. We appreciate the careful consideration that the Council is giving to the core government function of paid representation for our fellow citizens who would otherwise face the legal system without expert counsel.

Founded in 1886, KCBA is the largest voluntary bar association in the state of Washington, with over 5,000 members including attorneys, judges, and law professors. Our mission is to support our diverse membership by promoting a just, collegial, and accessible legal system and profession; working with the judiciary to achieve excellence in the administration of justice; and serving our local community through organized pro bono legal services, judicial candidate ratings, and other public policy initiatives.

Representatives from the Office of the Public Defender and the nonprofit contracting agencies met with the KCBA Board of Trustees on January 21 to discuss the status of their discussions. At that time they raised several areas of concerns that had not yet been resolved among them. The KCBA board agreed to review the issues of contention and submit a statement to the Council with KCBA's recommendations.

KCBA applauds the OPD and contracting agencies for the many hours of detailed discussions held over the past few months. KCBA understands that the parties are in agreement about all but two areas. It is on those items that the bar association offers input.

First, the agencies have asked for a case weighting pilot program, designed to address dramatic changes in their caseloads that stem from the recent changes by the county prosecutor concerning how drug cases are filed in the county. Before the prosecutor's change, defenders were expected to handle 150 cases per attorney per year, which ranged from complex cases that required long hours, to relatively routine cases that required minimal amounts of time. Unused time reserved for the "easier" cases could be applied to the overall caseload, allowing for more capacity. With the prosecutor's change, all 150 cases are now essentially serious, complex cases, with no "extra" capacity available to the defenders.

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The agencies are proposing a pilot program that would allow them to set aside this year some funds in the OPD budget to permit a test that tracks whether more flexibility in caseloads would be allow for better client service. OPD, on the other hand, wants to begin a workgroup of stakeholders to explore this issue, but wait until 2010 to begin any financial payments to the defender agencies.

KCBA agrees with the agencies and recommends the Council begin the funded pilot program this year.

Second, OPD is recommending a ratio of clerical support per attorney position of 0.20 clerical FTE. The state standard ratio is 0.25 FTE, which is what the defender agencies believe they need to do their work. We understand that these are critical positions that have responsibility for doing conflict checks, preparing data reports for OPD, and producing transcripts, among other duties.

KCBA agrees with the agencies and recommends the Council fund these positions at the standard 0.25 FTE rate.

In conclusion, the bar is honored to have its opinion solicited by the Council, and we stand ready to assist you in your work whenever possible. We salute the Council's dedicated service to the citizens of our county.

Kindest Regards.

Sincerely yours,

A handwritten signature in black ink that reads "Andrew J. Prazuch". The signature is written in a cursive, flowing style.

Andrew J. Prazuch
Executive Director

cc: The Honorable Larry Gossett, Chair, Budget & Fiscal Management Committee
V. David Hocraffer, The Public Defender
Anne Daly, Society of Counsel Representing Accused Persons
Eileen Farley, Northwest Defenders Association
Don Madsen, Associated Counsel for the Accused
Floris Mikkelsen, The Defender Association